



JANET BARRESI
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION
STATE OF OKLAHOMA

To: The Honorable Members of the State Board of Education

From: Legal Services

Date: February 28, 2013

Re: Rulemaking Update

The attached information is provided to update the State Board of Education on rules currently in the promulgation process pursuant to the Oklahoma Administrative Procedures Act at 70 O.S. § 250 et seq. This report is informational; no action on these rules is requested or required at this time.

Notices of Rulemaking Intent for the following rules were published in the *Oklahoma Register* on February 1, 2013, and will be open for public comment until 4:30 p.m. on March 6, 2013. A public hearing on this set of rules will be held at 1:00 p.m. on March 6, 2013.

The final drafts of these rules will be docketed for board approval on the March 28, 2013 meeting agenda.

1. CHAPTER 10. SCHOOL ADMINISTRATION AND INSTRUCTIONAL SERVICES
SUBCHAPTER 13. STUDENT ASSESSMENT
210:10-13-18. Oklahoma School Accountability System [AMENDED]
2. CHAPTER 15. CURRICULUM AND INSTRUCTION
SUBCHAPTER 27. READING SUFFICIENCY ACT
210:15-27-1. Reading Sufficiency Act [AMENDED]
210:15-27-2. Alternative standardized reading assessment and use of student portfolio for good cause promotion [AMENDED]
3. CHAPTER 20. STAFF
SUBCHAPTER 3. EVALUATION: MINIMUM CRITERIA FOR EFFECTIVE TEACHING AND ADMINISTRATIVE PERFORMANCE
210:20-3-4. Oklahoma minimum criteria for effective teaching performance [REVOKED]
210:20-3-5. Oklahoma minimum criteria for effective administrative performance [REVOKED]

Notice of Rulemaking Intent

S/O

**TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 10. SCHOOL ADMINISTRATION AND INSTRUCTIONAL
SERVICES**

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 13. Student Assessment

210:10-13-18. Oklahoma School Accountability System [AMENDED]

SUMMARY:

The purpose of the proposed amendments are to update the language of the rule relating to the Oklahoma School Accountability System and the identification of schools failing to make Adequate Yearly Progress (AYP) in student achievement. The rule in its current form contains outdated categories of designations for schools needing improvement which have since been replaced by updated categories approved by the State Board.

AUTHORITY:

State Board of Education, pursuant to 70 O. S. § 3-104; 70 O. S. § 1210.541.

COMMENT PERIOD:

All interested persons wishing to present their views orally or in writing may do so before 4:30 p.m., Wednesday March 6, 2013, at the following address: Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599. Submit comments by email to: rules@sde.ok.gov.

PUBLIC HEARING:

A public hearing will be held at 1:00 p.m. on Wednesday, March 6, 2013, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Suite 1-20, Oklahoma City, Oklahoma 73105-4599. Persons wishing to speak must sign in at the door of the State Board Room. Time limitations may be imposed on oral presentations to ensure that all persons who desire to make oral comments will have an opportunity to do so.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies are on file for public viewing in the office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Proposed rules are also available on the State Department of Education Web site at www.sde.ok.gov on and after February 1, 2013.

RULE IMPACT STATEMENT:

A Rule Impact Statement has been prepared, according to 70 O. S. § 303(D), and will be available at the Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma, on and after February 1, 2013.

CONTACT PERSON:

Connie Holland, 405-521-3308

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OKLAHOMA SECRETARY
OF STATE

Rule Impact Statement

RULE IMPACT STATEMENT
STATE DEPARTMENT OF EDUCATION

Title 210

Chapter 10
Subchapter 13

- a. **What is the purpose of the proposed rule change?**
The purpose of the proposed amendments are to update the language of the rule relating to the Oklahoma School Accountability System and the identification of schools failing to make Adequate Yearly Progress (AYP) in student achievement. The rule in its current form contains outdated categories of designations and accompanying data reports relating to accountability decisions.
- b. **What classes of persons will be affected by the proposed rule change and what classes of persons will bear the costs of the proposed rule change?**
The proposed changes to the rule will affect school districts and school sites. The agency does not anticipate additional costs resulting from the implementation of this rule.
- c. **What classes of persons will benefit from the proposed rule change?**
School districts and school sites will benefit from the proposed rule change.
- d. **What is the probable economic impact of the proposed rule upon affected classes of persons or political subdivisions?**
The agency does not anticipate any economic impact upon affected classes of persons or political subdivisions as a result of implementation of the proposed rule change at this time.
- e. **What is the probable cost to the agency to implement and enforce the proposed rule change?**
The agency does not anticipate any cost to the agency to implement and enforce as a result of the proposed change in the rule at this time. The minimal required additional record keeping will be performed by existing staff.
- f. **What is the economic impact on any political subdivision to implement the proposed rule change?**
The agency does not anticipate any economic impact on any political subdivision to implement the proposed rule change at this time.
- g. **Will implementing the rule change have an adverse effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act?**
The agency does not anticipate any adverse economic impact on small business as a result of the proposed rule change at this time.
- h. **Are there any other methods which are less costly, nonregulatory, or less intrusive to achieve the purpose of the proposed rule change?**
No.
- i. **Will the rule change impact the public health, safety, and environment, and is the change designed to reduce significant risks to the public health, safety, and**

environment? If so, explain nature of risk and to what extent the proposed rule change will reduce the risk.

Not applicable.

j. **What detrimental effect will there be on the public health, safety, and environment if the rule change is not implemented?**

Not applicable.

Statutory Authorities

Oklahoma Statutes Citationized

Title 70. Schools

Chapter 1 - School Code of 1971

Article Article III - State Department of Education

Section 3-104 - State Board of Education - Powers and Duties

Cite as: 70 O.S. § 3-104 (OSCN 2013)

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. 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 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 royalties, bonuses, rentals or other monies derived from oil and gas and all other mineral leases on lands that have been or may be granted by the United States to the state for the use and benefit of the common schools, or lands that are or may be held by the Commissioners of the Land Office for the use and benefit of the common schools, the proceeds of the sale of easements, improvements and sand and gravel on any such lands, 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 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. If sufficient monies are available in the fund, the Board shall solicit proposals for grants from school districts 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 eighty-five percent (85%) 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. The amount of each grant awarded by the Board each year shall not exceed One Million Dollars (\$1,000,000.00). 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. 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.

Historical Data

Laws 1971, HB 1155, c. 281, § 3-104, emerg. eff. July 2, 1971; Amended by Laws 1972, SB 385, c. 241, § 1, emerg. eff. April 7, 1972; Amended by Laws 1973, HB 1219, c. 17, § 1, emerg. eff. March 27, 1973; Amended by Laws 1973, SB 115, c. 46, § 6, emerg. eff. July 1, 1973; Amended by Laws 1974, HB 1649, c. 146, § 1; Amended by Laws 1975, HB 1227, c. 344, § 1; Amended by Laws 1978, SB 498, c. 85, § 1, eff. January 8, 1979; Amended by Laws 1982, c. 369, § 1, eff. October 1, 1982; Amended by Laws 1984, SB 368, c. 296, § 42, emerg. eff. July 1, 1984; Amended by Laws 1985, HB 1276, c. 13, § 1, eff. November 1, 1985; Amended by Laws 1986, HB 2032, c. 105, § 2, emerg. eff. April 5, 1986; Amended by Laws 1991, HB 1683, c. 240, § 1, eff. September 1, 1991; Amended by Laws 1993, c. 239, § 21 (repealed by Laws 1994, c. 2, § 34, emerg. eff. March 2, 1994); Amended by Laws 1993, HB 1383, c. 361, § 1, emerg. eff. June 11, 1993; Amended by Laws 1994, HB 2299, c. 2, § 26, emerg. eff. March 2, 1994; Amended by Laws 1994, SB 1188, c. 378, § 1, emerg. eff. July 1, 1994; Amended by Laws 1994, SB 1155, c. 344, § 1 (repealed by Laws 1995, HB 1012, c. 1, § 40, emerg. eff. March 2, 1995); Amended by Laws 1995, HB 1012, c. 1, § 25, emerg. eff. March 2, 1995; Amended by Laws 1995, SB 479, c. 226, § 1, emerg. eff. July 1, 1995; Amended by Laws 1995, HB 1549, c. 322, § 23, emerg. eff. July 1, 1995; Amended by Laws 1998, HB 3213, c. 246, § 32, eff. November 1, 1998 (superseded document available); Amended by Laws 1999, HB 1390, c. 336, § 5, eff. November 1, 1999 (superseded document available); Amended by Laws 2009, HB 2029, c. 234, § 155, emerg. eff. May 21, 2009 (repealed by Laws 2010, SB 2113, c. 2, § 74, emerg. eff. March 3, 2010) (superseded document available); Amended by Laws 2009, SB 1169, c. 448, § 1, eff. November 1, 2009 (superseded document available); Amended by Laws 2010, SB 2113, c. 2, § 73, emerg. eff. March 3, 2010 (superseded document available); Amended by Laws 2011, HB 2139, c. 31, § 4 (superseded document available); Amended by Laws 2012, HB 2306, c. 354, § 1 (superseded document available).

Oklahoma Statutes Citationized

Title 70. Schools

Chapter 22 - Testing and Assessment

Section 1210.541 - Student Performance Levels and Cut Scores - Accountability System

This Statute Will Go Into Effect

On: 07/01/2013

See Historical Data for Current Version

Cite as: O.S. §, __ __

A. The Commission for Educational Quality and Accountability shall determine and adopt a series of student performance levels and the corresponding cut scores pursuant to the Oklahoma School Testing Program Act.

B. The Commission for Educational Quality and Accountability shall have the authority to set cut scores using any method which the State Board of Education was authorized to use in setting cut scores prior to July 1, 2013.

C. The performance levels shall be set by a method that indicates students are ready for the next grade, course, or level of education, as applicable. The Commission for Educational Quality and Accountability shall establish panels to review and revise the performance level descriptors for each subject and grade level. The Commission shall ensure that the criterion-referenced tests developed and administered by the State Board of Education pursuant to the Oklahoma School Testing Program Act in grades three through eight and the end-of-instruction tests administered at the secondary level are vertically aligned by content across grade levels to ensure consistency, continuity, alignment and clarity. The Commission shall adopt performance levels that are labeled and defined as follows:

1. Advanced, which shall indicate that students demonstrate superior performance on challenging subject matter;
2. Proficient, which shall indicate that students demonstrate mastery over appropriate grade-level subject matter and that students are ready for the next grade, course, or level of education, as applicable;
3. Limited knowledge, which shall indicate that students demonstrate partial mastery of the essential knowledge and skills appropriate to their grade level or course; and
4. Unsatisfactory, which shall indicate that students have not performed at least at the limited knowledge level.

D. The State Board of Education shall develop and implement in accordance with the Elementary and Secondary Education Act of 2001 (ESEA), P.L. No. 107-110, also known as the No Child Left Behind Act of 2001, an accountability system as provided for in 20 U.S.C., 6311 and any related federal regulations. The accountability system shall be implemented beginning with the 2002-2003 school year and shall be based on the Academic Performance Index data as established pursuant to Section 3-150 of this title and as modified to meet the mandates of the ESEA. For the 2002-2003 school year and every year thereafter the State Board of Education shall publish and ensure that each local education agency is provided with Academic Performance Index data annually by site and by district so that the local education agency can make Adequate Yearly Progress determinations to identify schools for rewards and sanctions. The State Board of Education shall establish a system of recognition, rewards, sanctions and technical assistance.

E. A school that does not make adequate yearly progress (AYP) for two (2) consecutive years, as AYP is defined by the accountability system developed by the State Board of Education pursuant to this section, because of failure to meet either an academic performance target or an attendance or graduation performance target, or both, and is identified for school improvement shall utilize the assistance of a school support team or other similar team formed by the State Department of Education to provide support for schools in need of improvement, subject to school support team capacity. The school support team shall review and analyze all facets of operation of the school including the design and operation of the instructional program. The school support team shall assist the school in:

1. Incorporating strategies based on scientifically based research that will strengthen the core academic subjects in the school and address the specific academic issues that caused the school to be identified for school improvement;

2. Incorporating strategies to promote high quality professional development; and
3. Training teachers to analyze classroom and school-level data and use the data to inform instruction.

Historical Data

Laws 1989, SB 183, c. 335, § 14, emerg. eff. July 1, 1989; Amended by Laws 1992, SB 1025, c. 248, § 2, emerg. eff. July 1, 1992; Amended by Laws 1992, SB 583, c. 281, § 3, emerg. eff. July 1, 1992 (repealed by Laws 1992, HB 2500, c. 373, § 22, emerg. eff. July 1, 1992); Amended by Laws 1993, SB 528, c. 257, § 13, emerg. eff. May 26, 1993; Amended by Laws 1996, HB 2193, c. 343, § 4, emerg. eff. July 1, 1996; Amended by Laws 1999, HB 1599, c. 356, § 4, emerg. eff. July 1, 1999 (superseded document available); Amended by Laws 2000, SB 491, c. 306, § 2, emerg. eff. July 1, 2000 (superseded document available); Amended by Laws 2001, SB 810, c. 413, § 5, emerg. eff. July 1, 2001 (superseded document available); Amended by Laws 2003, HB 1414, c. 428, § 3, emerg. eff. July 1, 2003 (superseded document available); Amended by Laws 2009, HB 1461, c. 26, § 1, emerg. eff. July 1, 2009; Amended by Laws 2009, SB 222, c. 456, § 12, emerg. eff. July 1, 2009 (superseded document available); Amended by Laws 2012, SB 1797, c. 223, § 15, eff. July 1, 2013 (superseded document available).

Oklahoma Statutes Citationized

Title 70. Schools

Chapter 22 - Testing and Assessment

Section 1210.541 - Cooperation with State Department of Education to Address Low Achievement

This Statute Will Be Superseded

Effective: 07/01/2013

Cite as: O.S. §, ___ __

A. The State Board of Education shall determine and adopt a series of student performance levels and the corresponding cut scores pursuant to the Oklahoma School Testing Program Act. Beginning July 1, 2009, and through June 30, 2011, the State Board of Education shall carry out two separate rounds of cut score setting for each school year, the first of which shall be non-binding in efforts to determine the feasibility and practicality of setting cut scores prior to administration of the tests. The first round of scores shall be determined prior to the administration of the tests and published after administration of the tests, and the second round of scores shall be determined and published after administration of the tests.

B. The State Board of Education shall ensure that the cut scores are tied to the rigor of the tests and shall strive to increase the cut scores by ten percent (10%) of the gap between state and national assessments each year.

C. The performance levels shall be set by a method that indicates students are ready for the next grade, course, or level of education, as applicable. The State Board of Education shall establish panels to review and revise the performance level descriptors for each subject and grade level, which shall be set by a method and panel composition similar to that used for the National Assessment of Educational Progress performance setting process. The State Board of Education shall ensure that the criterion-referenced tests developed and administered pursuant to the Oklahoma School Testing Program Act in grades three through eight and the end-of-instruction tests administered at the secondary level are vertically aligned by content across grade levels to ensure consistency, continuity, alignment and clarity. Student performance levels shall be labeled and defined as follows:

1. Advanced, which shall indicate that students demonstrate superior performance on challenging subject matter;
2. Proficient, which shall indicate that students demonstrate mastery over appropriate grade-level subject matter and that students are ready for the next grade, course, or level of education, as applicable;
3. Limited knowledge, which shall indicate that students demonstrate partial mastery of the essential knowledge and skills appropriate to their grade level or course; and
4. Unsatisfactory, which shall indicate that students have not performed at least at the limited knowledge level.

D. The State Board of Education shall develop and implement in accordance with the Elementary and Secondary Education Act of 2001 (ESEA), P.L. No. 107-110, also known as the No Child Left Behind Act of 2001, an accountability system as provided for in 20 U.S.C., 6311 and any related federal regulations. The accountability system shall be implemented beginning with the 2002-2003 school year and shall be based on the Academic Performance Index data as established pursuant to Section 3-150 of this title and as modified to meet the mandates of the ESEA. For the 2002-2003 school year and every year thereafter the State Board of Education shall publish and ensure that each local education agency is provided with Academic Performance Index data annually by site and by district so that the local education agency can make Adequate Yearly Progress determinations to identify schools for rewards and sanctions. The State Board of Education shall establish a system of recognition, rewards, sanctions and technical assistance.

E. A school that does not make adequate yearly progress (AYP) for two (2) consecutive years, as AYP is defined by the accountability system developed by the State Board of Education pursuant to this section, because of failure to meet either an academic performance target or an attendance or graduation performance target, or both, and is identified for school improvement shall utilize the assistance of a school support team or other similar team formed by the State Department of Education to provide support for schools in need of improvement, subject to school support team capacity. The school support team shall review and analyze all facets of operation of the school including the design and operation of the

instructional program. The school support team shall assist the school in:

1. Incorporating strategies based on scientifically based research that will strengthen the core academic subjects in the school and address the specific academic issues that caused the school to be identified for school improvement;
2. Incorporating strategies to promote high quality professional development; and
3. Training teachers to analyze classroom and school-level data and use the data to inform instruction.

Historical Data

Laws 1989, SB 183, c. 335, § 14, emerg. eff. July 1, 1989; Amended by Laws 1992, SB 1025, c. 248, § 2, emerg. eff. July 1, 1992; Amended by Laws 1992, SB 583, c. 281, § 3, emerg. eff. July 1, 1992 (repealed by Laws 1992, HB 2500, c. 373, § 22, emerg. eff. July 1, 1992); Amended by Laws 1993, SB 528, c. 257, § 13, emerg. eff. May 26, 1993; Amended by Laws 1996, HB 2193, c. 343, § 4, emerg. eff. July 1, 1996; Amended by Laws 1999, HB 1599, c. 356, § 4, emerg. eff. July 1, 1999 (superseded document available); Amended by Laws 2000, SB 491, c. 306, § 2, emerg. eff. July 1, 2000 (superseded document available); Amended by Laws 2001, SB 810, c. 413, § 5, emerg. eff. July 1, 2001 (superseded document available); Amended by Laws 2003, HB 1414, c. 428, § 3, emerg. eff. July 1, 2003 (superseded document available); Amended by Laws 2009, HB 1461, c. 26, § 1, emerg. eff. July 1, 2009; Amended by Laws 2009, SB 222, c. 456, § 12, emerg. eff. July 1, 2009 (superseded document available).

Oklahoma Statutes Citationized

Title 70. Schools

Chapter 1 - School Code of 1971

Oklahoma Charter Schools Act

Article Article III - State Department of Education

Section 3-150 - Academic Performance Index

Cite as: O.S. §, ___ __

A. The State Board of Education shall develop an Academic Performance Index (API) to be used to measure performance of schools, including the academic performance of students. The index shall consist of a variety of indicators including, but not limited to:

1. Attendance rates for students;
2. Dropout rates;
3. Results of the Oklahoma School Testing Program administered pursuant to Section 1210.508 of this title;
4. Advanced Placement participation;
5. Graduation rates for secondary school students;
6. Scores of the American College Test (ACT); and
7. College remediation rates.

B. The data collected for the API shall be disaggregated, when available, by socioeconomic status and ethnic group. Oklahoma School Testing Program results shall constitute no less than sixty percent (60%) of the value of the index.

C. Based on the API, the State Board of Education shall adopt expected annual percentage growth targets for the state level, school districts, and all school sites based on their API baseline score. The minimum percentage growth target shall be five percent (5%) annually. However, the State Board of Education may set differential growth targets based on grade level of instruction.

Historical Data

Added by Laws 1999, HB 1759, c. 320, § 35, emerg. eff. July 1, 1999; Amended by Laws 2001, SB 810, c. 413, § 1, emerg. eff. July 1, 2001 (superseded document available).

Draft of Proposed Rule Submitted for Public
Comment

**TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 10. SCHOOL ADMINISTRATION AND INSTRUCTIONAL SERVICES**

SUBCHAPTER 13. STUDENT ASSESSMENT

210:10-13-18. Oklahoma School Accountability System [AMENDED]

(a) **Adequate Yearly Progress (AYP).** The Oklahoma School Accountability System shall be based on ~~AYP academic performance data~~. All public elementary and secondary schools and local educational agencies (LEAs) shall be accountable for student achievement and for making Adequate Yearly Progress (AYP) in accordance with the Oklahoma School Accountability System required by 70 O.S. § 1210.541. ~~For purposes of 70 O.S. § 1210.541, a school shall be deemed to have made AYP if it is not identified as a school in need of improvement by the State Department of Education Office of Accountability, according to federal law. AYP will be determined by meeting or exceeding statewide performance targets for required student groups in Reading/Language Arts and Mathematics on state tests; administering tests to 95 percent of students in each required student group; and meeting statewide targets for attendance rates and graduation rates where applicable. Alternatively, schools shall make AYP by showing growth in Reading/Language Arts and Mathematics on state tests as required by Safe Harbor regulations as defined in the No Child Left Behind Act of 2001, Public Law 107-110.~~

(b) **Consequences of Testing Irregularities or Misconduct on Test Scores and AYP.**

(1) If the State Department of Education (SDE) Student Assessment Office receives documentation of a student cheating on a test, the student's score shall be "invalidated." The student's score report for that content area shall read "Invalidated." The "invalidated" score shall have the effect of nonparticipation when aggregated with scores of other students at the school, district, and state levels.

(2) If a student does not attempt the test (such as refusal to read items or mark answers, finishing in 5 minutes, or randomly marking answers), no special action shall be taken. The student's test shall be scored and the score aggregated with the rest of the scores at the school, district, and state levels according to standard procedure.

(3) If a student becomes ill during testing and is not able to complete the test, the test shall not be scored and not counted in the summary scores. The student shall be counted as absent. If an equivalent form of the test is available through the OSTP, the student may be given an opportunity to take the equivalent form within the same testing window. In this case, the first test shall not be scored and the equivalent test shall be scored in its place. (Note: Equivalent test forms of the OSTP shall only be made available through the SDE only if determined practicable by the State Department of Education.)

(4) If any violation of security provisions (Section 210:10-13-4) occurs, such violations shall be reported in writing to the Student Assessment Section of the State Department of Education and may result in a student's, a school site's, and/or a school district's test scores being declared as invalid (Section 210:10-13-4 (18)). In the case of invalidation, each invalidated score shall have the effect of a zero score and each zero score shall be aggregated with the remaining student scores at the school, district, and state levels. If the violation is not the fault of the students involved, and if an equivalent form of the test is available through the OSTP, students may be given the equivalent form within the same testing window at the district's expense if this is the first year for a security violation within the school and/or district in question. In the case that an equivalent form is administered, the individual student score report shall reflect the scores from the equivalent test (in place of the previous invalidated scores) and shall be aggregated at the school, district, and state levels.

(Note: Equivalent test forms of the OSTP shall only be made available through the SDE only if determined practicable by the State Department of Education.)

(5) If extreme changes in test scores or in Academic Performance Index (API) scores occur for a school or district from year to year, an investigation shall be conducted, which may include, but not be limited to, a hand erasure analysis, and results of any apparent testing irregularity or misconduct reported to the State Board of Education for possible further action, which may include but not be limited to, score invalidation.

(6) Erasures shall be identified statewide by electronic scanning of all student answer documents, and the following action shall be taken: Scores for classes whose wrong-to-right erasures exceed the state average by more than four standard deviations shall be identified for further investigation. For each class with excessive erasures, the proportion of wrong-to-right erasures to the total number of erasures will be taken into account. A report shall be made to the State Board of Education of schools where classes have been identified with excessive erasures as defined by the criteria above for possible further action, which may result in score invalidation.

(7) Steps for Dealing with Reported Testing Irregularities or Misconduct

(A) **Step One.** When report of a testing irregularity or misconduct is made to the State Department of Education Student Assessment Section, the school site and/or school district involved shall be required to respond by conducting an investigation and providing in writing to the State Department of Education Student Assessment Section an explanation of how the testing misconduct/irregularity occurred and a description of the measures taken to prevent the misconduct from occurring again.

(B) **Step Two.** The testing irregularity or misconduct shall be categorized into one of three violation categories (minor, major, and critical) according to the severity of the violation and its possible consequences. Possible consequences may include, but not be limited to, invalidation of scores, accreditation with deficiency, accreditation with warning, accreditation with probation.

(C) **Step Three.** At the end of each testing period, a testing violations report shall be prepared by the Student Assessment office for review by the State Superintendent and possible further action.

(c) Procedures for Schools to Review AYP Data Reports and Appeal Accountability Decisions.

(1) To assure the validity of ~~AYP determinations~~ accountability decisions prior to the release of the list of schools in need of improvement AYP data reports, as required by federal law, No Child Left Behind, the State Department of Education will forward to schools the preliminary ~~AYP Data Reports~~ data reports containing component pieces from the school district, testing vendor, and the State Department of Education. Each school district must review these component pieces for accuracy and report any inaccuracies to the entity supplying the information within the applicable timelines. If the school district does not report inaccuracies within the timeline the State Department of Education will rely on the data in the preliminary ~~AYP Data Report~~ data report.

(2) Upon receiving their preliminary ~~AYP Data Reports~~ data reports from the State Department of Education for use in creating School and District Report Cards, districts shall review the data in the preliminary ~~AYP Data Reports~~ data reports and report any discrepancies with the data components previously reviewed by the district to the ~~Student Assessment Section~~ of the State Department of Education within the specified timeline.

(3) Subsequent to the review of the preliminary ~~AYP Data Report~~ data report, if a principal of a school, or a majority of the parents of the students enrolled in a school, believe that ~~any~~ the accountability decision contained in the ~~AYP Data Report~~ data report is in error the

principal shall provide supporting evidence to the district. The district must consider the evidence and if warranted, request an appeal in writing to the State Department of Education. The State Department of Education must receive the appeal request within ten working days of the electronic release of the AYP ~~Data Reports~~ data reports.

(4) If a school and/or district has had test scores invalidated because of a testing irregularity or misconduct with the effect of nonparticipation for aggregation purposes, and such action results in an invalidation ~~a API score~~ that prevents the school and/or district from ~~making AYP~~ receiving an accountability decision, the district may appeal the determination ~~this accountability decision~~ on a first time occurrence and request placement on Probationary Status instead of receiving ~~an API score~~ an invalidation. At the end of the next consecutive year, if the school and/or district ~~do not make AYP~~ does not receive an accountability decision for any reason, they ~~shall not be allowed to invoke Safe Harbor~~ and shall automatically be identified as being in School Improvement ~~need of improvement~~ status.

(5) When a school district or charter school appeals an accountability decision, the appeal request will be sent to the ~~Office of Accountability and Assessment~~ State Department of Education on the appeal form or other electronic submission method provided by the State Department of Education. The school district or charter school must specify on the form, if a hearing pursuant to Title 75 O.S. § 309 is requested. If such a hearing is requested, the district must provide a written waiver of the right of the district to receive a final determination from the State Department of Education within the ~~30-day~~ period required by federal law. ~~the NCLB Act~~. In that event, all parties will cooperate to expedite the hearing process. If a hearing pursuant to Title 75 O.S. § 309 is not requested, the school district must submit with the appeal request written evidence supporting its appeal. The district may also request to address the AYP School Status Designation Appeals Committee in person or by telephone. All appeal requests will initially be reviewed by the Office of Accountability and Assessments to determine whether the appeal request remains with the AYP School Status Designation Appeals Committee or is forwarded to the State Superintendent for a hearing pursuant to Title 75 O.S. § 309. The AYP School Status Designation Appeals Appeal Committee will consist of members of the State Department of Education's ~~School Improvement~~ Leadership Team and may also include additional members appointed by the State Superintendent. The AYP Appeals Committee will review the district's evidence submitted with the appeal and if requested, hear comments from the school district, before providing a final determination in writing within ~~thirty working~~ forty-five (45) days from release of the ~~AYP Data Reports~~ data reports.

(6) At the end of the State Department of Education Appeals process, the State Department of Education shall report to the State Board of Education the statewide list of ~~School Improvement~~ schools in need of improvement.

(d) Sanctions for public elementary and secondary schools that do not make Adequate Yearly Progress (AYP)

(1) Title I schools that do not make Adequate Yearly Progress (AYP) for two consecutive years shall be identified as being in School Improvement ~~need of improvement~~ status. Title I schools in the ~~state~~ State of Oklahoma shall be subject to the sanctions defined by or federal law. ~~in the No Child Left Behind Act of 2001, Public Law 107-110~~.

(2) Non-Title I schools that do not make AYP for two consecutive years or more shall be subject to sanctions as determined by the State Board of Education. The State Board of Education may utilize sanction options identified ~~in the No Child Left Behind Act of 2001, Public Law 107-110~~ by federal, as deemed appropriate based upon relevant circumstances of the school's performance. The sanctions ~~shall~~ may include but not be limited to the following:

- (A) provide a school improvement plan,
- (B) provide technical assistance,
- (C) offer school choice,
- (D) provide supplemental services,
- (E) take corrective action, or
- (F) implement a restructuring plan.

(e) Rewards for public elementary and secondary schools that make Adequate Yearly Progress (AYP)

(1) **Academic Achievement Awards - Title I, Part A.** ~~Title I Schools that meet AYP shall be eligible for Academic Achievement Awards. Academic Achievement Awards, subject to the availability of funds awarded to the State under the federal grant under section 1117 (b) of the No Child Left Behind Act of 2001, states that each state receiving a grant under federal funds shall establish a program for making academic achievement awards to recognize schools that significantly close the achievement gap between subgroups of students or exceed their adequate yearly progress.~~ Schools that meet AYP and receive Title I, Part A funds are eligible for Academic Achievement Awards, subject to the availability of funds.

(2) **State Academic Performance Award Program.**

(A) All public elementary and secondary schools that make ~~Adequate Yearly Progress, AYP~~ shall be recognized by the state as Distinguished Schools, ~~and eligible for state funds, if available, as established by the State Academic Performance Index (API) Program (O.S. § 70-30-152).~~

(B) ~~Nonmonetary recognition~~ Recognition of Distinguished Schools may include, but not be limited to, citations of congratulations from the State Superintendent of Public Instruction as the designee of the State Board of Education, the Governor or designee, the Representative and Senator representing the school district, and a flag for each school achieving ~~Distinguished-Reward~~ status.

Notice of Rulemaking Intent

SB

**TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 15. CURRICULUM AND INSTRUCTION**

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 27. Reading Sufficiency Act

210:15-27-1. Reading Sufficiency Act [AMENDED]

210:15-27-2. Alternative standardized reading assessments and use of student portfolio for good cause promotion [AMENDED]

SUMMARY:

The proposed amendments clarify requirements of the Summer Academy Reading Programs for schools which observe year-round/continuous learning schedules. Proposed changes also incorporate recent amendments to 70 O.S. § 1210.508C, which address good cause exemptions from retention. Proposed changes also provide clarification as to what constitutes "intensive remediation" under the Oklahoma Reading Sufficiency Act.

AUTHORITY:

State Board of Education, pursuant to 70 O.S. § 3-104; 70 O.S. § 1210.508C; 70 O.S. § 1210.508D; 70 O.S. § 1210.508E.

COMMENT PERIOD:

All interested persons wishing to present their views orally or in writing may do so before 4:30 p.m., Wednesday March 6, 2013, at the following address: Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599. Submit comments by email to: rules@sde.ok.gov.

PUBLIC HEARING:

A public hearing will be held at 1:00 p.m. on Wednesday, March 6, 2013, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Suite 1-20, Oklahoma City, Oklahoma 73105-4599. Persons wishing to speak must sign in at the door of the State Board Room. Time limitations may be imposed on oral presentations to ensure that all persons who desire to make oral comments will have an opportunity to do so.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies are on file for public viewing in the office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Proposed rules are also available on the State Department of Education Web site at www.sde.ok.gov on and after February 1, 2013.

RULE IMPACT STATEMENT:

A Rule Impact Statement has been prepared, according to 70 O.S. §303(D), and will be available at the Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma, on and after February 1, 2013.

CONTACT PERSON:

Connie Holland, 405-521-3308

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OKLAHOMA SECRETARY
OF STATE

Rule Impact Statement

RULE IMPACT STATEMENT
STATE DEPARTMENT OF EDUCATION

Title 210

Chapter 15
Subchapter 27

- a. **What is the purpose of the proposed rule change?**
The proposed changes to the rule incorporate amendments to the Reading Sufficiency Act resulting in 2012 from HB 2511 and SB 2306, which address good cause exemptions from third grade retention for children assessed as not reading on grade level; requirements for submission of reading sufficiency plans for approval; allocation of legislative appropriations to school districts for funding intensive reading remediation programs; and requirements for Summer Academy Reading Programs. The proposed amendments also provide an alternative plan for schools which observe year-round/continuous learning schedules to provide Summer Academy Reading Programs. The proposed amendments also clarify requirements for intensive remediation to be provided to students in kindergarten through third grade who are not reading on grade level.
- b. **What classes of persons will be affected by the proposed rule change and what classes of persons will bear the costs of the proposed rule change?**
The proposed changes to the rule will affect school districts, school sites, public school students, and parents of public school students. School districts may bear costs resulting from the provision of intensive remediation or other services to students identified for intensive remediation as required by the Reading Sufficiency Act, subject to availability of funds appropriated by the State Legislature and allocated by the State Department of Education in accordance with 70 O.S. 1210.508D.
- c. **What classes of persons will benefit from the proposed rule change?**
Public school students in kindergarten through third grade identified as in need of remediation and schools which provide instruction to students in kindergarten through third grade will benefit from the proposed rule changes. School districts which implement year-round/continuous learning schedules which include instruction for students in kindergarten through third grade will benefit from the proposed rule change.
- d. **What is the probable economic impact of the proposed rule upon affected classes of persons or political subdivisions?**
School districts may bear additional costs resulting from the provision of intensive remediation or other services to students identified for intensive remediation as required by the Reading Sufficiency Act; however, the Reading Sufficiency Act at 70 O.S. 1210.508D provides a process for reimbursement of costs incurred by districts for providing remediation.
- e. **What is the probable cost to the agency to implement and enforce the proposed rule change?**
The agency does not anticipate any additional cost to the agency to implement and enforce as a result of the proposed change in the rule at this time. The required additional record keeping will be performed by existing staff.

- f. **What is the economic impact on any political subdivision to implement the proposed rule change?**
The agency does not anticipate any economic impact on any political subdivision to implement the proposed rule change at this time.
- g. **Will implementing the rule change have an adverse effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act?**
The agency does not anticipate any adverse economic impact on small business as a result of the proposed rule change at this time.
- h. **Are there any other methods which are less costly, nonregulatory, or less intrusive to achieve the purpose of the proposed rule change?**
No.
- i. **Will the rule change impact the public health, safety, and environment, and is the change designed to reduce significant risks to the public health, safety, and environment? If so, explain nature of risk and to what extent the proposed rule change will reduce the risk.**
Not applicable.
- j. **What detrimental effect will there be on the public health, safety, and environment if the rule change is not implemented?**
Not applicable.

Statutory Authorities

Oklahoma Statutes Citationized

Title 70. Schools

Chapter 22 - Testing and Assessment

Reading Sufficiency Act

Section 1210.508E - Grade Promotion - Summer Academy Programs

Cite as: O.S. §, ___

A. If a teacher determines that a third-grade student is not reading at grade level by the end of the second quarter of the school year, the parent or guardian of the student shall be notified of:

1. The reading level of the student;
2. The program of reading instruction for the student as required pursuant to the Reading Sufficiency Act; and
3. The potential need for the student to participate in a summer academy or other program designed to assist the student in attaining grade-level reading skills.

B. A teacher who determines a third-grade student is unable to meet competencies required for reading for completion of third grade and promotion to fourth grade may, after consultation with the parent or guardian of the student, recommend that the promotion of the student to the fourth grade is contingent upon the participation in and successful completion of the required competencies for reading by the student at a summer academy or other program. If the student does not participate in the summer academy or other program or does not successfully complete the competencies in the summer academy or other program, the student shall be retained in the third grade as set forth in Section 1210.508C of this title.

C. Summer academy programs shall be designed to ensure that participating students successfully complete the competencies necessary in reading for promotion to fourth grade and to enhance next-grade readiness. A summer academy reading program shall be a program that incorporates the content of a scientifically research-based professional development program administered by the Oklahoma Commission for Teacher Preparation or a scientifically research-based reading program administered by the State Board of Education and is taught by teachers who have successfully completed professional development in the reading program or who are certified as reading specialists.

D. School districts may approve an option for students who are unable to attend a summer academy. The optional program may include, but is not limited to, an approved private provider of instruction, approved computer- or Internet-based instruction, or an approved program of reading instruction monitored by the parent or guardian. School districts shall not be required to pay for the optional program, but shall clearly communicate to the parent or guardian the expectations of the program and any costs that may be involved.

E. Subject to the availability of funds, beginning one (1) year after implementation of this section, the requirements of subsection B of this section may be expanded to apply to fourth-grade student promotion to fifth grade. Each year thereafter, the requirements may be expanded by one grade level until the requirements apply to third-grade students through eighth-grade students. Summer academy programs shall be designed for each grade level. Nothing in this section shall prevent the State Board of Education or a school district board of education from utilizing private, local, or federal funds to implement this section.

F. The State Board of Education shall adopt rules to implement the provisions of this section which shall include requirements for instructional time for summer school programs, teacher qualifications, and evaluation of student achievement as a result of summer academy programs or other optional programs.

Historical Data

Laws 1999, HB 1759, c. 320, § 54, emerg. eff. July 1, 1999; Amended by Law 2001, HB 1499, c. 201, § 7 (superseded document available); Amended by Laws 2002, SB 1631, c. 212, § 2, emerg. eff. July 1, 2002 (superseded document available); Amended by Laws 2003, HB 1767, c. 434, § 25 (superseded document available); Amended by Laws 2005, HB 1621, c. 385, § 3 (superseded document available); Amended by Laws 2006, HB 2712, c. 146, § 2, emerg. eff. May 12, 2006 (superseded document available); Amended by Laws 2008, SB 1769, c. 387, § 2, emerg. eff. July 1, 2008

(superseded document available); Amended by Laws 2011, SB 346, c. 171, § 3 (superseded document available);
Amended by Laws 2012, HB 2516, c. 171, § 3, emerg. eff. July 1, 2012 (superseded document available).

Oklahoma Statutes Citationized

Title 70. Schools

Chapter 22 - Testing and Assessment

Reading Sufficiency Act

Section 1210.508D - Reimbursement for School Districts Providing Reading Remediation

Cite as: O.S. §, ___ __

A. Contingent on the provision of appropriated funds designated for the Reading Sufficiency Act, school districts may be allocated monies for each enrolled kindergarten student or first-, second- and third-grade student of the current school year, including any student who has been retained in the third grade pursuant to Section 1210.508C of this title, who is found to be in need of remediation or intervention in reading. The allocation shall be distributed to each school district upon approval of the reading sufficiency plan for the school district by the State Department of Education and the submittal of a child-count report to the Department that details the number of students identified as needing remediation or intervention in reading. To determine a per-student allocation amount, the total amount of funds available for allocation each year shall be divided by the total number of students in the state identified as in need of remediation or intervention in reading as provided for in Section 1210.508C of this title. Each school district shall be allocated an amount equal to the per-student allocation amount multiplied by the number of identified students enrolled in the school district.

B. **The State Board of Education shall promulgate rules for the administration of reimbursements.**

C. If a teacher attends and completes a professional development institute in elementary reading approved by the Oklahoma Commission for Teacher Preparation during the summer or when school is not in session, the teacher may receive a stipend equal to the amount of the cost for a substitute teacher, based on the amount of funds allocated.

Historical Data

Laws 1998, HB 2878, c. 332, § 2, emerg. eff. July 1, 1998; Amended by Laws 1999, HB 1365, c. 304, § 1, emerg. eff. July 1, 1999 (superseded document available); Amended by Laws 2000, HB 2000, c. 289, § 4, emerg. eff. July 1, 2000 (superseded document available); Amended by Laws 2005, HB 1020, c. 242, § 21, emerg. eff. July 1, 2005 (superseded document available); Amended by Laws 2008, SB 1769, c. 387, § 1, emerg. eff. July 1, 2008 (superseded document available); Amended by Laws 2011, SB 346, c. 171, § 2 (superseded document available); Amended by Laws 2012, HB 2516, c. 171, § 2, emerg. eff. July 1, 2012 (superseded document available).

Oklahoma Statutes Citationized

Title 70. Schools

Chapter 22 - Testing and Assessment

Reading Sufficiency Act

Section 1210.508C - Assessments for Reading Skills

Cite as: O.S. §, ___

Multiple Amendments Enacted During the 2012 Legislative Session

Version 1 (as amended by Laws 2012, HB 2511, c. 250, § 1)

A. 1. Each student enrolled in kindergarten in a public school in this state shall be screened for reading skills including, but not limited to, phonological awareness, letter recognition, and oral language skills as identified in the Priority Academic Student Skills (PASS) adopted by the State Board of Education. A screening instrument approved by the State Board shall be utilized for the purposes of this section.

2. For those kindergarten children at risk for reading difficulties, teachers shall emphasize reading skills as identified in the PASS, monitor progress throughout the year and measure year-end reading progress.

3. Classroom assistants, which may include parents, grandparents, or other volunteers, shall be provided in kindergarten classes to assist with the screening of students if a teacher aide is not already employed to assist in a kindergarten classroom.

B. 1. Each student enrolled in kindergarten, first, second and third grade of the public schools of this state shall be assessed at the beginning of each school year using a screening instrument approved by the State Board of Education for the acquisition of reading skills including, but not limited to, phonological awareness, phonics, spelling, reading fluency, vocabulary, and comprehension.

2. Any student who is assessed and found not to be reading at the appropriate grade level shall be provided a program of reading instruction designed to enable the student to acquire the appropriate grade level reading skills. Beginning with students entering the first grade in the 2011-2012 school year, the program of reading instruction shall include provisions of the READ Initiative adopted by the school district as provided for in subsection O of this section.

3. Throughout the year progress monitoring shall continue, and diagnostic assessment, if determined appropriate, shall be provided. Year-end reading skills shall be measured to determine reading success.

C. The State Board of Education shall approve screening instruments for use at the beginning of the school year, for monitoring of progress, and for measurement of reading skills at the end of the school year as required in subsections A and B of this section; provided, at least one of the screening instruments shall meet the following criteria:

1. Assess for phonological awareness, phonics, reading fluency, and comprehension;

2. Document the validity and reliability of each assessment;

3. Can be used for diagnosis and progress monitoring;

4. Can be used to assess special education and limited-English- proficient students;

5. Accompanied by a data management system that provides profiles for students, class, grade level and school building. The profiles shall identify each student's instructional point of need and reading achievement level. The State Board shall also determine other comparable reading assessments for diagnostic purposes and for periodic and post assessments to be used for students at risk of reading failure. The State Board shall ensure that any assessments approved are in alignment with the PASS.

D. The program of reading instruction required in subsection B of this section shall align with the PASS, shall include provisions of the READ Initiative adopted by the school district as provided for in subsection O of this section beginning with students entering the first grade in the 2011-2012 school year and may include, but is not limited to:

1. Sufficient additional in-school instructional time for the acquisition of phonological awareness, phonics, spelling, reading fluency, vocabulary, and comprehension;
 2. If necessary, tutorial instruction after regular school hours, on Saturdays and during summer; however, such instruction may not be counted toward the one-hundred-eighty-day or one-thousand- eighty-hour school year required in Section 1-109 of this title; and
 3. Assessments identified for diagnostic purposes and periodic monitoring to measure the acquisition of reading skills including, but not limited to, phonological awareness, phonics, spelling, reading fluency, vocabulary, and comprehension, as identified in the student's program of reading instruction.
- E. The program of reading instruction shall continue until the student is determined by the results of approved reading assessments to be reading on grade level.
- F. 1. Every school district shall adopt, implement, and annually update a district reading sufficiency plan which has had input from school administrators, teachers, and parents and if possible a reading specialist, and which shall be submitted electronically to and approved by the State Board of Education. The district reading sufficiency plan shall include a plan for each site which includes an analysis of the data provided by the Oklahoma School Testing Program and other reading assessments utilized as required in this section, and which outlines how each school site will comply with the provisions of the Reading Sufficiency Act.
2. Each school site shall establish a committee, composed of educators, which if possible shall include a certified reading specialist, to develop the required programs of reading instruction. A parent or guardian of the student shall be included in the development of the program of reading instruction for that student.
 3. The State Board of Education shall adopt rules for the implementation and evaluation of the provisions of the Reading Sufficiency Act. The evaluation shall include, but not be limited to, an analysis of the data required in subsection S of this section.
- G. For any third-grade student found not to be reading at grade level as determined by reading assessments administered pursuant to this section, a new program of reading instruction, including provisions of the READ Initiative adopted by the school district as provided for in subsection O of this section, shall be developed and implemented as specified in this section. If possible, a fourth-grade teacher shall be involved in the development of the program of reading instruction. In addition to other requirements of the Reading Sufficiency Act, the plan may include specialized tutoring.
- H. Beginning with students entering the first grade in the 2011-2012 school year, if the reading deficiency of a student, as identified based on assessments administered as provided for in subsection B of this section, is not remedied by the end of third grade, as demonstrated by scoring at the unsatisfactory level on the reading portion of the statewide third-grade criterion-referenced test, the student shall be retained in the third grade.
- I. The parent of any student who is found to have a reading deficiency and is not reading at the appropriate grade level and has been provided a program of reading instruction as provided for in subsection B of this section shall be notified in writing of the following:
1. That the student has been identified as having a substantial deficiency in reading;
 2. A description of the current services that are provided to the student;
 3. A description of the proposed supplemental instructional services and supports that will be provided to the student that are designed to remediate the identified area of reading deficiency;
 4. That the student will not be promoted to the fourth grade if the reading deficiency is not remediated by the end of the third grade, unless the student is exempt for good cause as set forth in subsection K of this section;
 5. Strategies for parents to use in helping their child succeed in reading proficiency;
 6. That while the results of the statewide criterion-referenced tests administered pursuant to Section 1210.508 of this title are the initial determinant, it is not the sole determiner of promotion and that portfolio reviews and assessments are available; and
 7. The specific criteria and policies of the school district for midyear promotion implemented as provided for in paragraph 4 of subsection N of this section.

J. No student may be assigned to a grade level based solely on age or other factors that constitute social promotion.

K. For those students who do not meet the academic requirements for promotion, a school district may promote the student for good cause only. Good-cause exemptions for promotion shall be limited to the following:

1. Limited-English-proficient students who have had less than two (2) years of instruction in an English language learner program;
2. Students with disabilities whose individualized education program (IEP), consistent with state law, indicates that the student is to be assessed with alternate achievement standards through the Oklahoma Alternate Assessment Program (OAAP);
3. Students who demonstrate an acceptable level of performance on an alternative standardized reading assessment approved by the State Board of Education;
4. Students who demonstrate, through a student portfolio, that the student is reading on grade level as evidenced by demonstration of mastery of the state standards beyond the retention level;
5. Students with disabilities who participate in the statewide criterion-referenced tests and who have an individualized education program that reflects that the student has received intensive remediation in reading for more than two (2) years but still demonstrates a deficiency in reading and was previously retained in kindergarten, first grade, second grade, or third grade; and
6. Students who have received intensive remediation in reading through a program of reading instruction for two (2) or more years but still demonstrate a deficiency in reading and who were previously retained in kindergarten, first grade, second grade, or third grade for a total of two (2) years.

L. A student who is promoted for good cause as provided for in subsection K of this section shall be provided intensive reading instruction during an altered instructional day that includes specialized diagnostic information and specific reading strategies for each student. The school district shall assist schools and teachers to implement reading strategies for the promoted students that research has shown to be successful in improving reading among low-performing readers.

M. Requests to exempt students from the mandatory retention requirements based on one of the good-cause exemptions as described in subsection K of this section shall be made using the following process:

1. Documentation submitted from the teacher of the student to the school principal that indicates the student meets one of the good-cause exemptions and promotion of the student is appropriate. In order to minimize paperwork requirements, the documentation shall consist only of the alternative assessment results or student portfolio work and the individual education plan (IEP), as applicable;
2. The principal of the school shall review and discuss the documentation with the teacher. If the principal determines that the student meets one of the good-cause exemptions and should be promoted based on the documentation provided, the principal shall make a recommendation in writing to the school district superintendent; and
3. After review, the school district superintendent shall accept or reject the recommendation of the principal in writing.

N. Beginning with the 2011-2012 school year, each school district shall:

1. Conduct a review of the program of reading instruction for all students who score at the unsatisfactory level on the reading portion of the statewide criterion-referenced test administered pursuant to Section 1210.508 of this title and did not meet the criteria for one of the good-cause exemptions as set forth in subsection K of this section. The review shall address additional supports and services, as described in this subsection, needed to remediate the identified areas of reading deficiency. The school district shall require a student portfolio to be completed for each retained student;
2. Provide to students who have been retained as set forth in subsection H of this section with intensive interventions in reading, intensive instructional services and supports to remediate the identified areas of reading deficiency, including a minimum of ninety (90) minutes of daily, uninterrupted, scientific-research-based reading instruction. Retained students shall be provided other strategies prescribed by the school district, which may include, but are not limited to:
 - a. small group instruction,
 - b. reduced teacher-student ratios,

- c. more frequent progress monitoring,
- d. tutoring or mentoring,
- e. transition classes containing third- and fourth-grade students,
- f. extended school day, week, or year, and
- g. summer reading academies as provided for in Section 1210.508E of this title, if available;

3. Provide written notification to the parent or guardian of any student who is to be retained as set forth in subsection H of this section that the student has not met the proficiency level required for promotion and the reasons the student is not eligible for a good-cause exemption. The notification shall include a description of proposed interventions and intensive instructional supports that will be provided to the student to remediate the identified areas of reading deficiency;

4. Implement a policy for the midyear promotion of a retained student who can demonstrate that the student is a successful and independent reader, is reading at or above grade level, and is ready to be promoted to the fourth grade. Tools that school districts may use in reevaluating any retained student may include subsequent assessments, alternative assessments, and portfolio reviews, in accordance with rules of the State Board of Education. Retained students may only be promoted midyear prior to November 1 and only upon demonstrating a level of proficiency required to score above the unsatisfactory level on the statewide third-grade criterion-referenced test and upon showing progress sufficient to master appropriate fourth-grade-level skills, as determined by the school. A midyear promotion shall be made only upon agreement of the parent or guardian of the student and the school principal;

5. Provide students who are retained with a high-performing teacher who can address the needs of the student, based on student performance data and above-satisfactory performance appraisals; and

6. In addition to required reading enhancement and acceleration strategies, provide students who are retained with at least one of the following instructional options:

- a. supplemental tutoring in scientific-research-based reading services in addition to the regular reading block, including tutoring before or after school,
- b. a parent-guided "Read at Home" assistance plan, as developed by the State Department of Education, the purpose of which is to encourage regular parent-guided home reading, or
- c. a mentor or tutor with specialized reading training.

O. Beginning with the 2011-2012 school year, each school district shall establish a Reading Enhancement and Acceleration Development (READ) Initiative. The focus of the READ Initiative shall be to prevent the retention of third-grade students by offering intensive accelerated reading instruction to third-grade students who failed to meet standards for promotion to fourth grade and to kindergarten through third-grade students who are exhibiting a reading deficiency. The READ Initiative shall:

- 1. Be provided to all kindergarten through third-grade students at risk of retention as identified by the assessments administered pursuant to the Reading Sufficiency Act. The assessment used shall measure phonemic awareness, phonics, fluency, vocabulary, and comprehension;
- 2. Be provided during regular school hours in addition to the regular reading instruction; and
- 3. Provide a state-approved reading curriculum that, at a minimum, meets the following specifications:
 - a. assists students assessed as exhibiting a reading deficiency in developing the ability to read at grade level,
 - b. provides skill development in phonemic awareness, phonics, fluency, vocabulary, and comprehension,
 - c. provides a scientific-research-based and reliable assessment,
 - d. provides initial and ongoing analysis of the reading progress of each student,
 - e. is implemented during regular school hours,
 - f. provides a curriculum in core academic subjects to assist the student in maintaining or meeting proficiency levels for the

appropriate grade in all academic subjects,

g. establishes at each school, where applicable, an Intensive Acceleration Class for retained third-grade students who subsequently score at the unsatisfactory level on the reading portion of the statewide criterion-referenced tests. The focus of the Intensive Acceleration Class shall be to increase the reading level of a child at least two grade levels in one (1) school year. The Intensive Acceleration Class shall:

(1) be provided to any student in the third grade who scores at the unsatisfactory level on the reading portion of the statewide criterion-referenced tests and who was retained in the third grade the prior year because of scoring at the unsatisfactory level on the reading portion of the statewide criterion-referenced tests,

(2) have a reduced teacher-student ratio,

(3) provide uninterrupted reading instruction for the majority of student contact time each day and incorporate opportunities to master the fourth-grade state standards in other core subject areas,

(4) use a reading program that is scientific-research-based and has proven results in accelerating student reading achievement within the same school year,

(5) provide intensive language and vocabulary instruction using a scientific-research-based program, including use of a speech-language therapist,

(6) include weekly progress monitoring measures to ensure progress is being made, and

(7) provide reports to the State Department of Education, in the manner described by the Department, outlining the progress of students in the class at the end of the first semester,

h. provide reports to the State Board of Education, upon request, on the specific intensive reading interventions and supports implemented by the school district. The State Superintendent of Public Instruction shall annually prescribe the required components of the reports, and

i. provide to a student who has been retained in the third grade and has received intensive instructional services but is still not ready for grade promotion, as determined by the school district, the option of being placed in a transitional instructional setting. A transitional setting shall specifically be designed to produce learning gains sufficient to meet fourth-grade performance standards while continuing to remediate the areas of reading deficiency.

P. In addition to the requirements set forth in this section, each school district board of education shall annually report to the parent or guardian of each student in the district the progress of the student toward achieving state and district expectations for proficiency in reading, writing, science, and mathematics. The school district board of education shall report to the parent or guardian of each student the results on statewide criterion-referenced tests. The evaluation of the progress of each student shall be based upon classroom work, observations, tests, district and state assessments, and other relevant information. Progress reporting shall be provided to the parent or guardian in writing.

Q. 1. Each school district board of education shall annually publish on the school website, and report in writing to the State Board of Education by September 1 of each year, the following information on the prior school year:

a. the provisions of this section relating to public school student progression and the policies and procedures of the school district on student retention and promotion,

b. by grade, the number and percentage of all students in grades three through ten performing at the unsatisfactory level on the reading portion of the statewide criterion-referenced tests,

c. by grade, the number and percentage of all students retained in grades three through ten,

d. information on the total number and percentage of students who were promoted for good cause, by each category of good cause as specified above, and

e. any revisions to the policies of the school district on student retention and promotion from the prior year.

2. The State Department of Education shall establish a uniform format for school districts to report the information required in this subsection. The format shall be developed with input from school districts and shall be provided not later than ninety (90) days prior to the annual due date. The Department shall annually compile the information required along with state-level summary information, and report the information to the public, the Governor, the President Pro Tempore of the

Senate, and the Speaker of the House of Representatives.

R. The State Department of Education shall provide technical assistance as needed to aid school districts in administering the provision of the Reading Sufficiency Act.

S. On or before December 1 of each year, the State Department of Education shall issue to the Governor and members of the Senate and House of Representatives Education Committees a Reading Report Card for the state and each school district and elementary site which shall include, but is not limited to, trend data detailing three (3) years of data, disaggregated by student subgroups to include economically disadvantaged, major racial or ethnic groups, students with disabilities, and English language learners, as appropriate for the following:

1. The number and percentage of students in kindergarten through third grade determined to be at risk for reading difficulties compared to the total number of students enrolled in each grade;
2. The number and percentage of students in kindergarten who continue to be at risk for reading difficulties as determined by the year-end measurement of reading progress;
3. The number and percentage of students in kindergarten through third grade who have successfully completed their program of reading instruction and are reading on grade level as determined by the results of approved reading assessments;
4. The number and percentage of students scoring at each performance level on the reading portion of the statewide third-grade criterion-referenced test;
5. The amount of funds for reading remediation received by each district;
6. An evaluation and narrative interpretation of the report data analyzing the impact of the Reading Sufficiency Act on students' ability to read at grade level; and
7. Any recommendations for improvements or amendments to the Reading Sufficiency Act.

The State Department of Education may contract with an independent entity for the reporting and analysis requirements of this subsection.

T. Copies of the results of the assessments administered shall be made a part of the permanent record of each student.

Version 2 (as amended by Laws 2012, HB 2306, c. 354, § 9)

A. 1. Each student enrolled in kindergarten in a public school in this state shall be screened for reading skills including, but not limited to, phonological awareness, letter recognition, and oral language skills as identified in the Priority Academic Student Skills (PASS) adopted by the State Board of Education. A screening instrument approved by the State Board shall be utilized for the purposes of this section.

2. For those kindergarten children at risk for reading difficulties, teachers shall emphasize reading skills as identified in the PASS, monitor progress throughout the year and measure year-end reading progress.

3. Classroom assistants, which may include parents, grandparents, or other volunteers, shall be provided in kindergarten classes to assist with the screening of students if a teacher aide is not already employed to assist in a kindergarten classroom.

B. 1. Each student enrolled in kindergarten, first, second and third grade of the public schools of this state shall be assessed at the beginning of each school year using a screening instrument approved by the State Board of Education for the acquisition of reading skills including, but not limited to, phonological awareness, phonics, spelling, reading fluency, vocabulary, and comprehension.

2. Any student who is assessed and found not to be reading at the appropriate grade level shall be provided a program of reading instruction designed to enable the student to acquire the appropriate grade level reading skills. Beginning with students entering the first grade in the 2011-2012 school year, the program of reading instruction shall include provisions of the READ Initiative adopted by the school district as provided for in subsection O of this section.

3. Throughout the year progress monitoring shall continue, and diagnostic assessment, if determined appropriate, shall be provided. Year-end reading skills shall be measured to determine reading success.

C. The State Board of Education shall approve no more than three screening instruments for use at the beginning of the school year, for monitoring of progress, and for measurement of reading skills at the end of the school year as required in subsections A and B of this section; provided, one of the screening instruments shall be recommended by the Oklahoma Commission for Teacher Preparation. The State Board shall also determine other comparable reading assessments for diagnostic purposes and for periodic and post assessments to be used for students at risk of reading failure. The State Board shall ensure that any assessments approved are in alignment with the PASS.

D. The program of reading instruction required in subsection B of this section shall align with the PASS, shall include provisions of the READ Initiative adopted by the school district as provided for in subsection O of this section beginning with students entering the first grade in the 2011-2012 school year and may include, but is not limited to:

1. Sufficient additional in-school instructional time for the acquisition of phonological awareness, phonics, spelling, reading fluency, vocabulary, and comprehension;
2. If necessary, tutorial instruction after regular school hours, on Saturdays and during summer; however, such instruction may not be counted toward the one-hundred-eighty-day or one-thousand- eighty-hour school year required in Section 1-109 of this title; and
3. Assessments identified for diagnostic purposes and periodic monitoring to measure the acquisition of reading skills including, but not limited to, phonological awareness, phonics, spelling, reading fluency, vocabulary, and comprehension, as identified in the student's program of reading instruction.

E. The program of reading instruction shall continue until the student is determined by the results of approved reading assessments to be reading on grade level.

F. 1. Every school district shall adopt, and implement a district reading sufficiency plan which has had input from school administrators, teachers, and parents and if possible a reading specialist, and which shall be submitted electronically to and approved by the State Board of Education. The plan shall be updated annually. School districts shall not be required to electronically submit the annual updates to the Board if the last plan submitted to the Board was approved and expenditures for the program include only expenses relating to individual and small group tutoring, purchase of and training in the use of screening and assessment measures, summer school programs and Saturday school programs. If any expenditure for the program is deleted or changed or any other type of expenditure for the program is implemented, the school district shall be required to submit the latest annual update to the Board for approval. The district reading sufficiency plan shall include a plan for each site which includes an analysis of the data provided by the Oklahoma School Testing Program and other reading assessments utilized as required in this section, and which outlines how each school site will comply with the provisions of the Reading Sufficiency Act.

2. Each school site shall establish a committee, composed of educators, which if possible shall include a certified reading specialist, to develop the required programs of reading instruction. A parent or guardian of the student shall be included in the development of the program of reading instruction for that student.

3. The State Board of Education shall adopt rules for the implementation and evaluation of the provisions of the Reading Sufficiency Act. The evaluation shall include, but not be limited to, an analysis of the data required in subsection S of this section.

G. For any third-grade student found not to be reading at grade level as determined by reading assessments administered pursuant to this section, a new program of reading instruction, including provisions of the READ Initiative adopted by the school district as provided for in subsection O of this section, shall be developed and implemented as specified in this section. If possible, a fourth-grade teacher shall be involved in the development of the program of reading instruction. In addition to other requirements of the Reading Sufficiency Act, the plan may include specialized tutoring.

H. Beginning with students entering the first grade in the 2011-2012 school year, if the reading deficiency of a student, as identified based on assessments administered as provided for in subsection B of this section, is not remedied by the end of third grade, as demonstrated by scoring at the unsatisfactory level on the reading portion of the statewide third-grade criterion-referenced test, the student shall be retained in the third grade.

I. The parent of any student who is found to have a reading deficiency and is not reading at the appropriate grade level and has been provided a program of reading instruction as provided for in subsection B of this section shall be notified in writing of the following:

1. That the student has been identified as having a substantial deficiency in reading;

2. A description of the current services that are provided to the student;
 3. A description of the proposed supplemental instructional services and supports that will be provided to the student that are designed to remediate the identified area of reading deficiency;
 4. That the student will not be promoted to the fourth grade if the reading deficiency is not remediated by the end of the third grade, unless the student is exempt for good cause as set forth in subsection K of this section;
 5. Strategies for parents to use in helping their child succeed in reading proficiency;
 6. That while the results of the statewide criterion-referenced tests administered pursuant to Section 1210.508 of this title are the initial determinant, it is not the sole determiner of promotion and that portfolio reviews and assessments are available; and
 7. The specific criteria and policies of the school district for midyear promotion implemented as provided for in paragraph 4 of subsection N of this section.
- J. No student may be assigned to a grade level based solely on age or other factors that constitute social promotion.
- K. For those students who do not meet the academic requirements for promotion, a school district may promote the student for good cause only. Good-cause exemptions for promotion shall be limited to the following:
1. Limited-English-proficient students who have had less than two (2) years of instruction in an English language learner program;
 2. Students with disabilities whose individualized education plan (IEP), consistent with state law, indicates that the student is to be assessed with alternate achievement standards through the Oklahoma Alternate Assessment Program (OAAP);
 3. Students who demonstrate an acceptable level of performance on an alternative standardized reading assessment approved by the State Board of Education;
 4. Students who demonstrate, through a student portfolio, that the student is reading on grade level as evidenced by demonstration of mastery of the state standards beyond the retention level;
 5. Students with disabilities who participate in the statewide criterion-referenced tests and who have an individualized education plan that reflects that the student has received intensive remediation in reading for more than two (2) years but still demonstrates a deficiency in reading and was previously retained in kindergarten, first grade, second grade, or third grade; and
 6. Students who have received intensive remediation in reading through a program of reading instruction for two (2) or more years but still demonstrate a deficiency in reading and who were previously retained in kindergarten, first grade, second grade, or third grade for a total of two (2) years.
- L. A student who is promoted for good cause as provided for in subsection K of this section shall be provided intensive reading instruction during an altered instructional day that includes specialized diagnostic information and specific reading strategies for each student. The school district shall assist schools and teachers to implement reading strategies for the promoted students that research has shown to be successful in improving reading among low-performing readers.
- M. Requests to exempt students from the mandatory retention requirements based on one of the good-cause exemptions as described in subsection K of this section shall be made using the following process:
1. Documentation submitted from the teacher of the student to the school principal that indicates the student meets one of the good-cause exemptions and promotion of the student is appropriate. In order to minimize paperwork requirements, the documentation shall consist only of the alternative assessment results or student portfolio work and the individual education plan (IEP), as applicable;
 2. The principal of the school shall review and discuss the documentation with the teacher. If the principal determines that the student meets one of the good-cause exemptions and should be promoted based on the documentation provided, the principal shall make a recommendation in writing to the school district superintendent; and
 3. After review, the school district superintendent shall accept or reject the recommendation of the principal in writing.
- N. Beginning with the 2011-2012 school year, each school district shall:

1. Conduct a review of the program of reading instruction for all students who score at the unsatisfactory level on the reading portion of the statewide criterion-referenced test administered pursuant to Section 1210.508 of this title and did not meet the criteria for one of the good-cause exemptions as set forth in subsection K of this section. The review shall address additional supports and services, as described in this subsection, needed to remediate the identified areas of reading deficiency. The school district shall require a student portfolio to be completed for each retained student;

2. Provide to students who have been retained as set forth in subsection H of this section with intensive interventions in reading, intensive instructional services and supports to remediate the identified areas of reading deficiency, including a minimum of ninety (90) minutes of daily, uninterrupted, scientific-research-based reading instruction. Retained students shall be provided other strategies prescribed by the school district, which may include, but are not limited to:

a. small group instruction,

b. reduced teacher-student ratios,

c. more frequent progress monitoring,

d. tutoring or mentoring,

e. transition classes containing third- and fourth-grade students,

f. extended school day, week, or year, and

g. summer reading academies as provided for in Section 1210.508E of this title, if available;

3. Provide written notification to the parent or guardian of any student who is to be retained as set forth in subsection H of this section that the student has not met the proficiency level required for promotion and the reasons the student is not eligible for a good-cause exemption. The notification shall include a description of proposed interventions and intensive instructional supports that will be provided to the student to remediate the identified areas of reading deficiency;

4. Implement a policy for the midyear promotion of a retained student who can demonstrate that the student is a successful and independent reader, is reading at or above grade level, and is ready to be promoted to the fourth grade. **Tools that school districts may use in reevaluating any retained student may include subsequent assessments, alternative assessments, and portfolio reviews, in accordance with rules of the State Board of Education.** Retained students may only be promoted midyear prior to November 1 and only upon demonstrating a level of proficiency required to score above the unsatisfactory level on the statewide third-grade criterion-referenced test and upon showing progress sufficient to master appropriate fourth-grade-level skills, as determined by the school. A midyear promotion shall be made only upon agreement of the parent or guardian of the student and the school principal;

5. Provide students who are retained with a high-performing teacher who can address the needs of the student, based on student performance data and above-satisfactory performance appraisals; and

6. In addition to required reading enhancement and acceleration strategies, provide students who are retained with at least one of the following instructional options:

a. supplemental tutoring in scientific-research-based reading services in addition to the regular reading block, including tutoring before or after school,

b. a parent-guided "Read at Home" assistance plan, as developed by the State Department of Education, the purpose of which is to encourage regular parent-guided home reading, or

c. a mentor or tutor with specialized reading training.

O. Beginning with the 2011-2012 school year, each school district shall establish a Reading Enhancement and Acceleration Development (READ) Initiative. The focus of the READ Initiative shall be to prevent the retention of third-grade students by offering intensive accelerated reading instruction to third-grade students who failed to meet standards for promotion to fourth grade and to kindergarten through third-grade students who are exhibiting a reading deficiency. The READ Initiative shall:

1. Be provided to all kindergarten through third-grade students at risk of retention as identified by the assessments administered pursuant to the Reading Sufficiency Act. The assessment used shall measure phonemic awareness, phonics, fluency, vocabulary, and comprehension;

2. Be provided during regular school hours in addition to the regular reading instruction; and
3. Provide a state-approved reading curriculum that, at a minimum, meets the following specifications:
 - a. assists students assessed as exhibiting a reading deficiency in developing the ability to read at grade level,
 - b. provides skill development in phonemic awareness, phonics, fluency, vocabulary, and comprehension,
 - c. provides a scientific-research-based and reliable assessment,
 - d. provides initial and ongoing analysis of the reading progress of each student,
 - e. is implemented during regular school hours,
 - f. provides a curriculum in core academic subjects to assist the student in maintaining or meeting proficiency levels for the appropriate grade in all academic subjects,
 - g. establishes at each school, where applicable, an Intensive Acceleration Class for retained third-grade students who subsequently score at the unsatisfactory level on the reading portion of the statewide criterion-referenced tests. The focus of the Intensive Acceleration Class shall be to increase the reading level of a child at least two grade levels in one (1) school year. The Intensive Acceleration Class shall:
 - (1) be provided to any student in the third grade who scores at the unsatisfactory level on the reading portion of the statewide criterion-referenced tests and who was retained in the third grade the prior year because of scoring at the unsatisfactory level on the reading portion of the statewide criterion-referenced tests,
 - (2) have a reduced teacher-student ratio,
 - (3) provide uninterrupted reading instruction for the majority of student contact time each day and incorporate opportunities to master the fourth-grade state standards in other core subject areas,
 - (4) use a reading program that is scientific-research-based and has proven results in accelerating student reading achievement within the same school year,
 - (5) provide intensive language and vocabulary instruction using a scientific-research-based program, including use of a speech-language therapist,
 - (6) include weekly progress monitoring measures to ensure progress is being made, and
 - (7) provide reports to the State Department of Education, in the manner described by the Department, outlining the progress of students in the class at the end of the first semester,
 - h. provide reports to the State Board of Education, upon request, on the specific intensive reading interventions and supports implemented by the school district. The State Superintendent of Public Instruction shall annually prescribe the required components of the reports, and
 - i. provide to a student who has been retained in the third grade and has received intensive instructional services but is still not ready for grade promotion, as determined by the school district, the option of being placed in a transitional instructional setting. A transitional setting shall specifically be designed to produce learning gains sufficient to meet fourth-grade performance standards while continuing to remediate the areas of reading deficiency.
- P. In addition to the requirements set forth in this section, each school district board of education shall annually report to the parent or guardian of each student in the district the progress of the student toward achieving state and district expectations for proficiency in reading, writing, science, and mathematics. The school district board of education shall report to the parent or guardian of each student the results on statewide criterion-referenced tests. The evaluation of the progress of each student shall be based upon classroom work, observations, tests, district and state assessments, and other relevant information. Progress reporting shall be provided to the parent or guardian in writing.
- Q. 1. Each school district board of education shall annually publish on the school website, and report in writing to the State Board of Education by September 1 of each year, the following information on the prior school year:
 - a. the provisions of this section relating to public school student progression and the policies and procedures of the school district on student retention and promotion,

- b. by grade, the number and percentage of all students in grades three through ten performing at the unsatisfactory level on the reading portion of the statewide criterion-referenced tests,
- c. by grade, the number and percentage of all students retained in grades three through ten,
- d. information on the total number and percentage of students who were promoted for good cause, by each category of good cause as specified above, and
- e. any revisions to the policies of the school district on student retention and promotion from the prior year.

2. The State Department of Education shall establish a uniform format for school districts to report the information required in this subsection. The format shall be developed with input from school districts and shall be provided not later than ninety (90) days prior to the annual due date. The Department shall annually compile the information required along with state-level summary information, and report the information to the public, the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives.

R. The State Department of Education shall provide technical assistance as needed to aid school districts in administering the provision of the Reading Sufficiency Act.

S. On or before December 1 of each year, the State Department of Education shall issue to the Governor and members of the Senate and House of Representatives Education Committees a Reading Report Card for the state and each school district and elementary site which shall include, but is not limited to, trend data detailing three (3) years of data, disaggregated by student subgroups to include economically disadvantaged, major racial or ethnic groups, students with disabilities, and English language learners, as appropriate for the following:

- 1. The number and percentage of students in kindergarten through third grade determined to be at risk for reading difficulties compared to the total number of students enrolled in each grade;
- 2. The number and percentage of students in kindergarten who continue to be at risk for reading difficulties as determined by the year-end measurement of reading progress;
- 3. The number and percentage of students in kindergarten through third grade who have successfully completed their program of reading instruction and are reading on grade level as determined by the results of approved reading assessments;
- 4. The number and percentage of students scoring at each performance level on the reading portion of the statewide third-grade criterion-referenced test;
- 5. The amount of funds for reading remediation received by each district;
- 6. An evaluation and narrative interpretation of the report data analyzing the impact of the Reading Sufficiency Act on students' ability to read at grade level; and
- 7. Any recommendations for improvements or amendments to the Reading Sufficiency Act.

The State Department of Education may contract with an independent entity for the reporting and analysis requirements of this subsection.

T. Copies of the results of the assessments administered shall be made a part of the permanent record of each student.

Historical Data

Added by Laws 1997, HB 2017, c. 349, § 3, emerg. eff. July 1, 1997; Amended by Laws 1998, HB 2878, c. 332, § 1, emerg. eff. July 1, 1998 (superseded document available); Amended by Laws 1999, HB 1252, c. 176, § 2, emerg. eff. July 1, 1999 (superseded document available); Amended by Laws 2001, SB 168, c. 421, § 2, emerg. eff. July 1, 2001 (superseded document available); Amended by Laws 2004, HB 1133, c. 175, § 1, emerg. eff. July 1, 2004 (repealed by Laws 2005, HB 2060, c. 1, § 125, emerg. eff. March 15, 2005); Amended by Laws 2004, HB 2477, c. 197, § 2, emerg. eff. July 1, 2004 (superseded document available); Amended by Laws 2005, HB 2060, c. 1, § 124, emerg. eff. March 15, 2005 (superseded document available); Amended by Laws 2005, SB 966, c. 431, § 3, eff. September 1, 2005 (superseded document available); Amended by Laws 2011, SB 346, c. 171, § 1 (superseded document available); Amended by Laws 2012, HB 2516, c. 171, § 1, emerg. eff. July 1, 2012 (superseded document available); Amended by Laws 2012, HB 2511, c. 250, § 1;

Amended by Laws 2012, HB 2306, c. 354, § 9 (superseded document available).

Draft of Proposed Rule Submitted for Public
Comment

**TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 15. CURRICULUM AND INSTRUCTION**

SUBCHAPTER 27. READING SUFFICIENCY ACT

210:15-27-1. ~~Reading Sufficiency Act~~ Reading Sufficiency Plans and Summer Academy Reading Programs

(a) Each public school district will develop a district reading sufficiency plan that includes a plan for each site. ~~The district and site reading plans plan will become a part of each district's Comprehensive Local Education Plan and~~ must be updated annually and electronically submitted to and approved by the Office of Instruction of the State Department of Education as part of the requirements for receiving accreditation, provided that electronic submission and approval of annual updates to the district plan shall not be required if:

- (1) The last plan submitted by the school district was approved; and
- (2) Expenditures for the district's reading program include only expenses relating to:
 - (A) Individual and small group tutoring;
 - (B) Purchase of and training in the use of screening and assessment measures;
 - (C) Summer school programs; or
 - (D) Saturday school programs.

If any expenditure for the district's reading program is deleted or changed or if any other type of expenditure for the district's reading program is implemented, the school district shall be required to submit the latest annual update for approval.

(b) Each school district and each school site shall submit to the State Department of Education the information to be used for the required Reading Sufficiency Act Annual Reading Report Card: ~~by the Submission-submission deadline date to be determined by the Office of Instruction of the State Department of Education.~~

(c) Each school district will submit to the State Department of Education, the number of students in kindergarten, first, second and third grades found to be in need of remediation in reading based on screening instruments approved by the State Board of Education: ~~by the Submission-submission deadline date to be determined by the Office of Instruction of the State Department of Education.~~

(d) Pursuant to the Reading Sufficiency Act, each school district which has any schools that are not achieving the required annual reading goal set forth in 70 O.S. § 1210.508B shall submit to the State Department of Education its annual improvement goals necessary to progress from the baseline established September 1, 2005, to achieving the reading goal for all third-grade students set forth at 70 O.S. 1210.508B(D). ~~by July 1, 2008.~~ These improvement goals shall be submitted to the State Board of Education: ~~by the Submission-submission deadline date to be determined by the Office of Instruction of the State Department of Education.~~

(e) Contingent on the availability of appropriated funds designated for the Reading Sufficiency Act, the State Department of Education may ~~award up to \$150.00~~ allocate funds to public school districts in accordance with the provisions of 70 O.S. § 1210.508D. ~~for each currently enrolled first, second, and third grade student who is found to be in need of remediation in reading.~~

(f) Reading sufficiency funds allocated ~~under this section~~ pursuant to subsection (e) of this rule must be used for expenses relating to individual and small group tutoring, purchase of and and/or development of instructional training in the use of screening assessment measures, summer ~~school~~ academy reading programs, and Saturday school programs, and any other reading program or professional development training contemplated as necessary by the districts to perform the goals of the Reading Sufficiency Act for students in the kindergarten, first, second, and third grades who have been identified by the elementary site as in need of a program of reading instruction.

(g) Each school district with one or more school sites designated as a school in need of improvement identified for School Improvement shall submit its district reading sufficiency plan to the State Board of Education: ~~by the Submission-submission deadline date to be determined by the Office of Instruction of the State Department of Education.~~

(h) The district reading sufficiency plan shall be submitted to the State Board of Education if the district has any schools that are not achieving the annual improvement goals as outlined in the Reading Sufficiency Act: ~~by the Submission~~ submission deadline date to be determined by the Office of Instruction of the State Department of Education.

~~(i) Contingent on the availability of appropriated funds, the State Department of Education may award up to \$400.00 to public school districts for each eligible currently enrolled student who is found not to be reading at grade level and who subsequently participates in a summer academy reading program pursuant to the Reading Sufficiency Act.~~

~~(j)(i)~~ Each district will submit the number of eligible students who may participate in an approved summer academy reading program based on results from an approved assessment as outlined in the Reading Sufficiency Act: ~~by the Submission~~ submission deadline date to be determined by the Office of Instruction of the State Department of Education.

~~(k) Reading Sufficiency funds allocated from the student count in (j) may be used for expenses relating to any approved reading programs for participating eligible students.~~

~~(l)(j)~~ Summer academy reading programs for students shall be courses that:

- (1) provide at least four (4) weeks of tutoring a half (1/2) day each day for four days;
- (2) incorporate the content of a reading program that meets the criteria set forth in the Reading Sufficiency Act;
- (3) are taught by teachers who have successfully completed a professional development institute or program in reading as prescribed by the statutory provisions of the Reading Sufficiency Act; and
- (4) include only eligible students not reading at grade level based on results from an assessment approved by the State Board of Education.

~~(k)~~ School districts observing a continuous learning calendar may request to implement a summer academy reading program on an alternative schedule throughout the extended school year (e.g., during intersession breaks) by submitting a proposed alternative summer academy reading program schedule to the State Department of Education for approval prior to the deadline established by the Office of Instruction of the State Department of Education, provided that any proposed alternative schedule must meet the requirements set forth in subsection (l).

~~(m)(l)~~ Superintendents of districts will sign and submit an assurance statement that their reading program(s) meet the requirements of the Reading Sufficiency Act prior to receipt of funding.

~~(m)~~ Upon completion of a Summer Academy Reading Program pursuant to 70 O.S. § 1210.508E, a student may demonstrate successful completion of the required competencies for reading necessary for promotion to fourth grade upon the student's completion of either:

- (1) A student portfolio in accordance with the criteria set forth in 210:15-27-2(b)(4); or
- (2) An acceptable level of performance on an alternative reading assessment in accordance with the criteria set forth in 210:15-27-2(b)(3)(A).

210:15-27-2. Alternative standardized reading assessments and use of student portfolio for good cause exemptions for promotion under the Reading Sufficiency Act

(a) Beginning with the 2013-2014 school year, students who score at the Unsatisfactory level on the Reading portion of the ~~Grade 3~~ third grade criterion-referenced test(s) may only be promoted to fourth grade ~~four~~ if the student qualifies for a good cause ~~or other statutory exemption~~ pursuant to 70 O.S. § 1210.508C.

(b) Good cause exemptions shall be limited to the six (6) statutory exemptions outlined in 70 O.S. § 1210.508C, ~~Section (K)~~ as follows:-

~~(1) Completion of transitional grades shall be considered a previous retention for purposes of 70 O.S. § 1210.508C, Section (K). A transitional grade consists of subject area curriculum selected from two consecutive grade levels to provide differentiated instruction needed for a student to master appropriate skills required for promotion. Students with limited English proficiency may be granted a good cause exemption for promotion to the fourth grade pursuant to 70 O.S. § 1210.508C(K)(1). To qualify for this exemption, the student must:~~

~~(A) Be identified as Limited-English Proficient (LEP)/English Language Learner (ELL) on a screening tool approved by the Oklahoma State Department of Education Office of Bilingual/Migrant Education and have a Language Instruction Educational Plan (LIEP) in place prior to the administration of the third grade criterion referenced test; and~~

(B) The student must have had less than two (2) years of instruction in an English Language Learner (ELL) program.

(2) Students with disabilities who are assessed with alternate achievement standards (AA-AAS) under the Oklahoma School Testing Program (OSTP) with the Oklahoma Alternative Assessment Program (OAAP) qualify for the good cause exemption pursuant to 70 O.S. § 1210.508C(K)(2). To qualify for this exemption, the student must meet all of the following criteria:

(A) The student must be identified as needing special education services prior to the administration of the third grade criterion referenced test;

(B) The student must have an Individualized Education Program (IEP) in place prior to the administration of the third grade criterion referenced test; and

(C) The student's IEP must:

(i) Include measurable annual goals containing alternative achievement standards and academic and functional goals along with short term objectives or benchmarks which are based on the logical breakdown of the major components of the annual goals; and

(ii) Direct that the student is to be assessed with alternate achievement standards through the Oklahoma Alternative Assessment Program (OAAP).

~~(e)~~(3) Students who demonstrate an acceptable level of performance on an alternative standardized reading assessment may be granted a good cause exemption for promotion to the fourth grade pursuant to 70 O.S. § 1210.508C(K)(3). To promote a student using an alternative standardized reading assessment, the following criteria shall apply:

~~(A)~~(A) The student must score an acceptable level of performance on an approved alternative standardized reading assessment. The following are approved alternative standardized reading assessments that may be used to justify a good cause promotion pursuant to 70 O.S. § 1210.508C(K)(3). The listed score constitutes an acceptable level of performance, and the student must score at or above the following percentiles:

~~(A)~~(i) Stanford Achievement Test, Tenth Edition, (SAT 10) – 45th Percentile

~~(B)~~(ii) Iowa Test of Basic Skills (ITBS) Complete Battery Form A, C or E, Level 9, Reading Comprehension – 45th Percentile

~~(C)~~(iii) Iowa Test of Basic Skills (ITBS) Core Battery, Form A, C, or E, Level 9, Reading Comprehension – 45th Percentile

~~(D)~~(iv) ~~Terranova~~ TerraNova, Third Edition Complete Battery Level 13, Reading – 45th Percentile

~~(2)~~(B) Alternative standardized reading assessments may only be administered following the administration of the Reading portion of the ~~Grade 3~~ third grade criterion-referenced test(s). The spring test form of the exam shall be administered.

~~(3)~~(C) An approved alternative standardized reading assessment may be administered at any time prior to the start of the next academic year, if there are at least thirty ~~calendar~~ (30) calendar days between administrations and different test forms are administered.

~~(d)~~(4) Students who can demonstrate evidence through a student portfolio that the student has mastered state standards beyond the retention level and that the student is reading on grade level or higher may be granted a good cause exemption pursuant to 70 O.S. § 1210.508C(K)(4). ~~To promote a student using a student portfolio as a good cause exemption there must be evidence that demonstrates the student's mastery of state standards beyond the retention level and that the student is reading on grade level or higher.~~ To promote a student through the use of a student portfolio, the following criteria shall apply:

~~(A)~~(A) The student portfolio shall include evidence demonstrating demonstration of the student's mastery of the Oklahoma state standards in reading equal to grade level performance on the Reading portion of the statewide ~~Grade 3~~ third grade criterion-referenced test(s). Such evidence shall be documented through an organized collection of work representing the student's mastery of such standards, including a demonstration of mastery of all of the following essential components of reading:-

(i) Phonological awareness;

(ii) Phonics (i.e., The student demonstrates awareness of letter-sound correspondence for consonants, vowels, and consonant digraphs, syllable types, and two to three syllable words);

(iii) Vocabulary (i.e., The student demonstrates ability to determine the meaning of general academic-specific and domain-specific words and phrases in a text relevant to a grade three topic or subject area);

(iv) Automaticity/Fluency (i.e., The student demonstrates timed letter and word identification, sight words, modeled paragraph reading);

(v) Comprehension (i.e., The student demonstrates ability to read and comprehend informational text independently and proficiently); and

(vi) Spelling/Writing (i.e., The student demonstrates proficiency in spelling and writing through spelling tests and writing samples).

~~(2) A student portfolio created to serve as the basis for a good cause exemption must meet the following criteria:~~

~~(A) Consist only of grade level work selected by the student's Reading teacher;~~

~~(B) Be an accurate representation of the student's reading achievement level, and only include work that has been independently produced in the third grade by the student in the classroom of the student's Reading teacher;~~

~~(C)~~(B) The student portfolio shall include ~~Include~~ clear evidence that the standards assessed by the Reading portion of the ~~Grade 3~~ statewide third grade criterion-referenced test(s) have been met. Clear evidence must include multiple choice items and passages that are 50% literary text and 50% expository text that are between 200-600 words, with an average of 350 words. Such evidence could consist of:

(i) Chapter or unit tests from the district's adopted core reading curriculum that are aligned with the Oklahoma State Standards; or

(ii) Teacher-prepared assessments.

~~(D)~~(C) Each standard and objective assessed by the Grade 3 Reading portion of the third grade criterion-referenced test(s) must include a minimum of four (4) work samples of mastery whereby the student attained a grade of 70% or above. Demonstrating mastery of each objective for each standard is required.

(D) The student portfolio shall include copies of the screening assessments and benchmark/progress monitoring assessments administered pursuant to 70 O.S. 1210.508C(B) and (C).

(E) The student portfolio shall be ~~Be~~ signed by the student's Reading teacher and the principal of the school, ~~both~~ attesting that:

(i) ~~The the~~ The portfolio is an accurate assessment of the student's reading achievement level;

(ii) The portfolio includes only work that has been independently produced by the student in the third grade; and

(iii) ~~that the~~ The student possesses required reading skills to be promoted to fourth grade.

~~(e) To promote a student under 70 O.S. § 1210.508C(L), the student's teacher shall compile a student portfolio which demonstrates that the student should be exempted from the academic requirements of the Oklahoma Reading Sufficiency Act. The student portfolio shall indicate that promotion is appropriate based on the record of the student, as documented by a student portfolio.~~

~~(1) An exemption based on the record of the student shall exist only if the student has been evaluated for special education services and received a borderline deficiency Full Scale IQ or General Intellectual Ability (GIA) score of seventy (70) to seventy nine (79) on an intellectual assessment listed in sub-section (1)(B).~~

~~(A) Student portfolios compiled pursuant to section (e) of this rule shall contain documentation of the intellectual assessment administered to the student and the respective score report. The intellectual assessment must be administered by a licensed psychologist, certified school psychologist, or certified psychometrist.~~

~~(B) The following intellectual assessments may be administered to justify an exemption under this section:~~

~~(i) WISC IV~~

~~(ii) Stanford Binet V~~

~~(iii) Woodcock Johnson III Normative Update~~

~~(C) An intellectual assessment may only be used to justify this exemption if administered in the current or previous school year of the Grade 3 criterion-referenced test administration. Prior intellectual assessments may not be relied upon as justification for this exemption.~~

~~(D) The standard error of measurement (SEM) shall not be considered for purposes of this section.~~

~~(2) The student portfolio shall be compiled by the student's Reading teacher and submitted to the school principal for approval. The portfolio shall be signed by the student's Reading teacher and the principal of the school, both attesting that the student meets the requirements of this section.~~

~~(3) The student's Reading teacher, in consultation with the school principal, shall determine whether the student qualifies for an exemption pursuant to this rule.~~

(5) Students with disabilities who participate in the statewide criterion-referenced test and have an IEP may qualify for a good cause exemption pursuant to 70 O.S. § 1210.508C(K)(5). To qualify for this exemption, the student must meet the following criteria:

(A) The student must have been previously retained in kindergarten, first grade, second grade, or third grade; and

(B) The student's IEP must:

(i) Identify Reading as an area of education need for the student or identify some type of special education service in the area of Reading; and

(ii) Reflect that the student has received intensive remediation for more than two (2) years. Intensive remediation may include participation in any type of program offering intensive reading instruction that is identified as appropriate by the IEP team.

(6) Students who demonstrate a reading deficiency and have been previously retained may qualify for a good cause exemption pursuant to 70 O.S. § 1210.508C(K)(6). To qualify for this exemption, the student must meet the following criteria:

(A) The student must have been previously retained in kindergarten, first grade, second grade, or third grade for a total of two (2) years; and

(B) The student must have received intensive reading instruction for two (2) or more years.

(f) Completion of transitional grades shall be considered a previous retention for purposes of 70 O.S. § 1210.508C(K). A transitional grade consists of subject area curriculum selected from two consecutive grade levels to provide differentiated instruction needed for a student to master appropriate skills required for promotion.

~~(g) Documentation shall be maintained in the student record of any student promoted on the basis of a good cause exemption listed in 70 O.S. § 1210.508C(K), Section (K), or student exemptions granted pursuant to sub-section (e) of this rule. Documentation shall include the student's criterion-referenced test score; and any documentation relied upon to grant a good cause exemption or exemption pursuant to sub-section (e)(b) of this rule.~~

~~(h) Any student promoted on the basis of a good cause exemption listed in 70 O.S. § 1210.508C(K), Section (K), or exempted from academic requirements pursuant to sub-section (e) of this rule should continue to receive intensive reading instruction and intensive instructional services and supports through the continued implementation of an Academic Progress Plan (APP) to remedy the reading deficiency.~~

(i) Each student's APP required under this section shall be documented on a form approved by the Office of Instruction of the State Department of Education, and shall include, but not be limited to, the following information:

(1) Identification of assessments used for diagnostic purposes and periodic monitoring;

(2) The results of the assessment(s) used to identify the reading deficiency;

(3) A list of the developmental reading skill areas targeted for improvement (i.e., comprehension, phonics, phonological awareness, spelling, reading fluency, or vocabulary);

(4) A description of the supplemental and/or remedial services and supports provided to the student in accordance with the provisions of 70 O.S. § 1210.508C(N)(2);

(5) A description of parental involvement strategies; and

(6) Identification of any collaborative services provided to the child in order to facilitate the APP (i.e., Title I, IDEA, ELL/Title III).

(j) For purposes of the Reading Sufficiency Act, a program of “intensive reading instruction” shall be based upon a three-tiered Response to Intervention (“RtI”) model, and shall include:

(1) For students identified for Tier I intervention, a minimum of ninety (90) minutes of uninterrupted daily scientific-research-based reading instruction;

(2) For students identified for Tier II intervention, at least an additional thirty (30) to forty-five (45) minutes of additional uninterrupted daily scientific-research-based reading instruction in addition to the ninety (90) minutes of uninterrupted daily reading instruction provided under Tier I; and

(3) For students identified for Tier III intervention, at least an additional sixty (60) to ninety (90) minutes of additional uninterrupted daily scientific-research-based reading instruction in addition to the ninety (90) minutes of uninterrupted daily reading instruction provided under Tier I.

Notice of Rulemaking Intent

SB

**TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 20. STAFF**

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Evaluation: Minimum Criteria for Effective Teaching and Administrative Performance

210:20-3-4. Oklahoma minimum criteria for effective teaching performance
[REVOKED]

210:20-3-5. Oklahoma minimum criteria for effective administrative performance
[REVOKED]

SUMMARY:

The proposed action is to revoke existing rules which establish minimum evaluation criteria for measuring effective teacher and administrator performance. The current rules are not based upon the Oklahoma Teacher and Leader Effectiveness Evaluation System, and have been rendered obsolete by 70 O.S. § 6-101.10, which requires minimum criteria for policies of evaluation adopted by a board of education to be revised and based upon the Oklahoma Teacher and Leader Effectiveness Evaluation System (TLE) developed by the State Board of Education in accordance with 70 O.S. § 6-101.16. The revocation is necessary to avoid confusion with the new minimum criteria to be established under the TLE.

AUTHORITY:

State Board of Education, pursuant to 70 O.S. § 3-104; 70 O.S. § 6-101.10; 70 O.S. § 6-101.16.

COMMENT PERIOD:

All interested persons wishing to present their views orally or in writing may do so before 4:30 p.m., Wednesday March 6, 2013, at the following address: Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599. Submit comments by email to: rules@sde.ok.gov.

PUBLIC HEARING:

A public hearing will be held at 1:00 p.m. on Wednesday, March 6, 2013, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Suite 1-20, Oklahoma City, Oklahoma 73105-4599. Persons wishing to speak must sign in at the door of the State Board Room. Time limitations may be imposed on oral presentations to ensure that all persons who desire to make oral comments will have an opportunity to do so.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies are on file for public viewing in the office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Proposed rules are also available on the State Department of Education Web site at www.sde.ok.gov on and after February 1, 2013.

RULE IMPACT STATEMENT:

A Rule Impact Statement has been prepared, according to 70 O.S. §303(D), and will be available at the Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma, on and after February 1, 2013.

CONTACT PERSON:

Connie Holland, 405-521-3308

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OF STATE

Rule Impact Statement

RULE IMPACT STATEMENT
STATE DEPARTMENT OF EDUCATION

Title 210

Chapter 20
Subchapter 3

- a. **What is the purpose of the proposed rule change?**
The purpose of the proposed rule is to revoke rules related to the minimum criteria for effective teaching performance at 210:20-3-4 and minimum criteria for effective administrative performance at 210:20-3-5, which have become outdated and superceded by the Oklahoma Teacher and Leader Effectiveness Evaluation System.
- b. **What classes of persons will be affected by the proposed rule change and what classes of persons will bear the costs of the proposed rule change?**
School districts, school sites, and certified teachers will be affected by the rule.
- c. **What classes of persons will benefit from the proposed rule change?**
School districts, school sites, and certified teachers will benefit from the proposed rule change.
- d. **What is the probable economic impact of the proposed rule upon affected classes of persons or political subdivisions?**
The agency does not anticipate any economic impact upon affected classes of persons or political subdivisions as a result of implementation of the proposed rule change at this time.
- e. **What is the probable cost to the agency to implement and enforce the proposed rule change?**
The agency does not anticipate any cost to the agency to implement and enforce as a result of the proposed change in the rule at this time.
- f. **What is the economic impact on any political subdivision to implement the proposed rule change?**
The agency does not anticipate any economic impact on any political subdivision to implement the proposed rule change at this time.
- g. **Will implementing the rule change have an adverse effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act?**
The agency does not anticipate any adverse economic impact on small business as a result of the proposed rule change at this time.
- h. **Are there any other methods which are less costly, nonregulatory, or less intrusive to achieve the purpose of the proposed rule change?**
No.
- i. **Will the rule change impact the public health, safety, and environment, and is the change designed to reduce significant risks to the public health, safety, and environment? If so, explain nature of risk and to what extent the proposed rule change will reduce the risk.**
Not applicable.

- j. **What detrimental effect will there be on the public health, safety, and environment if the rule change is not implemented?**
Not applicable.

Statutory Authorities

Oklahoma Statutes Citationized

Title 70. Schools

Chapter 1 - School Code of 1971

Article Article VI - Teachers

Section 6-101.16 - Oklahoma Teacher and Leader Effectiveness Evaluation System

Cite as: 70 O.S. § 6-101.16 (OSCN 2013)

A. By December 15, 2011, the State Board of Education shall adopt a new statewide system of evaluation to be known as the Oklahoma Teacher and Leader Effectiveness Evaluation System (TLE).

B. The TLE shall include the following components:

1. A five-tier rating system as follows:

- a. superior,
- b. highly effective,
- c. effective,
- d. needs improvement, and
- e. ineffective;

2. Annual evaluations that provide feedback to improve student learning and outcomes;

3. Comprehensive remediation plans and instructional coaching for all teachers rated as needs improvement or ineffective;

4. Quantitative and qualitative assessment components measured as follows:

a. fifty percent (50%) of the ratings of teachers and leaders shall be based on quantitative components which shall be divided as follows:

(1) thirty-five percentage points based on student academic growth using multiple years of standardized test data, as available, and

(2) fifteen percentage points based on other academic measurements, and

b. fifty percent (50%) of the rating of teachers and leaders shall be based on rigorous and fair qualitative assessment components;

5. An evidence-based qualitative assessment tool for the teacher qualitative portion of the TLE that will include observable and measurable characteristics of personnel and classroom practices that are correlated to student performance success, including, but not limited to:

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

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

- a. organizational and school management, including retention and development of effective teachers and dismissal of ineffective teachers,
- b. instructional leadership,
- c. professional growth and responsibility,
- d. interpersonal skills,
- e. leadership skills, and
- f. stakeholder perceptions; and

7. For those teachers in grades and subjects for which there is no state-mandated testing measure to create a quantitative assessment for the quantitative portion of the TLE, an assessment using objective measures of teacher effectiveness including student performance on unit or end-of-year tests. Emphasis shall be placed on the observed qualitative assessment as well as contribution to the overall school academic growth.

C. The Teacher and Leader Effectiveness Commission shall provide oversight and advise the State Board of Education on the development and implementation of the TLE.

D. The State Department of Education shall provide to the Oklahoma State Regents for Higher Education and the Oklahoma Commission for Teacher Preparation timely electronic data linked to teachers and leaders derived from the TLE for purposes of providing a basis for the development of accountability and quality improvements of the teacher preparation system. The data shall be provided in a manner and at such times as agreed upon between the Department, the State Regents and the Commission.

E. For purposes of this section, "leader" means a principal, assistant principal or any other school administrator who is responsible for supervising classroom teachers.

Historical Data

Added by Laws 2010, SB 2033, c. 291, § 6, emerg. eff. July 1, 2010; Amended by Laws 2011, HB 1267, c. 177, § 1, emerg. eff. July 1, 2011 (superseded document available).

Oklahoma Statutes Citationized

Title 70. Schools

Chapter 1 - School Code of 1971

Article Article VI - Teachers

Section 6-101.10 - Establishment of Written Policy of Evaluation

Cite as: 70 O.S. § 6-101.10 (OSCN 2013)

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

1. Be based upon a set of minimum criteria developed by the State Board of Education, which by no later than the 2013-14 school year, shall be revised and based upon the Oklahoma Teacher and Leader Effectiveness Evaluation System (TLE) developed by the State Board of Education as provided in Section 6 of this act;

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

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

4. Provide that every probationary teacher be evaluated at least two times per school year, once prior to November 15 and once prior to February 10 of each year;

5. Provide that every teacher be evaluated once every year, except as otherwise provided by law; and

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

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

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

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

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

Historical Data

Laws 1977, SB 249, c. 262, § 2, emerg. eff. June 17, 1977; Amended by Laws 1985, HB 1466, c. 329, § 16, emerg. eff. July 30, 1985; Amended by Laws 1986, SB 426, c. 259, § 51; Amended by Laws 1987, HB 1110, c. 204, § 118, emerg. eff. July 1, 1987; Amended by Laws 1989, 1st Extr.Sess., HB 1017, c. 2, § 71, emerg. eff. July 1, 1990; Renumbered from 70 O.S. § 6-102.2 by Laws 1989, 1st Extr.Sess., HB 1017, c. 2, § 117, emerg. eff. July 1, 1990; Amended by Laws 1991, HB 1508, c. 3, § 7, emerg. eff. July 1, 1991; Amended by Laws 1993, HB 1744, c. 239, § 29, emerg. eff. July 1, 1993; Amended by Laws 2010, SB 2033, c. 291, § 5, emerg. eff. July 1, 2010 (superseded document available).

Oklahoma Statutes Citationized

Title 70. Schools

Chapter 1 - School Code of 1971

Article Article III - State Department of Education

Section 3-104 - State Board of Education - Powers and Duties

Cite as: 70 O.S. § 3-104 (OSCN 2013)

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. 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 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 royalties, bonuses, rentals or other monies derived from oil and gas and all other mineral leases on lands that have been or may be granted by the United States to the state for the use and benefit of the common schools, or lands that are or may be held by the Commissioners of the Land Office for the use and benefit of the common schools, the proceeds of the sale of easements, improvements and sand and gravel on any such lands, 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 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. If sufficient monies are available in the fund, the Board shall solicit proposals for grants from school districts 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 eighty-five percent (85%) 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. The amount of each grant awarded by the Board each year shall not exceed One Million Dollars (\$1,000,000.00). 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. 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.

Historical Data

Laws 1971, HB 1155, c. 281, § 3-104, emerg. eff. July 2, 1971; Amended by Laws 1972, SB 385, c. 241, § 1, emerg. eff. April 7, 1972; Amended by Laws 1973, HB 1219, c. 17, § 1, emerg. eff. March 27, 1973; Amended by Laws 1973, SB 115, c. 46, § 6, emerg. eff. July 1, 1973; Amended by Laws 1974, HB 1649, c. 146, § 1; Amended by Laws 1975, HB 1227, c. 344, § 1; Amended by Laws 1978, SB 498, c. 85, § 1, eff. January 8, 1979; Amended by Laws 1982, c. 369, § 1, eff. October 1, 1982; Amended by Laws 1984, SB 368, c. 296, § 42, emerg. eff. July 1, 1984; Amended by Laws 1985, HB 1276, c. 13, § 1, eff. November 1, 1985; Amended by Laws 1986, HB 2032, c. 105, § 2, emerg. eff. April 5, 1986; Amended by Laws 1991, HB 1683, c. 240, § 1, eff. September 1, 1991; Amended by Laws 1993, c. 239, § 21 (repealed by Laws 1994, c. 2, § 34, emerg. eff. March 2, 1994); Amended by Laws 1993, HB 1383, c. 361, § 1, emerg. eff. June 11, 1993; Amended by Laws 1994, HB 2299, c. 2, § 26, emerg. eff. March 2, 1994; Amended by Laws 1994, SB 1188, c. 378, § 1, emerg. eff. July 1, 1994; Amended by Laws 1994, SB 1155, c. 344, § 1 (repealed by Laws 1995, HB 1012, c. 1, § 40, emerg. eff. March 2, 1995); Amended by Laws 1995, HB 1012, c. 1, § 25, emerg. eff. March 2, 1995; Amended by Laws 1995, SB 479, c. 226, § 1, emerg. eff. July 1, 1995; Amended by Laws 1995, HB 1549, c. 322, § 23, emerg. eff. July 1, 1995; Amended by Laws 1998, HB 3213, c. 246, § 32, eff. November 1, 1998 (superseded document available); Amended by Laws 1999, HB 1390, c. 336, § 5, eff. November 1, 1999 (superseded document available); Amended by Laws 2009, HB 2029, c. 234, § 155, emerg. eff. May 21, 2009 (repealed by Laws 2010, SB 2113, c. 2, § 74, emerg. eff. March 3, 2010) (superseded document available); Amended by Laws 2009, SB 1169, c. 448, § 1, eff. November 1, 2009 (superseded document available); Amended by Laws 2010, SB 2113, c. 2, § 73, emerg. eff. March 3, 2010 (superseded document available); Amended by Laws 2011, HB 2139, c. 31, § 4 (superseded document available); Amended by Laws 2012, HB 2306, c. 354, § 1 (superseded document available).

Draft of Proposed Rule Submitted for Public
Comment

**TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 20. STAFF**

**SUBCHAPTER 3. EVALUATION: MINIMUM CRITERIA FOR EFFECTIVE
TEACHING AND ADMINISTRATIVE PERFORMANCE**

210:20-3-4. Oklahoma minimum criteria for effective teaching performance [REVOKED]

(a) ~~Practice.~~

(1) ~~Teacher management indicators.~~ Teacher management indicators are:

~~(A) Preparation—The teacher plans for delivery of the lesson relative to short term and long term objectives.~~

~~(B) Routine—The teacher uses minimum class time for non instructional routines thus maximizing time on task.~~

~~(C) Discipline—The teacher clearly defines expected behavior (encourages positive behavior and controls negative behavior).~~

~~(D) Learning Environment—The teacher establishes rapport with students and provides a pleasant, safe and orderly climate conducive to learning.~~

(2) ~~Teacher instructional indicators.~~ Teacher instructional indicators are:

~~(A) Establishes Objectives—The teacher communicates the instructional objectives to students.~~

~~(B) Stresses Sequence—The teacher shows how the present topic is related to those topics that have been taught or that will be taught.~~

~~(C) Relates Objectives—The teacher relates subject topics to existing student experiences.~~

~~(D) Involves All Learners—The teacher uses signaled responses, questioning techniques and/or guided practices to involve all students.~~

~~(E) Explains Content—The teacher teaches the objectives through a variety of methods.~~

~~(F) Explains Directions—The teacher gives directions that are clearly stated and related to the learning objectives.~~

~~(G) Models—The teacher demonstrates the desired skills.~~

~~(H) Monitors—The teacher checks to determine if students are progressing toward stated objectives.~~

~~(I) Adjusts Based On Monitoring—The teacher changes instruction bases on the results of monitoring.~~

~~(J) Guides Practice—The teacher requires all students to practice newly learned skills while under the direct supervision of the teacher.~~

~~(K) Provides for Independent Practice—The teacher requires students to practice newly learned skills without the direct supervision of the teacher.~~

~~(L) Establishes Closure—The teacher summarizes and fits into context what has been taught.~~

(b) ~~Products.~~

(1) ~~Teacher product indicators.~~ Teacher product indicators are:

~~(A) Lesson Plans—The teacher writes daily lesson plans designed to achieve the identified objectives.~~

~~(B) Student Files—The teacher maintains a written record of student progress.~~

~~(C) Grading Patterns—The teacher utilizes grading patterns that are fairly administered and based on indetified criteria.~~

~~(2) **Student achievement indicators.** Student achievement indicators include: Students demonstrate mastery of the stated objectives through projects, daily assignments, performance and test scores.~~

210:20-3-5. Oklahoma minimum criteria for effective administrative performance

[REVOKED]

~~(a) **Practice.**~~

~~(1) **Administrator management indicators.** Administrator management indicators are:~~

~~(A) **Preparation**— The administrator and staff develop goal statements which are the result of a needs assessment, a written analysis of student test scores and other data as well as community input.~~

~~(B) **Routine**— The administrator uses a minimum of instructional time for non-instructional routines thus maximizing time on task.~~

~~(C) **Discipline**— The administrator works with staff to develop and communicate defined standards of conduct which encourage positive and productive behavior.~~

~~(D) **Learning Environment**— The administrator establishes and maintains rapport with staff and students, providing a pleasant, safe and orderly climate for learning.~~

~~(2) **Instructional leadership indicators.** Instructional leadership indicators are:~~

~~(A) The administrator works with staff in collegial and non-threatening ways to promote and improve instruction.~~

~~(B) The administrator sets high expectations for staff.~~

~~(C) The administrator provides needed resources for staff.~~

~~(D) The administrator works with staff to establish curriculum objectives, sequence and lesson objectives.~~

~~(E) The administrator works with staff to assure that all learners are involved in the learning process.~~

~~(F) The administrator assists the staff in monitoring student progress.~~

~~(G) The administrator works with the staff to develop a program to recognize academic achievement.~~

~~(H) The administrator educates the staff to recognize and display the teaching criteria upon which evaluation is conducted.~~

~~(I) The administrator observes in the classroom the performance criteria as defined by the district.~~

~~(J) The administrator summatively evaluates staff only after classroom observations are made, performance feedback is given, growth goals are set, and alternative methods are offered.~~

~~(b) **Products.** Administrator product indicators are:~~

~~(1) The administrator provides written discipline policies to which students are expected to perform.~~

~~(2) The administrator provides a written site improvement plan that supports the district's comprehensive Local Education Plan describing school goals, objectives and professional development activities.~~

~~(3) The administrator provides a written analysis of student test scores and other data to assure that the various student populations are benefiting from the instructional program.~~