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MEMORANDUM

TO: The Honorable Members of the State Board of Education

FROM: Joy Hofmeister

DATE: February 23, 2017

SUBJECT: Administrative Rule Promulgation

The State Board of Education will be taking action at the February meeting on the following administrative rule amendments, pursuant to the *Oklahoma Administrative Procedures Act*, 75 O.S. § 250 *et seq.*:

- (1) Title 210. State Department of Education
Chapter 10. School Administration and Instructional Services
Subchapter 13. Student Assessment
210:10-13-22. Implementation of a system of school improvement and accountability [AMENDED]

House Bill 3218 (2016) amended the statutes that govern Oklahoma's student assessment system, and the rule that addresses the school accountability system must be updated to remove multiple references to the repealed End-of-Instruction exams. To streamline the process of calculating school ("A-F") report cards, the "Initial Data Verification" period for schools to confirm the accuracy of their submitted data is proposed to be amended to fifteen (15) calendar days, from the current thirty (30) days. The 10-day "Calculation Verification" window that follows the Initial Data Verification period will remain the same. Section 5 of HB 3218 (not codified in statute) also directed the State Board of Education to study, develop, and adopt new assessment requirements that are now subject to legislative review. **Further revision of 210:10-13-22 will likely be necessary next year to reflect any additional changes that take effect, but the rule must be amended at this time to reflect the repeal of the Achieving Classroom Excellence (ACE) Act and the elimination of End-of-Instruction (EOI) exams.**

- (2) Title 210. State Department of Education
Chapter 20. Staff
Subchapter 41. Teacher and Leader Effectiveness
210:20-41-1. Teacher and Leader Effectiveness Evaluation System overview [AMENDED]
210:20-41-2. Quantitative components of the Teacher and Leader Effectiveness Evaluation System [NEW]
210:20-41-3. Qualitative components of the Teacher and Leader Effectiveness Evaluation System [AMENDED]

The rules addressing the Teacher and Leader Effectiveness Evaluation System (TLE) must be amended to incorporate changes made to the TLE system by House Bill 2957 (2016). Changes include: updating the definition of "teacher" pursuant to 70 O.S. § 1-116; eliminating references to Student Academic Growth (SAG) data and other repealed quantitative components; establishing "district evaluation rating" as the new term for a teacher or leader's holistic rating; outlining requirements for individualized programs of professional development; and addressing evaluator training.

- (3) Title 210. State Department of Education
Chapter 35. Standards for Accreditation of Elementary, Middle Level, Secondary, and Career and Technology Schools
Subchapter 3. Standards for Elementary, Middle Level, Secondary, and Career and Technology Schools
Part 21. Standard XI: Accreditation Status
210:35-3-201. Statement of the standard (accreditation status) [AMENDED]

The administrative rule that outlines how accreditation status is determined for Oklahoma schools is being updated to remove terminology that is no longer in use following adoption of the federal *Every Student Succeeds Act* (ESSA). The designation "school in need of improvement" was incorporated into the accreditation status rule from the *No Child Left Behind Act* (NCLB), the previous version of the *Elementary and Secondary Education Act* which was superseded by ESSA in December 2015, so those designations are no longer appropriate as a factor in accreditation.

PROPOSED RULE

TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 10. SCHOOL ADMINISTRATION AND INSTRUCTIONAL SERVICES SUBCHAPTER 13. STUDENT ASSESSMENT

210:10-13-22. Implementation of a system of school improvement and accountability

(a) **Purpose.** Accountability for student learning is the key focus of school improvement. Results from the statewide assessment program shall form the basis of the system of school improvement and accountability. Student achievement data from the ~~State's annual standardized assessments in grades three (3) through eight (8) and end-of-instruction tests administered under Section 1210.508 of Title 70~~ statewide student assessment system adopted pursuant to 70 O.S. § 1210.508 shall be used to establish both proficiency levels and annual progress for individual students, school sites, school districts, and the State. Results shall further be used as the primary criteria in calculating school performance grades as specified in subsection (f) of this rule and shall be annually reported. Results may further be used by the Legislature in calculating any performance-based funding policy that is provided to public school districts. The statewide assessment program shall be used to measure the annual learning gains of each student toward achievement of the State standards appropriate for the student's grade level and to inform parents of the educational progress of their public school children.

(b) **Overview and implementation.** The A-F school accountability system will be implemented in the year 2012, based on data from the 2011-2012 school year, and shall be reported annually thereafter. The school accountability system will be considered to be fully implemented with the following accountability elements:

(1) Designation of overall school performance grades shall be based on a combination of the following:

(A) Fifty percent (50%) on whole school performance, as measured by allocating one (1) point for each student who scores proficient or advanced on the ~~critierion-referenced tests and end-of-instruction tests~~ assessments and alternative assessments administered to students pursuant to the provisions of the Oklahoma School Testing Program at 70 O.S. §§ 1210.508 and 1210.523, summing the points, and dividing the points by the total number of students taking the tests;

(B) Twenty-five percent (25%) on whole school growth, measured by allocating one (1) point for each student tested who maintains a score of "Proficient" or above, improves proficiency levels, or improves substantially within a proficiency level on the ~~State's annual standardized assessments in reading and mathematics in grades three (3) through eight (8) and Algebra I and English II end-of-instruction tests administered to students pursuant to the provisions of the Oklahoma School Testing Program at 70 O.S. § 1210.508, tests~~ assessments adopted pursuant to 70 O.S. § 1210.508, summing the points, and dividing the points by the total number of students taking the tests;

(C) Twenty-five percent (25%) on growth of the lowest twenty-five percent (25%) of students in the school, measured by allocating one (1) point for each student tested in the bottom twenty-five percent (25%) who maintains a score of "Proficient" or above, improves proficiency levels, or improves substantially within a proficiency level on the ~~State's annual standardized assessments in reading and mathematics in grades three (3) through eight (8) and Algebra I and English II end-of-instruction tests administered~~

~~pursuant to the provisions of the Oklahoma School Testing Program at adopted pursuant to 70 O.S. § 1210.508, summing the points, and dividing the points by the total number of students taking the tests.~~

(2) In addition to the three criteria listed in (b)(1) of this Section, bonus points shall be calculated in accordance with the criteria set forth in (g) of this Section and added to the subtotal of component points to create a final report card index of points used to calculate the overall school performance grade of each school site.

(3) Schools shall earn a separate performance grade for each of the three criteria listed in (b)(1) and (f) of this Section. Additionally, schools shall earn an overall performance grade based on a combination of the criteria listed in (b)(1) and (f) and the bonus points earned in accordance with (g) of this Section.

(4) To ensure that student data accurately represent school performance, schools shall be required to assess at least ninety-five percent (95%) of eligible students to earn a school performance grade. Failure to assess at least ninety-five percent (95%) of eligible students will result in a letter grade reduction in the school's overall school performance grade.

Schools assessing less than ninety percent (90%) of eligible students will result in the school earning an overall performance grade of F.

(c) **School Accountability for Student Performance.** All schools shall be accountable for performance. Each school is accountable for the performance of its entire student population. Student achievement data from the State's ~~annual~~ standardized assessment ~~system and end-of-instruction tests administered in this State~~ shall be used to measure a school's student performance for the subject areas of reading, mathematics, social studies, science and writing.

(d) **Reporting Student Achievement Data for School Accountability.** Student achievement data shall be reported for all students in a school. Each year, reports of achievement data for all students shall be prepared for each school, each district, and the State. District reports shall be calculated in the same manner as a school site, aggregated at the student level and calculated in accordance with the requirements of 70 O.S. §§ 1210.545(B), (D) and (J).

(1) The scores will be computed from the number of eligible students enrolled in the school. Eligible students shall include all students enrolled for the full academic year ("FAY") in the school and taking the State's ~~annual~~ standardized assessments ~~adopted pursuant to 70 O.S. § 1210.508 or end-of-instruction tests. For end-of-instruction exams, only first opportunity students are included in the calculation of eligible students.~~ A student shall be considered a FAY student if the student is enrolled within the first twenty (20) instructional days of the school's instructional year through and including the date of administration of the exam, and has not experienced an enrollment lapse of ten (10) or more consecutive instructional days. The FAY determination shall be based on continuous enrollment and shall not be based on attendance determinations.

(2) All eligible students, regardless of disability or limited English proficiency classification, with valid state standardized assessment scores in reading and math in both the current school year and the previous school year are included in (f)(2) and (f)(3) of this Section regarding the determination of student learning gains. In addition, the inclusion of these students shall be applied to (b)(3) of this Section, regarding the percentage of students assessed. Current and previous school years' reading and math scores for students with disabilities assessed on the State's annual standardized alternate assessment shall be included in the determination of test scores, including achievement addressed in (f)(1) of this Section.

(3) The Superintendent of Public Instruction is authorized to designate a single school performance grade for schools that serve multiple levels: elementary and/or middle and/or high school grade levels. Designations shall be made based on the highest grade level offered by the school.

(A) If the highest grade offered by a school site is the sixth (6th) grade or below, the school shall be graded according to elementary school criteria.

(B) If the highest grade offered by a school site is the (7th) through tenth (10th) grade, the school shall be graded according to the middle school criteria. Schools in this category shall not earn advance coursework credit for ninth and tenth grade students completing high school coursework unless the course qualifies as advanced coursework pursuant to (g)(1)(B) or (g)(2)(A) of this Section.

(C) If the highest grade offered by a school site is the eleventh (11th) or twelfth (12th) grade, the school shall be graded according to high school criteria.

(4) The State Department of Education will verify that each school is appropriately classified by type before the issuance of school grades. School type is defined as the school level designation of a school based on the grade levels served: elementary, middle, high, or a combination across levels.

~~(5) For purposes of (f) of this Section, the determination of the proficiency level of eligible students exempted from one or more end-of-instruction exams in accordance with the requirements of 70 O.S. 1210.523 and the accompanying rule at 210:10-13-16(b)(7)-(8) shall be based upon the cut scores approved by the State Board of Education. Points shall be awarded and calculated for each "Proficient" or "Advanced" score in accordance with (f) of this Section.~~

(e) **School Performance Grades.** The measure of school accountability shall be the school performance grade. The Oklahoma State Board of Education is authorized to designate a school performance grade for each school that:

(1) For purposes of calculating student achievement pursuant to (f)(1), has at least ten (10) eligible students with valid student state standardized assessment scores.

(2) For purposes of calculating student growth pursuant to (f)(2), has at least ten (10) eligible students with valid student state standardized assessment scores ~~or end-of-instruction test scores~~ in reading or math in both the current and the previous school years.

(3) For purposes of calculating growth of the lowest twenty-five percent (25%) of students pursuant to (f)(3), has at least ten (10) eligible students with valid student state standardized assessment scores ~~or end-of-instruction test scores~~ in reading or math in the current and previous school years.

(4) A school shall not earn a grade for any component or criteria unless minimum N-size requirements established pursuant to this rule are met. Performance designations shall be made using School Performance Grades A+, A, A-, B+, B, B-, C+, C, C-, D+, D, D- and F. School performance grades shall be based on the assessments and criteria as specified in (f) of this Section and bonus points as specified in (g) of this Section. The Superintendent of Public Instruction is authorized to establish and adjust appropriate achievement level criteria to the extent allowed by law for submission to the State Board of Education for final approval.

(f) **Criteria for Designating School Performance Grades.** Overall school performance grades shall be based on a combination of the bonus points calculated in accordance with (g) and the points calculated in accordance with the three criteria outlined in (b)(1) of this Section: (1)

whole school performance; (2) whole school growth; and (3) growth of the lowest twenty-five percent (25%).

(1) **Whole school performance index.** Student achievement scores are represented through a performance index, aggregated for each school, calculated based on all state standardized assessments ~~and/or end-of-instruction tests~~ collectively, and by each subject area. A point value shall be given to each exam based on proficiency score. Points shall be summed and divided by the number of exams administered to eligible students.

(A) Points shall be assigned based on the following criteria:

- (i) Unsatisfactory = 0
- (ii) Limited Knowledge = 0
- (iii) Proficient = 1.0
- (iv) Advanced = 1.0

(B) A letter grade shall be earned based on the following criteria:

- (i) 90 points or Above = A
- (ii) 80 - 89 points = B
- (iii) 70 - 79 points = C
- (iv) 60 - 69 points = D
- (v) 59 points or Below = F

(2) **Whole school growth index.** Annual learning gains in reading and math are represented through a growth index, aggregated for each school. The score shall be calculated in whole and by subject-matter by assigning one point for each student who improves proficiency levels or improves substantially within a proficiency level from the previous school year to the current school year, divided by the number of students taking the tests.

(A) This calculation represents the number of eligible students who have:

- (i) Improved their state standardized assessment achievement level or state standardized alternative assessment achievement level, as applicable, from the previous school year to the current school year; or
- (ii) Improved their state standardized assessment achievement level or state standardized alternative assessment achievement level and such change in OPI from the previous school year to the current school year met or exceeded the State average of students with positive OPI change; or
- (iii) Maintained their proficient or satisfactory achievement level on the state standardized assessment or state standardized alternate assessment, as applicable, from the previous school year to the current school year.

(B) The growth index shall be calculated based on improved state standardized assessment ~~and end-of-instruction test~~ performance from the previous school year to the current school year. The growth index shall be calculated by subject-matter and by assigning a point value to the change in proficiency score from the previous year to the next. Points based on student gains shall be summed and divided by the number of exams administered, and shall include only eligible students for whom comparative test scores exist. Points shall be assigned based on the following criteria:

- (i) Change from Unsatisfactory to Limited Knowledge = 1.0
- (ii) Change from Unsatisfactory to Proficient or Satisfactory = 1.0
- (iii) Change from Unsatisfactory to Advanced = 1.0
- (iv) Change from Limited Knowledge to Proficient or Satisfactory = 1.0

- (v) Change from Limited Knowledge to Advanced = 1.0
 - (vi) Change from Proficient or Satisfactory to Advanced = 1.0
 - (vii) Remain Proficient or Advanced from Year 1 to Year 2 = 1.0
 - (viii) Remained at Unsatisfactory from Year 1 to Year 2 and Meets or Exceeds State Average Positive Change or remained at Limited Knowledge from Year 1 to Year 2 and Meets or Exceeds State Average Positive Change = 1.0
 - (ix) Remained at Unsatisfactory from Year 1 to Year 2 and Fails to Meet or Exceed State Average Positive Change or remained at Limited Knowledge from Year 1 to Year 2 and Fails to Meet or Exceed State Average Positive Change = 0
 - (x) Remained at Unsatisfactory from the previous school year to the current school year, or remained at Limited Knowledge from the previous school year to the current school year, but demonstrates substantial improvement within a proficiency level = 1.0
- (C) For purposes of this subparagraph, a student's improvement within a proficiency level will be considered "substantial improvement" if the student demonstrates an increase in Oklahoma Performance Index ("OPI") score from the previous school year to the current school year that meets or exceeds the average positive increase amongst all students in the State who increased their OPI score from the previous school year to the current school year.
- (D) A letter grade shall be earned based on the following criteria:
- (i) 90 points or Above = A
 - (ii) 80 - 89 points = B
 - (iii) 70 - 79 points = C
 - (iv) 60 - 69 points = D
 - (v) 59 points or Below = F
- (3) **Growth of the lowest twenty-five percent of students.** Improvement of the lowest twenty-five percent (25%) of students in reading and math shall be aggregated, as required by 70 O.S. § 1210.545. The score shall be calculated in whole and by subject-matter by assigning one point for each student in the bottom quartile who improves proficiency levels or improves substantially within a proficiency level from the previous school year to the current school year, divided by the number of students taking the test.
- (A) The calculation of a positive change in OPI score that meets or exceeds the State's average growth represents the number of eligible students who have:
- (i) Improved their state standardized assessment achievement level or state standardized alternative assessment achievement level, as applicable, from the previous school year to the current school year; or
 - (ii) Retained their state standardized assessment achievement level or state standardized alternative assessment achievement level and such change in OPI from the previous school year to the current school year met or exceeded the State average of students with positive OPI change.
- (B) The score shall be based on improved state standardized assessment ~~and end of instruction test~~ performance from the previous school year to the current school year. Points based on student gains shall be summed and divided by the number of exams administered, and shall include only eligible students for whom comparative test scores exist. The growth of the lowest twenty-five percent (25%) shall be calculated based on the following criteria:

- (i) Change from Unsatisfactory to Limited Knowledge = 1.0
 - (ii) Change from Unsatisfactory to Proficient or Satisfactory = 1.0
 - (iii) Change from Unsatisfactory to Advanced = 1.0
 - (iv) Change from Limited Knowledge to Proficient or Satisfactory = 1.0
 - (v) Change from Limited Knowledge to Advanced = 1.0
 - (vi) Change from Proficient or Satisfactory to Advanced = 1.0
 - (vii) Remain Proficient or Advanced from Year 1 to Year 2 = 1.0
 - (viii) Remained at Unsatisfactory from Year 1 to Year 2 and Meets or Exceeds State Average Positive Change or remained at Limited Knowledge from Year 1 to Year 2 and Meets or Exceeds State Average Positive Change = 1.0
 - (ix) Remained at Unsatisfactory from Year 1 to Year 2 and Fails to Meet or Exceed State Average Positive Change or remained at Limited Knowledge from Year 1 to Year 2 and Fails to Meet or Exceed State Average Positive Change = 0
 - (x) Demonstrates substantial improvement within a proficiency level = 1.0
- (C) For purposes of this subparagraph, a student's improvement within a proficiency level will be considered "substantial improvement" if the student demonstrates an increase in Oklahoma Performance Index ("OPI") score from the previous school year to the current school year that meets or exceeds the average positive increase amongst all students in the State who increased their OPI score from the previous school year to the current school year.
- (D) A letter grade shall be earned based on the following criteria:
- (i) 90 points or Above = A
 - (ii) 80 - 89 points = B
 - (iii) 70 - 79 points = C
 - (iv) 60 - 69 points = D
 - (v) 59 points or Below = F

(g) **Bonus points.** Each school can earn up to a maximum of ten (10) bonus points to be added to the subtotal of component points and applied toward their final grade. The criteria listed in (1), (2) and (3) of this subsection shall be used to calculate bonus points for high schools, middle schools, and elementary grade schools. Annually, the Oklahoma State Department of Education shall publish technical assistance specifically detailing the weighted formula and the projected availability of valid data used for computing bonus points. Technical assistance shall be published in time for school districts to make meaningful use of the information and data. A school district, charter school, or virtual charter school shall not be eligible to be awarded bonus points on its site report cards for attendance pursuant to (g)(3)(A) and (g)(2)(B) of this Section unless it has established a method for maintaining accurate records of student daily attendance and accurate reporting of student daily attendance that ensures compliance with the provisions of 70 O.S. §§ 5-117.3, 10-103.1, 10-106, 18-111, 18-116.

(1) **High schools.** Schools comprised of high school grades may earn up to a maximum of ten (10) bonus points as follows:

(A) **Four-year adjusted cohort graduation rate.** A high school shall earn five (5) bonus points if its four-year adjusted cohort graduation rate meets or exceeds the criteria for earning an "A" for the high school graduation rate of the school. The criteria for earning an "A" for this component shall be met if a school's four-year adjusted cohort graduation rate meets or exceeds ninety percent (90%). The calculation of the four-year

adjusted cohort graduation rate shall only include students counted as on-time graduates as defined by federal regulations.

(B) **Participation or performance in accelerated coursework.** One (1) bonus point shall be awarded to each high school that meets or exceeds the criteria for earning an "A" in either student participation or student performance in accelerated coursework. The criteria for earning an "A" for this component shall be met if the school achieves either a student participation rate of seventy percent (70%) or higher in accelerated coursework or a student performance rate of ninety percent (90%) or higher in accelerated coursework. Student participation and performance rates shall be calculated as follows:

(i) **Participation in accelerated coursework.** Participation in accelerated coursework, is defined as participation in Advanced Placement (AP) courses, International Baccalaureate (IB) programs, concurrent enrollment, Advanced International Certificate of Education (AICE) courses, and industry certification courses. For this component, participation shall be calculated for the school year by dividing a count of accelerated coursework participants in grades nine (9) through twelve (12) (numerator) by the count of all students enrolled in grades eleven (11) and twelve (12) (denominator). For this component, a student must earn a passing grade in the course in order to be counted as a participant. Schools shall earn credit for every accelerated course in which a student is enrolled. Students enrolled in multiple accelerated courses shall be counted once for each course in which they are enrolled. In calculating a percentage for this component, participation rate shall include all enrollment data regardless of whether the course was taught at the high school, at a career technology center, an accredited college or university, or at a regional site of the Oklahoma School of Science and Mathematics.

(ii) **Performance in accelerated coursework.** Performance in concurrent enrollment, Advanced International Certificate of Education (AICE) courses, Advanced Placement (AP), International Baccalaureate (IB), and industry certification courses. For this component, the numerator of the performance calculation shall include all students in grades nine (9) through twelve (12) who took an accelerated course or subject area examination during the academic year. AICE successful completion is defined as earning a "C" or higher and being awarded credit for specific postsecondary course(s). For concurrent enrollment, successful completion is defined as a passing grade of "C" or higher in a concurrent enrollment course for college credit. For industry certification, successful completion is defined as earning a "C" or better in the course leading to industry certification. Schools can earn additional successful completions for students who achieve industry certifications that result in credit for more than one (1) college course through statewide articulation agreements. For AP and IB performance, credit shall be earned based for each student scoring a three (3) or better on the AP exams, or a four (4) or better on IB exams. For purposes of this component, a school shall earn credit for every course in which a student demonstrates the required level of performance. In calculating a percentage for this component, performance shall include all coursework regardless of whether the course was taught at the high school, at a career technology center, an accredited college or university, or at a regional site of the Oklahoma School of Science and Mathematics.

(C) **ACT and SAT participation or performance.** One (1) bonus point shall be awarded to each high school that meets or exceeds the criteria for earning an "A" in either student participation or performance on ACT or SAT college entrance exams. The criteria for earning an "A" for this component shall be met if a school achieves a rate of seventy-five percent (75%) or higher percentage of either student participation or performance on college entrance exams. Student participation and performance rates shall be calculated as follows:

(i) **ACT and SAT participation.** High schools may earn one (1) bonus point based on the calculated percent of students taking the ACT and/or SAT. The percent is calculated by dividing the number of twelfth (12th) grade students who have taken the ACT and/or SAT tests, divided by the number of students enrolled in grade twelve (12). Students will be counted once for the ACT and/or once for the SAT, regardless of the number of times or at which grade levels the test(s) are taken. The high school will earn credit for the most recent test score reported at the time the test is administered.

(ii) **ACT and SAT performance.** High schools may earn one (1) bonus point based on the percentage of students scoring an ACT composite score of 20 or greater based on 36-point scale, and/or an SAT score of 1410 or greater based on a 2400-point scale. Students will be counted once for the ACT and/or once for the SAT, regardless of the number of times or at which grade levels the test(s) are taken. The high school will earn credit for the most recent test score reported at the time the test is administered.

(D) **High school graduation rate of eighth (8th) graders.** One (1) bonus point shall be awarded to each high school that meets or exceeds the criteria for earning an "A" for the high school graduation rate of students who scored at limited knowledge or unsatisfactory on the eighth (8th) grade reading and mathematics criterion-referenced test administered pursuant to the Oklahoma State Testing Program (OSTP). The criteria for earning an "A" for this component shall be met if a school achieves a graduation rate of eighty-five percent (85%) or higher for its students who scored at limited knowledge or unsatisfactory on the eighth grade reading and mathematics tests. For this component, schools shall be eligible to earn the bonus point based on the calculation of the graduation rate of this population of eighth (8th) graders, regardless of where the student attended the eighth (8th) grade).

~~(E) **Overall EOI performance.** Upon the availability of valid student assessment data, one (1) bonus point shall be awarded to a high school if eighty percent (80%) or more of its graduates from the previous school year have scored either a "Satisfactory/Proficient" or "Advanced" on six (6) out of the seven (7) secondary level EOI assessments required by the Oklahoma School Testing Program Act at 70 O.S. § 1210.508(A)(6).~~

~~(E)~~ **Year-to-year growth.** Upon the availability of valid student data, one (1) bonus point shall be awarded to each high school which demonstrates improvement from the previous school year in at least three (3) of the five (5) components used to calculate bonus points set forth in (1)(A) through (1)(~~ED~~) of this subsection. For purposes of this subparagraph, a high school will be deemed to have demonstrated improvement in a category if the school has received bonus points in that category for two consecutive years (i.e., the current report card and the previous year's report card). In the alternative, a

high school can demonstrate improvement in a category by meeting the following criteria specified in the category:

(i) **Four-year adjusted cohort graduation rate.** A high school demonstrates improvement by increasing its four-year adjusted cohort graduation rate in (1)(A) of this subsection by at least ten percent (10%) of the difference between the previous year's graduation rate and one hundred percent (100%).

(ii) **Participation or performance in accelerated coursework.** A high school demonstrates improvement by increasing its rate of participation or performance in accelerated coursework in (1)(B) of this subsection by five percent (5%) or more.

(iii) **ACT and SAT participation or performance.** A high school demonstrates improvement by increasing its rate of participation or performance in ACT or SAT in (1)(C) of this subsection by at least ten percent (10%) of the difference between the previous year's rate and one hundred percent (100%).

(iv) **High school graduation rate of eighth (8th) graders.** A high school demonstrates improvement by increasing its high school graduation rate of eighth graders in (1)(D) of this subsection by at least ten percent (10%) of the difference between the previous year's graduation rate and one hundred percent (100%).

~~(v) **Overall EOI performance.** A high school demonstrates improvement by increasing its overall rate of EOI performance in (1)(E) of this subsection by at least ten percent (10%) of the difference between the previous year's rate and one hundred percent (100%).~~

(2) **Middle schools.** Schools comprised of middle school grades may earn up to a maximum of ten (10) bonus points as follows:

(A) **The percentage of students who are taking higher level coursework at a satisfactory or higher level in middle school.** Middle schools shall earn two (2) bonus points for meeting or exceeding the criteria for earning an "A" on the rate of the school's middle school students who take accelerated coursework at a satisfactory or higher level. The criteria for earning an "A" for this component shall be met if the school achieves a participation rate of thirty percent (30%) or higher percentage of middle school students taking traditional high school courses, pre-Advanced Placement courses, or honors courses in a traditional classroom or in a virtual environment who score at a satisfactory level or higher on the corresponding state standardized assessment. Schools shall earn credit for every accelerated course in which a student is enrolled. Students enrolled in multiple accelerated courses shall be counted once for each course in which they are enrolled.

(B) **Attendance.** Middle schools will earn six (6) bonus points for meeting or exceeding the criteria for earning an "A" for middle school student attendance. The criteria for earning an "A" for this component shall be met if the school achieves a student attendance rate of ninety-four percent (94%) or higher. This rate is the Average Daily Attendance (ADA) divided by the Average Daily Membership (ADM). ADA is calculated by dividing the total number of days students were present by the number of days in the school calendar or by dividing the number of hours students were present by the number of hours in the school calendar, whichever applicable. ADM is calculated by dividing the total number of days students were enrolled in school by the number of days in the school calendar or by dividing the number of hours students were enrolled by the number of hours in the school calendar, whichever applicable.

(C) **Dropout rate.** Middle schools shall earn two (2) bonus points for meeting or exceeding the criteria for earning an "A" for the drop-out rate of the school. The criteria for earning an "A" for this component shall be met if the school achieves a rate of zero point nine percent (0.9%) or lower of the annual number of students reported as dropouts to the Oklahoma State Department of Education on the Annual Dropout Report.

(3) **Elementary schools.** Schools comprised of elementary school grades shall earn ten (10) bonus points for meeting or exceeding the criteria for earning an "A" on student attendance. The criteria for earning an "A" shall be met if the school achieves a student attendance rate of ninety-four percent (94%) or greater. This rate is the Average Daily Attendance (ADA) divided by the Average Daily Membership (ADM). ADA is calculated by dividing the total number of days students were present by the number of days in the school calendar or by dividing the number of hours students were present by the number of hours in the school calendar, whichever applicable. ADM is calculated by dividing the total number of days students were enrolled in school by the number of days in the school calendar or by dividing the number of hours students were enrolled by the number of hours in the school calendar, whichever applicable.

(h) **Technical assistance.** Annually, the Oklahoma State Department of Education shall publish technical assistance specifically detailing the weighted formula used for computing bonus points. Technical assistance shall be published in time for school districts to make meaningful use of the information and data.

(i) **School Performance Grading Scale.** The School Performance Grade shall be based on a combination of the factors outlined in sub-section (b)(1) and detailed in (f) and (g) of this Section. Fifty percent (50%) shall be based on student test scores; twenty-five percent (25%) on student learning gains; and twenty-five (25%) on improvement of the lowest twenty-five percent (25%) of students in the school in reading and mathematics. Letter grades will be calculated according to the assigned weight of each criteria and by combining points earned for each component within each criteria. The school performance grade will be assigned according to the following scale:

- (1) Ninety-seven percent (97%) to one-hundred and ten percent (110%) = A+
- (2) Ninety-three percent (93%) to ninety-six percent (96%) = A
- (3) Ninety percent (90%) to ninety-two percent (92%) = A-
- (4) Eighty-seven percent (87%) to eighty-nine percent (89%) = B+
- (5) Eighty-three percent (83%) to eighty-six percent (86%) = B
- (6) Eighty percent (80%) to eighty-two percent (82%) = B-
- (7) Seventy-seven percent (77%) to seventy-nine percent (79%) = C+
- (8) Seventy-three percent (73%) to seventy-six percent (76%) = C
- (9) Seventy percent (70%) to seventy-two percent (72%) = C-
- (10) Sixty-seven percent (67%) to sixty-nine percent (69%) = D+
- (11) Sixty-three percent (63%) to sixty-six percent (66%) = D
- (12) Sixty percent (60%) to sixty-two percent (62%) = D-
- (13) Fifty-nine percent (59%) and below = F

(j) **Accuracy and Representativeness of Performance Data.** The Oklahoma State Department of Education shall review all information submitted by school districts to represent the performance of schools receiving a school performance grade.

- (1) Each school district superintendent shall designate a school accountability contact person to be responsible for verifying accuracy of data.

(2) The Superintendent of Public Instruction shall withhold the designation of a school's performance grade if he or she determines that the performance data does not accurately represent the progress of the school. Circumstances under which a school's performance data may be considered to not accurately represent the progress of the school include:

(A) Less than ninety-five percent (95%) of the school's student population eligible for inclusion in the designation of the school's performance grade was assessed.

(B) Circumstances identified before, during, or following the administration of any state assessment where the validity or integrity of the test results are called into question and are subject to review as determined by the State Department of Education.

(k) **Data verification by school sites/districts.** School sites shall be provided an opportunity to review all data used to calculate the school performance grade and the calculation of the school performance grade.

(1) **Initial Data Verification.** Initial data verification of the data used to calculate school performance grades shall occur throughout the school year as data becomes available to the State Department of Education. School district accountability staff shall have the opportunity to perform data verification and confirm that data being used to calculate school performance grades are accurate prior to the review period required by (k)(2) of this rule. The school district shall have at least ~~thirtyfifteen (30fifteen)~~ calendar days to review and request corrections to each new data component, as it becomes available. No requests for changes to data shall be made after the expiration of the respective ~~thirtyfifteen (3015)~~ calendar day review period. For purposes of this paragraph only, a "new data component" means a data component that has not been previously submitted to the State Department of Education in accordance with other state or federal reporting requirements.

(2) **Calculation Verification.** Prior to the final release of school performance grades, a school district shall have at least ten (10) calendar days to certify the calculation of the performance grade. If the school district determines that a different performance grade should be assigned because of the omission of certified student data, a data miscalculation, or special circumstances that might have affected the grade assigned, school districts may submit a request for a review of the data calculation to the State Department of Education. All evidence supporting the district's claim of a calculation error and documentation of all elements to be reviewed by the Department must be submitted within the time limits specified in this subsection. No request for review of the calculation shall be accepted after the expiration of the ten (10) calendar day review period. Changes to the criteria, data, or process shall not be considered as part of this review.

(3) **Data deemed certified.** To ensure timely issuance of the school report cards in accordance with the requirements of 70 O.S. § 1210.545, any data component verification or calculation verification for which a district fails to timely review and certify as accurate in accordance with the provisions of (1) or (2) of this subsection shall be deemed certified as accurate by the district and districts shall not be permitted to request further corrections to the data.

(l) **Final determination.** The Oklahoma State Board of Education's determination of a school's performance grade shall be final.

(m) **Planned System Enhancements.** As indicated in this subsection, planned enhancements will occur in the System of School Improvement and Accountability. The Superintendent of Public Instruction will periodically recommend additional changes to the system to the State Board of Education for approval as necessary to ensure that continuous improvements are made

in the educational programs of the State. Performance data shall be reviewed annually to determine whether to adjust the school grading scale for the following year's school grades. Adjustments may include, but shall not be limited to grading criteria, classification of school type, point calculations, point requirements, and minimum points necessary to obtain a certain grade. Adjustments may reset the minimum required number of points for each grade.

~~(n) **Virtual education providers and virtual charter schools.** Any virtual provider that offers full-time online programs for students enrolled in charter schools sponsored by a school district, technology center school district, higher education institution, a federally recognized Indian tribe, or the State Board of Education, in accordance with the provisions of the Oklahoma Charter Schools Act shall be considered a "virtual charter school."~~

~~(1) Each virtual charter school and each school district which contracts with a virtual charter school or virtual education provider shall identify its full-time virtual students who do not live in the physical boundaries of the school district with which the sponsor is associated.~~

~~(A) Each virtual charter school and each school district shall report the achievement data of its full-time virtual students who are not residents of the district in which the sponsor is located separate from the achievement data of its full-time virtual students who are residents of the district of sponsorship.~~

~~(B) The performance of non-resident full-time virtual students identified in (1) of this subsection shall be excluded from the determination of the overall school performance letter grade of the sponsoring school district, but shall be included in the overall school performance letter grade of the virtual charter school as resident students.~~

~~(2) Any virtual provider that contracts with a school district to provide full-time virtual education for resident students of the school district shall be considered a separate site within the school district for accountability purposes and shall be issued a separate report card that includes performance of full-time virtual students identified in (1) of this subsection as residents of the school district with which the provider contracts.~~

(n) Students who attend traditional public school districts online. A student who attends a traditional (non-charter) public school district through a full-time online program offered by the district shall have their achievement data included for accountability purposes in the school site that claims membership for the student.

(o) **Statewide virtual charter schools.** Any virtual provider sponsored as a charter school by the Statewide Virtual Charter School Board shall be considered a "statewide virtual charter school."

(1) Each statewide virtual charter school will be considered a separate school site and "district" of the Statewide Virtual Charter School Board for accountability purposes and will be subject to the system of school improvement and accountability established by 70 O.S. § 1210.545 and the accompanying provisions set forth in this Section.

(2) The performance of all eligible students enrolled in a statewide virtual charter school shall be included in the calculation of the overall school performance letter grade of the virtual charter school. For purposes of this Section, any student enrolled full-time in a statewide virtual charter school who resides within the borders of the state shall be considered a resident student of the statewide virtual charter school.

PUBLIC COMMENT SUMMARY

**State Department of Education Proposed Permanent Rule Changes
Chapter 10. School Administration and Instructional Services
Subchapter 13. Student Assessment**

**210:10-13-22. Implementation of a system of school improvement and accountability
[AMENDED]**

Summary of Public Comment	Agency Response
<p>Commenter (a school district superintendent) expresses concern that "the proposed change to reduce the data verification window would make it burdensome for school districts to conduct a thorough review, particularly at a time when the state's school accountability system is set to undergo major changes."</p> <p>Additional commenter (superintendent of another school district) notes that "[t]he reduced time for data verification may be a real challenge for us—my comment would be NOT to reduce the current timeline for verification," and raises the concern that shortening the verification timeframe will put a burden on districts.</p>	<ul style="list-style-type: none">• The intent of the change in the data verification window is to ultimately streamline the process of calculating school report cards and providing them to schools and the public. Because this rule change will not go into effect until the 2017-2018 school year, the data verification period for review of 2016-2017 school report card data will remain 30 days.• The State Department of Education acknowledges the concerns raised by the commenters, and the crucial role of school district personnel in implementing the school accountability system. In preparing the proposed rule change, OSDE received input from district accountability staff who advised that a 15-day window will offer sufficient time for data review, provided districts are given enough advance notice of when the review period will be scheduled.• School districts will be informed well in advance of when the data verification period will be, so that plans for data review can be made accordingly.

RULE IMPACT STATEMENT

210:10-13-22. Implementation of a system of school improvement and accountability [AMENDED]

a. What is the purpose of the proposed rule change?

House Bill 3218 (2016) amended the statutes that govern Oklahoma's student assessment system, and the rule that addresses the school accountability system must be updated to incorporate the changes. Section 5 of HB 3218 (not codified in statute) also directed the State Board of Education to study, develop, and adopt new assessment requirements that are now subject to legislative review. Further revision of 210:10-13-22 will likely be necessary next year to reflect any additional changes that take effect, but the rule must be amended at this time to reflect the repeal of the *Achieving Classroom Excellence* (ACE) Act and the elimination of End-of-Instruction (EOI) exams. In order to streamline the process of calculating school ("A-F") report cards, the "Initial Data Verification" period for schools to confirm the accuracy of their submitted data is proposed to be amended to fifteen (15) calendar days, from the current thirty (30) days. The 10-day "Calculation Verification" window that follows the Initial Data Verification period will remain the same.

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 change will affect Oklahoma schools and school districts.

c. What classes of persons will benefit from the proposed rule change?

The change will benefit Oklahoma schools and school districts by ensuring the rule outlining the school accountability system reflects current law and no longer includes discontinued requirements such as End-of-Instruction (EOI) exams.

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. Additional record keeping, if any, 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.

The agency does not anticipate any impact on public health, safety, or environment as a result of implementation of the proposed rule at this time.

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

The agency does not anticipate any detrimental effect on public health, safety, or environment as a result of failure to implement the proposed rule at this time.

k. Date Prepared: January 5, 2017

STATUTORY AUTHORITY FOR 210:10-13-22

Oklahoma Statutes

Title 70. Schools

**Chapter 22 - Testing and Assessment
Achieving Classroom Excellence Act of 2005
Section 1210.521 - Repealed**

Repealed by Laws 2016, HB 3218, c. 360, § 12, emerg. eff. July 1, 2016

Oklahoma Statutes

Title 70. Schools

**Chapter 22 - Testing and Assessment
Achieving Classroom Excellence Act of 2005
Section 1210.522 - Repealed**

Repealed by Laws 2016, HB 3218, c. 360, § 12, emerg. eff. July 1, 2016

Oklahoma Statutes

Title 70. Schools

**Chapter 22 - Testing and Assessment
Achieving Classroom Excellence Act of 2005
Section 1210.523 - Repealed**

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Oklahoma Statutes

Title 70. Schools

**Chapter 22 - Testing and Assessment
Achieving Classroom Excellence Act of 2005
Section 1210.525 - Repealed**

Repealed by Laws 2016, HB 3218, c. 360, § 12, emerg. eff. July 1, 2016

Oklahoma Statutes

Title 70. Schools

**Chapter 22 - Testing and Assessment
Achieving Classroom Excellence Act of 2005
Section 1210.526 - Repealed**

Repealed by Laws 2016, HB 3218, c. 360, § 12, emerg. eff. July 1, 2016

PROPOSED RULES

TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 20. STAFF SUBCHAPTER 41. TEACHER AND LEADER EFFECTIVENESS

210:20-41-1. Teacher and Leader Effectiveness Evaluation System overview

(a) **Purpose and application.** To ensure that each Oklahoma student is provided with effective instruction that contributes to student success, each school district board of education shall maintain and annually review a written policy of evaluation for all teachers and leaders, to be based upon the minimum criteria for the Teacher and Leader Effectiveness Evaluation System (TLE) outlined at 70 O.S. § 6-101.16. For purposes of the TLE, "leader" means a principal, assistant principal, or any other school administrator who is responsible for supervising classroom teachers. "Teacher" means a duly certified person who is employed to serve as a counselor, librarian, or school nurse classroom teacher, or in any other instructional capacity.

(b) **Five-tier rating system.** Each teacher and leader evaluated under the TLE shall be rated on a five-tier scale, ~~and assigned one of the following ratings:~~ Regardless of any additional rating terminology used in an evaluation framework implemented by a school district, a teacher's or leader's district evaluation rating shall be expressed as one of the following five ratings:

- (1) Superior;
- (2) Highly effective;
- (3) Effective;
- (4) Needs improvement; or
- (5) Ineffective.

(c) **Annual evaluations.** Every teacher and leader shall be evaluated annually, and provided with feedback for the purpose of improving student learning outcomes. ~~Both the quantitative and qualitative components of the TLE shall be calculated each year for every teacher and leader, with the following limited exceptions:~~ Each teacher or leader shall receive a district evaluation rating based on the components of the TLE as set forth in 70 O.S. § 6-101.16(b), and expressed as a rating on the five-tier scale shown in subsection (b). For all district evaluations, student performance, including performance on the statewide criterion-referenced tests if available, shall be discussed with the teacher and may be one of the considerations for the teacher's district evaluation rating. A career teacher as defined in 70 O.S. § 6-101.3 who has received a "Superior" or "Highly effective" rating under the TLE may be evaluated once every three (3) years, but shall participate annually in developing a professional growth goal. A probationary teacher as defined in 70 O.S. § 6-101.3 shall be provided formative feedback from the evaluation process at least two times per school year, once during the fall semester and once during the spring semester.

(1) ~~A first year teacher's TLE evaluation shall be based solely on qualitative components, as set forth at 210:20-41-3(b). During the first year of teaching, no Student Academic Growth (SAG) data will be collected. During the second year of teaching, the TLE evaluation score will still be derived entirely from qualitative components, but SAG data will be collected to be applied to the following year's evaluation.~~

(2) ~~A career teacher who has received a "Superior" or "Highly effective" rating under the TLE may be evaluated once every two years. SAG quantitative data for these teachers shall~~

continue to be collected and reported annually, as this data will be a necessary component of the teacher's next scheduled evaluation.

(3) — A teacher or leader who moves to an Oklahoma school district from out of state shall be evaluated during their first school year in Oklahoma based solely on qualitative components, as set forth at 210:20-41-3(b). During the first year of teaching in Oklahoma, SAG data will be collected to be applied to the following year's evaluation.

(4) — A teacher or leader who retires or leaves teaching or administrative employment, but returns to a teaching or administrative position, shall be evaluated solely on qualitative components during the year they return to service. SAG data will be collected during the year they return to service, to be applied to the following year's evaluation.

(d) — **Remediation plans and instructional coaching.** For all teachers rated as "Needs improvement" or "Ineffective", comprehensive remediation plans and instructional coaching shall be provided. Each school district's written policy for evaluation shall include guidelines for comprehensive remediation plans and an instructional coaching program.

(e) — **Teachers and leaders who change positions.** For an educator who serves as a teacher one year and an administrator the following year, the SAG data acquired during the year of employment as a teacher shall carry over as the SAG data applied to TLE evaluation during the educator's first subsequent year of employment as an administrator. For an educator who serves as an administrator one year and a teacher the following year, the SAG data acquired during the year of employment as an administrator shall carry over as the SAG data applied to TLE evaluation during the educator's first subsequent year of employment as a teacher.

(d) Individualized programs of professional development. Every school district board of education shall maintain and annually review a written policy of professional development in addition to, or as a component of, its written policy of evaluation. The policy of professional development adopted by a school district shall provide for the development of a focused and individualized program of professional development for the teacher or administrator that is consistent with the qualitative components of the TLE. Professional development completed pursuant to an individualized program of professional development shall count toward the total number of points a teacher or administrator is required to complete as established by the school district pursuant to 70 O.S. § 6-194, provided that the implementation of individualized programs of professional development does not increase the professional development points requirements. Every school district policy of professional development shall:

(1) Establish an annual professional growth goal for the teacher or administrator that is developed by the teacher or administrator in collaboration with the evaluator. Every teacher or administrator will participate in establishing an annual professional growth goal, including career teachers with a "Superior" rating during the years they are not required to be evaluated.

(2) Be tailored to address a specific area or criteria identified through the qualitative components of the TLE.

(3) Allow the teacher or administrator to actively engage with learning practices that are evidence-based, researched practices that are correlated with increased student achievement.

(4) Be supported by resources that are available and supplied by the school district and the State Department of Education.

(e) **Evaluator training.** Prior to conducting evaluations, every individual designated by a school district board of education to conduct personnel evaluations shall participate in training that addresses the requirements of Oklahoma's Teacher and Leader Effectiveness Evaluation

System. Training provided to a school district's evaluators through a vendor which addresses the district's adopted framework, but does not specifically address Oklahoma's TLE components, will not satisfy the TLE training requirement.

(f) **Reporting.** Every school district must transmit data collected for TLE purposes to the State Department of Education through the current information upload system designated by the agency.

(g) **Confidentiality of records.** The State Department of Education shall keep records of annual evaluations received pursuant to TLE confidential. TLE records which in any way identify a current or former public employee shall not be subject to disclosure under the Oklahoma Open Records Act.

210:20-41-2. Quantitative components of the Teacher and Leader Effectiveness Evaluation System

For districts choosing, at their own expense, to use quantitative measures of teachers and leaders as part of the district evaluation rating, such measures shall include a minimum of one reliable, research-based measure approved by the State Board of Education.

210:20-41-3. Qualitative components of the Teacher and Leader Effectiveness Evaluation System

~~(a) — **Proportion of overall rating.** Fifty percent (50%) of the ratings of teachers and leaders shall be based on qualitative assessment components which are rigorous and fair.~~

~~(b_a) **Qualitative assessment of teachers.** An evidence-based qualitative assessment tool for the assessment of teachers must include observable and measurable characteristics of personnel and classroom practices that are correlated to student performance success. These characteristics shall include, but not be limited to:~~

- ~~(1) Organizational and classroom management skills;~~
- ~~(2) Ability to provide effective instruction;~~
- ~~(3) Focus on continuous improvement and professional growth;~~
- ~~(4) Interpersonal skills; and~~
- ~~(5) Leadership skills.~~

~~(c) **Qualitative assessment of leaders.** An evidence-based qualitative assessment tool for the assessment of administrators must include observable and measurable characteristics of personnel and site management practices that are correlated to student success. These characteristics shall include, but not be limited to:~~

- ~~(1) Organizational and school management, including retention and development of effective teachers and dismissal of ineffective teachers;~~
- ~~(2) Instructional leadership;~~
- ~~(3) Professional growth and responsibility;~~
- ~~(4) Interpersonal skills;~~
- ~~(5) Leadership skills; and~~
- ~~(6) Stakeholder perceptions.~~

RULE IMPACT STATEMENT

210:20-41-1. Teacher and Leader Effectiveness Evaluation System overview [AMENDED]

210:20-41-2. Quantitative components of the Teacher and Leader Effectiveness Evaluation System [NEW]

210:20-41-3. Qualitative components of the Teacher and Leader Effectiveness Evaluation System [AMENDED]

a. What is the purpose of the proposed rule change?

The rules addressing the Teacher and Leader Effectiveness Evaluation System (TLE) must be amended to incorporate changes made to the TLE system by House Bill 2957 (2016). Changes include: the definition of "teacher" is updated pursuant to 70 O.S. § 1-116; references to Student Academic Growth (SAG) data and other repealed quantitative components are eliminated; "district evaluation rating" is established as the new term for a teacher or leader's holistic rating; requirements for individualized programs of professional development are outlined; and evaluator training is addressed.

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 changes will affect Oklahoma teachers, school administrators, and school districts.

c. What classes of persons will benefit from the proposed rule change?

The changes will benefit Oklahoma teachers, school administrators, and school districts by updating the administrative rules to give guidance on the TLE system as amended by HB 2957.

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. Additional record keeping, if any, 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.

The agency does not anticipate any impact on public health, safety, or environment as a result of implementation of the proposed rule at this time.

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

The agency does not anticipate any detrimental effect on public health, safety, or environment as a result of failure to implement the proposed rule at this time.

k. Date Prepared: January 5, 2017

STATUTORY AUTHORITY FOR 210:20-41

ENROLLED HOUSE
BILL NO. 2957

SUBJECT: Teachers

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

SECTION 1. AMENDATORY 70 O.S. 2011, Section 6-101.3, as last amended by Section 1, Chapter 365, O.S.L. 2015 (70 O.S. Supp. 2015, Section 6-101.3), is amended to read as follows:

Section 6-101.3 As used in Section 6-101 et seq. of this title:

1. "Administrator" means a duly certified person who devotes a majority of time to service as a superintendent, elementary superintendent, principal, supervisor, vice principal or in any other administrative or supervisory capacity in the school district;

2. "Dismissal" means the discontinuance of the teaching service of an administrator or teacher during the term of a written contract, as provided by law;

3. "Nonreemployment" means the nonrenewal of the contract of an administrator or teacher upon expiration of the contract;

4. "Career teacher" means a teacher who:

a. ~~for teachers is~~ employed by a school district prior to ~~full implementation of the Oklahoma Teacher and Leader Effectiveness Evaluation System (TLE) as set forth in Section 6-101.10 of this title, the 2017-2018 school year and~~ has completed three (3) or more consecutive complete school years as a teacher in one school district under a written continuing or temporary teaching contract, or

b. ~~for teachers is~~ employed for the first time by a school district under a written continuing or temporary teaching contract ~~after full implementation of the Oklahoma Teacher and Leader Effectiveness Evaluation System (TLE) as set forth in Section 6-101.10 of this title~~ during the 2017-2018 school year and thereafter:

(1) has completed three (3) consecutive complete school years as a teacher in one school district under a written continuing or temporary teaching contract and has achieved ~~qualitative and quantitative ratings~~ a district evaluation rating of "superior" as measured pursuant to the TLE as set forth in Section 6-101.16 of

this title for at least two (2) of the three (3) school years, ~~with no rating below "effective",~~

- (2) has completed four (4) consecutive complete school years as a teacher in one school district under a written continuing or temporary teaching contract, has averaged ~~qualitative and quantitative ratings~~ a district evaluation rating of at least "effective" as measured pursuant to the TLE for the four-year period, and has received ~~qualitative and quantitative~~ district evaluation ratings of at least "effective" for the last two (2) years of the four-year period, or
- (3) has completed four (4) or more consecutive complete school years in one school district under a written continuing or temporary teaching contract and has not met the requirements of subparagraph a or b of this paragraph, only if the principal of the school at which the teacher is employed submits a petition to the superintendent of the school district requesting that the teacher be granted career status, the superintendent agrees with the petition, and the school district board of education approves the petition. The principal shall specify in the petition the underlying facts supporting the granting of career status to the teacher;

5. "Teacher hearing" means the hearing before a school district board of education after a recommendation for dismissal or nonreemployment of a teacher has been made but before any final action is taken on the recommendation, held for the purpose of affording the teacher all rights guaranteed by the United States Constitution and the Constitution of Oklahoma under circumstances and for enabling the board to determine whether to approve or disapprove the recommendation;

6. "Probationary teacher" means a teacher who:

- a. ~~for teachers is~~ employed by a school district prior to ~~full implementation of the Oklahoma Teacher and Leader Effectiveness Evaluation System (TLE) as set forth in Section 6-101.10 of this title, the 2017-2018 school year and~~ has completed fewer than three (3) consecutive complete school years as a teacher in one school district under a written teaching contract, or
- b. ~~for teachers is~~ employed for the first time by a school district under a written teaching contract ~~after full implementation of the Oklahoma Teacher and Leader Effectiveness Evaluation System (TLE) as set forth in Section 6-101.10 of this title, during the 2017-2018 school year and thereafter and~~ has not met the requirements for career teacher as provided in paragraph 4 of this section;

7. "Suspension" or "suspended" means the temporary discontinuance of the services of an administrator or teacher, as provided by law; ~~and~~

8. "Teacher" means a duly certified person who is employed to serve as a counselor, librarian or school nurse or in any instructional capacity; an administrator shall be considered a teacher only with regard to service in an instructional, nonadministrative capacity; and

9. "District evaluation rating" means the rating issued based on the components of the TLE as set forth in subsection B of Section 6-101.16 of this title.

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

Section 6-101.10 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 and corresponding professional development for all teachers and administrators. In those school districts in which there exists a professional negotiations agreement made in accordance with Section 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 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 6-101.16 of this title. The revisions to each policy of evaluation shall be phased in according to the following schedule:

- a. ~~for evaluations of teachers and administrators conducted during the 2012-2013 school year, school districts shall for purposes of testing the TLE incorporate on a trial basis the qualitative components of the TLE as provided for in subparagraph b of paragraph 4 of subsection B of Section 6-101.16 of this title into the evaluations used in all or a representative sampling of school sites within the district and may at the option of the school district incorporate on a trial basis the quantitative components of the TLE as provided for in subparagraph a of paragraph 4 of subsection B of Section 6-101.16 of this title into the evaluations used in all or a representative sampling of school sites within the district,~~
- b. ~~for evaluations of teachers and administrators conducted during the 2013-2014 school year, school districts shall incorporate and put into operation the qualitative components of the TLE as provided for in subparagraph b of paragraph 4 of subsection B of Section 6-101.16 of this title into the evaluations used in all school sites within the district. For the 2013-2014~~

~~school year the evaluation rating of teachers and administrators shall be based on the qualitative component of the TLE. In addition, for evaluations of teachers and administrators conducted during the 2013-2014 school year, school districts shall for purposes of testing the TLE incorporate on a trial basis the quantitative components of the TLE as provided for in subparagraph a of paragraph 4 of subsection B of Section 6-101.16 of this title into the evaluations used in all or a representative sampling of school sites within the district. However, nothing in this subparagraph shall preclude a school district with an average daily attendance of more than thirty-five thousand (35,000) from incorporating at its own expense the quantitative components of the TLE into its evaluation system of teachers and administrators, as defined by the district's written policy, during the 2013-2014 school year,~~

- e. ~~for evaluations of teachers and administrators conducted during the 2014-2015 and 2015-2016 school years, school districts shall for purposes of establishing baseline data incorporate the quantitative components of the TLE as provided for in subparagraph a of paragraph 4 of subsection B of Section 6-101.16 of this title into the evaluations used in all school sites within the district. For for the 2014-2015 and, 2015-2016 and 2016-2017 school years, the evaluation rating of teachers and administrators shall be based on the qualitative component of the TLE. For the 2016-2017 school year, the State Department of Education shall work with school districts to develop individualized programs of professional development as described in subsection B of this section. However, nothing in this subparagraph shall preclude a school district with an average daily attendance of more than thirty-five thousand (35,000) from incorporating continuing to use quantitative components which the district has incorporated at its own expense the quantitative components of the TLE prior to the 2015-2016 school year into its evaluation system of teachers and administrators, as defined by the district's written policy, during the 2014-2015 and 2015-2016 school years, and~~

- d.
- b. for evaluations of teachers and administrators conducted during the ~~2016-2017~~ 2017-2018 school year, and each school year thereafter, school districts shall ~~fully implement the TLE and incorporate and put into operation both the qualitative and quantitative components component~~ of the TLE as provided for in ~~paragraph 4 of subsection B of Section 6-101.16~~ of this title into the evaluations used in all school sites within the district. For the ~~2016-2017~~ 2017-2018 school year, and each school year thereafter, teachers and administrators shall receive a qualitative district evaluation rating based on ~~the qualitative component of the components of the TLE~~ and a quantitative rating based on the quantitative component of the TLE as set forth in subsection B of Section 6-101.16 of this title. For the 2017-2018 school year, school districts shall incorporate the individualized

programs of professional development as described in subsection B of this section on a pilot program basis, and

c. for evaluations of teachers and administrators conducted during the 2018-2019 school year, and each school year thereafter, school districts shall fully incorporate and put into operation the individualized programs of professional development as described in subsection B of this section;

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 receive formative feedback from the evaluation process at least two times per school year, once during the fall semester and once during the spring semester;

5. Provide that every teacher be evaluated once every year, except for career teachers receiving a qualitative district evaluation rating of "superior" or "highly effective" ~~and a quantitative rating of "superior" or "highly effective"~~ under the TLE; who may be evaluated once every ~~two (2)~~ three (3) years; 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, designee of the principal, supervisor, content expert, department chair, peer committee or other trained ~~certified individual~~ persons or groups of persons designated by the school district board of education.

B. 1. Every policy of professional development adopted by a school district board of education shall provide for the development of a focused and individualized program of professional development for the teacher or administrator that is consistent with the qualitative component of the TLE. The policy of professional development shall:

a. establish an annual professional growth goal for the teacher or administrator that is developed by the teacher or administrator in collaboration with the evaluator,

b. be tailored to address a specific area or criteria identified through the qualitative component of the TLE,

c. allow the teacher or administrator to actively engage with learning practices that are evidence-based, researched practices that are correlated with increased student achievement, and

- d. be supported by resources that are easily available and supplied by the school district and the State Department of Education.

2. School districts shall monitor compliance with each individualized program of professional development implemented pursuant to this subsection. All professional development completed pursuant to an individualized program of professional development shall count toward the total number of points a teacher or administrator is required to complete as established by a school district board of education pursuant to Section 6-194 of this title. The implementation of the individualized program of professional development required by this subsection shall not be construed as increasing the professional development points requirements.

3. Individualized programs of professional development required by this subsection may include but are not limited to the following learning practices:

- a. presenter-led workshops,
- b. individual or faculty studies of books, scholarly articles and video productions,
- c. peer observations,
- d. committee studies to address student achievement issues,
- e. work related to a specific subject area or areas associated with obtaining an advanced degree or professional certification,
- f. action research projects designed to improve student achievement, and
- g. participation in local, regional or state initiatives associated with the development or implementation of curriculum standards.

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

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

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

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

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

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

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

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

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

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

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

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

~~D. After full implementation of the TLE as set forth in Section 6-101.10 of this title Beginning with the 2017-2018 school year and thereafter, a principal who has received qualitative or quantitative district evaluation ratings of "ineffective" as measured pursuant to the TLE as set forth in Section 6-101.16 of this title for two (2) consecutive school years may be dismissed or not reemployed by the school district, subject to the due process procedures of this section.~~

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

Section 6-101.16 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). The Board shall work cooperatively with school districts to ~~fully implement both~~ incorporate the quantitative and qualitative components of the TLE in all school districts by the ~~2016-2017~~ 2017-2018 school year as provided for in Section 6-101.10 of this title, ~~including determining the final calculation of the student academic growth measurement as provided for in subparagraph a of paragraph 4 of subsection B of this section and developing a teacher/student assignment verification system.~~

B. The TLE shall include the following components:

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

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

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

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

4. a. ~~The quantitative ratings of teachers and leaders shall be based on quantitative components which shall include performance measures of a teacher and leader that are based on student academic growth using multiple years of standardized test data, as available, and performance measures for teachers in grades and subjects for which there is no state mandated testing measure, as approved by the State Board of Education pursuant to subsection E of this section, and~~

b. ~~The qualitative ratings of teachers and leaders shall be based on rigorous and fair qualitative assessment components;~~

5. 3. 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. 4.~~ 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;

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

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

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

5. An individualized program of professional development for all teachers and administrators as adopted by the school district board of education as set forth in subsection B of Section 6-101.10 of this title;

6. For districts choosing to use, at their own expense, quantitative measures of teachers and leaders as part of the district evaluation rating, such measures shall include a minimum of one reliable, research-based measure as approved by the State Board of Education pursuant to subsection D of this section; and

7. For all district evaluations, student performance, including performance on the statewide criterion-referenced tests if available, shall be discussed with the teacher and may be one of the considerations for the teacher's district evaluation rating.

~~C.~~ Career teachers receiving a qualitative district evaluation rating of "superior" or "highly effective" and a quantitative rating of "superior" or "highly effective" under the TLE may be evaluated once every ~~two (2)~~ three (3) years.

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

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

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

~~G.~~ F. The State Department of Education shall provide to the Oklahoma State Regents for Higher Education and the Oklahoma Commission for Educational Quality and Accountability 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.

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

~~I.~~ H. The State Department of Education shall keep all data collected pursuant to the TLE and records of annual evaluations received pursuant to this section confidential. Records created pursuant to this section which identify, in any way, a current or former public employee shall not be subject to disclosure under the Oklahoma Open Records Act. Nothing in this subsection shall be construed to prohibit disclosure otherwise required by this section; provided, however, any provisions requiring disclosure of TLE records shall be construed narrowly and all individually identifying information shall be removed from such records to the fullest extent possible.

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

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

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

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

C. ~~Upon full implementation of the Oklahoma Teacher and Leader Effectiveness Evaluation System (TLE) as set forth in Section 6-101.10 of this title~~ During the 2017-2018 school year and thereafter:

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

~~2. A career teacher who has received a qualitative or quantitative district evaluation rating of "ineffective" for two (2) consecutive school years may shall be dismissed or not reemployed on the grounds of instructional ineffectiveness by the school district, subject to the provisions of the Teacher Due Process Act of 1990. However, the superintendent may recommend and the school district board of education may approve continued employment of the teacher; and~~

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

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

~~5. A career teacher who has not averaged a qualitative and quantitative rating of at least "effective" as measured pursuant to the TLE over a five-year period shall be dismissed or not~~

~~reemployed on the grounds of instructional ineffectiveness by the school district, subject to the provisions of the Teacher Due Process Act of 1990; and~~

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

D. ~~Upon full implementation of the Oklahoma Teacher and Leader Effectiveness Evaluation System (TLE) as set forth in Section 6-101.10 of this title~~ During the 2017-2018 school year and thereafter:

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

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

~~3. A probationary teacher who has not attained career teacher status within a four-year period shall~~ may be dismissed or not reemployed by the school district, subject to the provisions of the Teacher Due Process Act of 1990.

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

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

2. Any felony offense.

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

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

2. ~~"Sexual misconduct" means the soliciting or imposing of eriminal sexual activity~~ acts that could form the basis of criminal charges sufficient to result in the denial or revocation of a certificate for a reason set forth in subparagraph a of paragraph 6 of Section 3-104 of this title.

G. As used in this section, "abandonment of contract" means the failure of a teacher to report at the beginning of the contract term or otherwise perform the duties of a contract of employment when the teacher has accepted other employment or is performing work for another employer that prevents the teacher from fulfilling the obligations of the contract of employment.

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

SECTION 6. This act shall become effective July 1, 2016.

SECTION 7. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

PROPOSED RULE

TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 35. STANDARDS FOR ACCREDITATION OF ELEMENTARY, MIDDLE LEVEL, SECONDARY, AND CAREER AND TECHNOLOGY SCHOOLS SUBCHAPTER 3. STANDARDS FOR ELEMENTARY, MIDDLE LEVEL, SECONDARY, AND CAREER AND TECHNOLOGY SCHOOLS

210:35-3-201. Statement of the standard

- (a) Each public school site, including charter school sites, must submit an Application for Accreditation to the Accreditation Standards Section of the State Department of Education by the due date specified on the Application. School sites are accredited for one year. An accredited school site shall meet all applicable regulations and statutory requirements at the beginning of and throughout the school year.
- (b) Accreditation status of school sites shall be classified according to the following categories:
- (1) Accredited With No Deficiencies--All standards are being met.
 - (2) Accredited With Deficiencies--A school site fails to meet one or more of the standards but the deficiency does not seriously detract from the quality of the school's educational program.
 - (3) Accredited With Warning--A school site:
 - (A) fails to meet one or more of the standards and the deficiency seriously detracts from the quality of the school's educational program; and/or,
 - ~~(B) is designated as a school in need of improvement in school years 2011-2012 or later;~~
 - (4) Accredited With Probation--A school site:
 - (A) consistently fails to remove or make substantial progress towards removing all deficiencies noted the previous year; and/or,
 - (B) consistently violates regulations; and/or,
 - (C) deliberately and unnecessarily violates one or more of the regulations; and/or,
 - ~~(D) is declared as a School Improvement School in school years 2009-2010 and 2010-2011 and designated as a school in need of improvement in school year 2011-2012; and/or;~~
 - ~~(E) is designated as a school in need of improvement for three or more consecutive years beginning in school year 2011-2012.~~
 - (5) Nonaccredited--The school site is no longer recognized by the State Board of Education.
- (c) If a school site is placed on warning or probation, the school board and administration will meet with ~~a committee~~ one or more representatives from the Accreditation Section to review their accreditation status. After the review from the ~~committee~~ representative(s), a determination will be made concerning warning, probation or nonaccredited status. The Accreditation Section will then present a recommendation to the State Board of Education.

PUBLIC COMMENT SUMMARY

**State Department of Education Proposed Permanent Rule Changes
Chapter 35. Standards for Accreditation of Elementary, Middle Level, Secondary, and
Career and Technology Schools
Subchapter 3. Standards for Elementary, Middle Level, Secondary, and Career and
Technology Schools
Part 21. Standard XI: Accreditation Status**

210:35-3-201. Statement of the standard [AMENDED]

Summary of Public Comment	Agency Response
<p>Commenter (a school district superintendent) feels the proposed change "eliminate[s] very important performance based standards for school sites," and suggests "strengthening accreditation rules on school sites by adding new performance based standards which does include school designations. The A-F Report Cards for school sites could also be tied to accreditation."</p>	<ul style="list-style-type: none">• The school designations that are being removed from the Accreditation Status rule have been discontinued at the federal and state level, and must be stricken from the rule at this time.• The new assessment and accountability frameworks that have been approved by the State Board of Education must be approved by the Oklahoma Legislature before they can take effect, and are currently under Legislative review. While future updates of the Accreditation Status rule could incorporate elements from the state's school accountability system, at this time the rule update may only eliminate the outdated school designation references.

RULE IMPACT STATEMENT

210:35-3-201. Statement of the standard (Accreditation Status) [AMENDED]

a. What is the purpose of the proposed rule change?

The administrative rule that outlines how accreditation status is determined for Oklahoma schools is being updated to remove terminology that is no longer in use following adoption of the federal *Every Student Succeeds Act* (ESSA). The designation "school in need of improvement" was incorporated into the accreditation status rule from the *No Child Left Behind Act* (NCLB), the previous version of the Elementary and Secondary Education Act which was superseded by ESSA in December 2015, so those designations are no longer appropriate as a factor in accreditation.

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 change will affect Oklahoma schools accredited by the State Department of Education.

c. What classes of persons will benefit from the proposed rule change?

The change will benefit accredited Oklahoma schools by eliminating classifications that are no longer in use with the replacement of *No Child Left Behind*.

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. Additional record keeping, if any, 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.

The agency does not anticipate any impact on public health, safety, or environment as a result of implementation of the proposed rule at this time.

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

The agency does not anticipate any detrimental effect on public health, safety, or environment as a result of failure to implement the proposed rule at this time.

k. Date Prepared: January 5, 2017

STATUTORY AUTHORITY FOR 210:35-3-201

Oklahoma Statutes

Title 70. Schools

Chapter 1 - School Code of 1971

Article Article III - State Department of Education

Section 3-104.4 - Standards for Accreditation of Public Schools - Assistance - Compliance

Multiple Amendments Enacted During the 2016 Legislative Session

Version 1 (as amended by Laws 2016, SB 933, c. 353, § 1, emerg. eff. July 1, 2016)

A. On or before February 1, 1991, the State Board of Education shall adopt standards for the accreditation of the public schools in this state according to the requirements of this act, to be effective as set forth in this act. The accreditation standards shall incorporate the curricular standards established pursuant to Section 11-103.6 of this title. The accreditation standards shall equal or exceed the accreditation standards for schools promulgated by the North Central Association of Colleges and Schools to the extent that the standards are consistent with an academic results oriented approach to accreditation, excluding those standards which deal with affective behavior to the extent the adoption of the standards does not conflict with state statute. The accreditation adopted by the State Board shall encompass accreditation for elementary schools, middle schools, junior high schools, and high schools. The accreditation standards shall be made available for public inspection at the offices of the State Department of Education.

B. Standards for accreditation adopted by the State Board of Education shall include standards relating to the provision of school counselors to the public school children of this state. The State Board of Education shall require each local school district to provide information regarding the number of counselors serving each school site, the duties of all such counselors including all administrative duties, the number of students served by each counselor, and information regarding the number of counselors employed per elementary school, middle school, junior high school and high school.

C. Except as otherwise provided by subsection A of this section with regard to curricular standards, as a condition of receiving state accreditation pursuant to this act:

1. High schools shall meet the accreditation standards not later than June 30, 1995; and
2. Elementary, middle and junior high schools shall meet the accreditation standards not later than June 30, 1999.

Schools shall thereafter continue to meet the accreditation standards as a condition of continued accreditation. Nothing herein shall be construed as preventing changes to the adopted standards by the State Board of Education pursuant to the Administrative Procedures Act.

D. If one or more school sites fails to receive accreditation as required pursuant to this section by the dates set forth in subsection C of this section or subsequently loses accreditation, the State Board of Education shall close the school and reassign the students to accredited schools within the district or shall annex the district to one or more other districts in which the students can be educated in accredited schools.

E. State Board accreditation regulations shall provide for warnings and for assistance to schools and school districts whenever there is reason to believe a school is in danger of losing its state accreditation.

F. The State Board shall provide assistance to districts in considering the possibility of meeting accreditation requirements through the use of nontraditional means of instruction. The State Board shall also assist districts in forming cooperatives and making arrangements for the use of satellite instruction or other instructional technologies to the extent that use of such instructional means meets accreditation standards.

G. 1. Accreditation shall not be withdrawn from or denied nor shall a penalty be assessed against a school or school district for failing to meet the media materials and equipment standards and media program expenditure standards as set forth in the accreditation standards adopted by the Board.

2. The provisions of paragraph 1 of this subsection shall cease to be effective during a fiscal year immediately following a fiscal year that the state financial support of public schools provides an amount equal to or more than Three Thousand Two Hundred Ninety-one Dollars and sixty cents (\$3,291.60) per weighted average daily membership as calculated pursuant to Section 18-200.1 of this title and reported to school districts by the State Department of Education on the initial tentative State Aid allocation notice.

3. If the amount set and calculated as provided for in paragraph 2 of this subsection is reduced by one percent (1%) or more as reported to school districts by the Department on the initial tentative State Aid allocation notice for the following fiscal year, the provisions of paragraph 2 of this subsection shall cease to be effective and the provisions of paragraph 1 of this subsection shall continue to be effective.

H. 1. The State Board shall not assess a financial penalty against any school district which is given a deficiency in accreditation status during any fiscal year as provided for in this subsection.

2. The provisions of paragraph 1 of this subsection shall cease to be effective during a fiscal year immediately following a fiscal year that the state financial support of public schools provides an amount equal to or more than Three Thousand Two Hundred Ninety-one Dollars and sixty cents (\$3,291.60) per weighted average daily membership as calculated pursuant to Section 18-200.1 of this title and reported to school districts by the State Department of Education on the initial tentative State Aid allocation notice.

3. If the amount set and calculated as provided for in paragraph 2 of this subsection is reduced by one percent (1%) or more as reported to school districts by the Department on the initial tentative State Aid allocation notice for the following fiscal year, the provisions of paragraph 2 of this subsection shall cease to be effective and the provisions of paragraph 1 of this subsection shall continue to be effective.

I. Accreditation shall not be withdrawn from or denied, nor shall a penalty be assessed against, a school district for complying with this section.

Version 2 (as amended by Laws 2016, HB 2969, c. 205, § 1)

A. On or before February 1, 1991, the State Board of Education shall adopt standards for the accreditation of the public schools in this state according to the requirements of this act, to be effective as set forth in this act. The accreditation standards shall incorporate the curricular standards established pursuant to Section 11-103.6 of this title. The accreditation standards shall equal or exceed the accreditation standards for schools promulgated by the North Central Association of Colleges and Schools to the extent that the standards are consistent with an academic results-oriented approach to accreditation, excluding those standards which deal with affective behavior to the extent the adoption of the standards does not conflict with state statute. The accreditation adopted by the State Board shall encompass accreditation for elementary schools, middle schools, junior high schools, and high schools. The accreditation standards shall be made available for public inspection at the offices of the State Department of Education.

B. Standards for accreditation adopted by the State Board of Education shall include standards relating to the provision of school counselors to the public school children of this state. The State Board of Education shall require each local school district to provide information regarding the number of counselors serving each school site, the duties of all such counselors including all administrative duties, the number of students served by each counselor, and information regarding the number of counselors employed per elementary school, middle school, junior high school and high school.

C. Except as otherwise provided by subsection A of this section with regard to curricular standards, as a condition of receiving state accreditation pursuant to this act:

1. High schools shall meet the accreditation standards not later than June 30, 1995; and
2. Elementary, middle and junior high schools shall meet the accreditation standards not later than June 30, 1999.

Schools shall thereafter continue to meet the accreditation standards as a condition of continued accreditation. Nothing herein shall be construed as preventing changes to the adopted standards by the State Board of Education pursuant to the Administrative Procedures Act.

D. If one or more school sites fails to receive accreditation as required pursuant to this section by the dates set forth in subsection C of this section or subsequently loses accreditation, the State Board of Education shall close the school and reassign the students to accredited schools within the district or shall annex the district to one or more other districts in which the students can be educated in accredited schools.

E. Standards for accreditation adopted by the State Board of Education shall include standards relating to the provision of educational services provided in partial hospitalization programs, day treatment programs, day hospital programs, residential treatment programs and emergency shelter programs for persons between the ages of three (3) and twenty-one (21) years of age. The accreditation standards shall apply to onsite and offsite educational services provided by public school districts or state-accredited private schools. The accreditation standards shall provide for warnings, probation or nonaccredited status for schools that fail to meet the standards. Each school which is providing or is required to provide educational services for students placed in a program as described in this subsection shall be actively monitored by the State Department of Education. The Department shall determine on an ongoing basis if the educational program and services are in compliance with the accreditation standards. The Department shall investigate a complaint of failure to provide educational services within ten (10) days of receiving the complaint. If the Department determines that a school has failed to comply with the accreditation standards the Department shall report the recommended warning, probation or nonaccredited accreditation status to the State Board of Education within sixty (60) days. If a school does not take action to comply with the accreditation standards within ninety (90) days after a report is filed by the Department, the Board shall withdraw accreditation for the school.

F. State Board accreditation regulations shall provide for warnings and for assistance to schools and school districts whenever there is reason to believe a school is in danger of losing its state accreditation.

G. The State Board shall provide assistance to districts in considering the possibility of meeting accreditation requirements through the use of nontraditional means of instruction. The State Board shall also assist districts in forming cooperatives and making arrangements for the use of satellite instruction or other instructional technologies to the extent that use of such instructional means meets accreditation standards.

H. For the fiscal years ending June 30, 2015, and June 30, 2016, accreditation shall not be withdrawn from or denied nor shall a penalty be assessed against a school or school district for failing to meet the

media materials and equipment standards and media program expenditure standards as set forth in the accreditation standards adopted by the Board.

I. The State Board shall not assess a financial penalty against any school district which is given a deficiency in accreditation status during the fiscal years ending June 30, 2015, and June 30, 2016. Accreditation shall not be withdrawn from or denied, nor shall a penalty be assessed against, a school district for complying with this section.