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STATE SUPERINTENDENT *of* PUBLIC INSTRUCTION
OKLAHOMA STATE DEPARTMENT *of* EDUCATION

MEMORANDUM

TO: The Honorable Members of the State Board of Education
FROM: Joy Hofmeister
DATE: January 24, 2019
SUBJECT: Administrative Rule Promulgation

The State Board of Education will be taking action at the January 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
210:10-13-4. Test security and validity [AMENDED]

A provision is being added to the administrative rule on Oklahoma School Testing Program (OSTP) security, to ensure the local school board is apprised in the event a school district is determined to have violated the security provisions of one or more OSTP assessments. The rule currently provides that such a violation shall be reported to the State Superintendent, and the proposed new language provides that such a violation shall also be reported directly to the school district's board of education.

- (2) Title 210. State Department of Education
Chapter 15. Curriculum and Instruction
Subchapter 13. Special Education
210:15-13-7. Lindsey Nicole Henry Scholarship for Students with Disabilities Program [AMENDED]

The rule outlining the Lindsey Nicole Henry scholarship program for students with disabilities is being updated to reflect changes to law since the rule's adoption, and to clarify the application process for parents/guardians of eligible students. The scholarship was initially limited to students with disabilities who have attended public school in Oklahoma and been served under the Individuals with Disabilities Education Act (IDEA), but eligibility was later expanded to include students who have been served through the SoonerStart program for children with disabilities age birth through two, and most recently for students who have been in an out-of-home placement through the Department of Human Services (DHS), who have been in out-of-home placement with the Office of

Juvenile Affairs, or who have been adopted while in the permanent custody of DHS. These eligibility categories must be added to the rule to reflect current law, along with updates necessary due to changes in practice, such as applications now being accepted by email. Content is also added clarifying the federal civil rights provisions that apply to participating private schools, and providing that participating schools may be asked to periodically verify that they meet the eligibility requirements for the LNH Scholarship Program.

- (3) Title 210. State Department of Education
Chapter 20. Staff
Subchapter 9. Professional Standards: Teacher Education and Certification
Part 9. Teacher Certification
210:20-9-102. Paraprofessional credentials and career development program for paraprofessionals [AMENDED]

The rule outlining qualifications for public school paraprofessionals, as well as the program through which paraprofessionals can become certified as teachers, is being updated to clarify federal requirements and state practice. The existing language of the rule did not reflect the requirements for paraprofessionals in the special education context, which exceed the requirements for eligibility as a Title I or general elementary paraprofessional. The rule update provides for a distinct credential for qualifying special education paraprofessionals, as well as clarifying the process for how a paraprofessional credential may be obtained from the State Department of Education (OSDE).

- (4) *Note: The following rule changes were presented at the December 18, 2018 State Board of Education meeting, but due to a procedural error require an additional approval action by the Board in order to be filed with the Legislature.*

210:20-9-9. Kinds, types, classes, and processing fees of certificates [AMENDED]

Rule update required pursuant to 59 O.S. § 4003, providing that low-income applicants are eligible for a one-time waiver of certification fees.

210:20-9-91. Applications for new certificates [AMENDED]

Permanent rule adoption required pursuant to 70 O.S. § 6-189, providing for the competency-based certification of Career Tech teachers.

210:35-29-8. Requirements for alternative education programs [AMENDED]

Rule amendment clarifying and establishing a deadline for the elementary district alternative education waiver available under 70 O.S. § 568.

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

210:10-13-4. Test security and validity

(a) **Test security.** School administrators and their designees shall maintain security on tests administered under the auspices of the Oklahoma School Testing Program through following the procedures listed below:

(1) **Test coordinators.** School superintendents shall designate both district and building test coordinators before October 1 of each school year. Names and telephone numbers of district test coordinators shall be recorded on the OSTP Questionnaire conducted in the fall semester of each school year. This questionnaire is the order form provided by the testing vendors for all tests in the OSTP including large print and Braille test forms.

(2) **Pretest information.** The State Department of Education shall provide student/parent pretest information materials to schools for designated grade levels before testing.

(3) **Embargo of test materials.** The State Department of Education shall require the contracting test publisher to place an embargo on the sale, sampling, and/or distribution of test materials utilized in the OSTP to any person or organization in Oklahoma (other than the official distribution of such materials purchased for the OSTP by the State Department of Education). This embargo is to be enforced from the first day of contract with the State Department of Education throughout use of this test for the OSTP and until the Department has given notice that the test series is no longer going to be used in the OSTP.

(A) Violation of this agreement by a contracting test publisher can result in automatic and immediate forfeiture of the contract and reimbursement to the State Department of Education (by the contracting company) of any funds expended in the conduct of the OSTP.

(B) No individual person or public or private entity shall obtain copies of any test materials utilized in the OSTP other than through the official distribution of test materials to public schools immediately prior to administration of the annual OSTP. Any person or organization attempting to order such materials from the contracting test publisher (or from other scoring companies handling OSTP or "off-grade" scoring and reporting) shall be reported by the contractor to the State Superintendent of Public Instruction.

(4) **Maintenance of the security of test materials prior to exam administration.** All student test materials (i.e., test booklets, prompts for writing assessment, and answer documents) shall be bound by the test publisher in packages of designated lot sizes. No test booklets shall be viewed by any person other than the student taking the test at the time of testing, except in the case of special education, Section 504, or ELL accommodations which allow a test administrator to assist a student being tested. Test booklets shall be individually sealed, as practicable, to prohibit them from being opened.

(A) When seals are used on test booklets, the following procedures shall be followed:

(i) Test booklets shall remain intact until tests are distributed to students at the beginning of the test administration session;

(ii) Each test booklet seal shall be broken only by the student who is administered the test, except where special education or Section 504 accommodations allow the opening of the test; and

(ii) Unused test booklets shall remain sealed.

(B) When seals are not used on test booklets, the following procedures shall be followed:

- (i) Test booklets shall remain closed until distributed to students at the beginning of the test administration session;
- (ii) Each test booklet shall be opened only by the student who is administered the test, except where special education or Section 504 accommodations allow the opening of the book and turning of pages by someone other than the students.

(5) **Inventory and accounting of test materials.** All test materials shall be inventoried by the school district upon receipt from the test publisher/contractor. Any discrepancies representing shortages in the quantity of materials supplied and the quantity needed for tests administered shall be reported immediately to the contracting company by the district test coordinator. Immediately upon receipt and inventory of materials, all tests, and other materials shall be locked in a secure place by the district test coordinator or school administrator.

(A) The site level distribution of test documents and materials may occur beginning one week prior to testing. Exceptions to the test materials distribution time limit needed by the largest districts in the state shall be registered with and approved by the State Department of Education Office of ~~Accountability and~~ Assessment at least four weeks prior to the first designated testing window of each year.

(B) During the days in which tests are being administered in each school district, all test administrators are responsible for locking all test materials in a secure place when the tests are not being utilized in the official test administration with students. This includes the time period between completion of the test administration and delivery of the answer documents and other test materials to the district test coordinator. Further, the building test coordinator is responsible for ensuring that materials are properly locked in a secure place at the times specified above.

(C) Test booklets are not to leave school buildings at any time (i.e., students' test booklets are not to be taken home by an employee or the community member/test monitor before, during, or after test administration has been completed). Exceptions to test booklets leaving a school site shall be made at the discretion of the State Department of Education ~~Office of Student Assessment Section~~ for the purpose of secure transport to a site of instruction for the purpose of test administration, upon a written request from a District Test Coordinator. These requests must be registered with and approved by the ~~Office of Student Assessment Section~~ at least four weeks prior to the first designated testing window of each year.

(D) An accounting is to be conducted on all test booklets. Unused test booklets are to remain in "shrink-wrap" (or otherwise packaged) when possible. All unused tests are to be returned to the test publisher. Failure to return test booklets to the appropriate companies will result in:

- (i) A school or district being reported to the State Superintendent; and
- (ii) Possible invalidation of the school's and/or district's scores by the State Department of Education Office of ~~Accountability and~~ Assessment.

(E) The contracting test publisher shall print electronically read identification codes on all documents containing secured test items prior to distribution of these materials to the public schools. Within all test program components of the OSTP, the contracting test publisher shall record the specific series of numbers (represented by the "bar codes")

assigned to each school district and building site within a district. Inventory lists of test document bar codes by school site shall be provided for each district test coordinator.

(F) The district test coordinator shall ship all answer documents and specified identification forms to the designated scoring/reporting company and all other test materials to the contracting test publisher in accordance with the schedule for return of materials provided in the Test Preparation Manual. If a district fails to return materials and answer documents in a timely fashion, the district may be penalized with additional costs and the test scores for the individual school(s) and/or district in question may be declared invalid. If a district fails to complete or incorrectly completes answer documents and/or demographic pages or other required testing-related materials, the district may be penalized with additional costs and may also receive a deficiency on the district accreditation report.

(G) The contracting test publisher shall submit an inventory of test materials to the State Department of Education each year. This inventory shall document the quantity of materials distributed to each school district and received from each school district--recorded by school site as indicated by the numbers represented by the "bar codes" printed on test materials. Quantities of writing assessment materials distributed to and retrieved from schools will be reported to the State Department of Education by the contracting test publisher.

(H) School superintendents from whom incomplete quantities of materials have been received shall be notified of this discrepancy and shall be provided a date by which the remaining materials must be returned to the test publisher. The test publisher shall notify the Department of Education of all school districts from which test materials have not been received after this date. Names of these school districts shall be reported to the State Superintendent and may also receive a deficiency on the district accreditation report.

(6) **Prohibition against reproduction of test materials.** Reproduction of any copyrighted test materials--including test documents, teachers' test administration manuals, and student pretest materials--is strictly prohibited. Photocopying or digital copying of these materials constitutes a violation of federal copyright laws. To ensure that all school employees and community members are aware of this regulation and the laws in support of same, the district or building test coordinator shall post a sign to this effect over each copy machine. The Federal Copyright Law--as it applies to the multiple-choice and/or Writing Assessment Component of the OSTP--prohibits the photocopying of any part of the student Test Booklet. This includes the lined writing pages, the writing prompt, and the student's written response. This portion of the set of test documents, as well as the writing prompt, is considered protected under the copyright guidelines. These items shall remain protected, and thus may not be copied, printed, or disseminated in any manner, until they are officially released by the OSDE.

(7) **Other test security violations.** All of the following actions are prohibited as violations of test security:

(A) Teaching test items to students (except in the case of an alternate special education assessment in which authentic performance tasks may be utilized), changing students' answers, or in any manner providing answers to test questions for students before, during, or after test administration has been completed.

(B) Using secured test items as instructional tools or for student "practice"--either verbatim as written or in reworded form. Note: Secured test items are those provided to

measure student knowledge and/or skills on OSTP tests. Said items are to be differentiated from sample test items that are provided at the beginning of each subtest and used, according to official test administration procedures, solely for the purpose of understanding directions and marking answers.

(C) Reading secured test items orally to students at any time before, after, or during test administration unless it is an IEP, Section 504, or ELL accommodation, in which case an affidavit shall be signed, prior to reading items, by the test administrator/reader stating they shall not reveal any test items, writing prompts, or other secured information to any person.

(D) Allowing students to view and/or read the writing assessment prompts before test administration or discussing or exposing the theme or topic of the prompt.

(E) Providing answers to secured test items. This includes provision of cues, clues, hints, and/or actual answers in any form--written, printed, verbal (oral), or nonverbal. In regard to the writing assessment component of the OSTP, prohibited actions include the provision of "hints" or any form of clues in regard to the manner in which students respond to the prompt (e.g., "brainstorming" about the topic of the prompt; offering suggestions regarding how to respond; assisting the student or class in organizing the response; and all other such deviations from the printed instructions for administering the test).

(F) Changing students' responses to secured test items and/or influencing or encouraging students to change their answers to test items at any time.

(G) Deviating from any instruction provided in the official test administration manual or disclosure of any test information that materially inhibits the State Board of Education from exercising its duties set forth in 70 O.S. §1210.508 to develop, field-test, administer, and validate criterion-referenced tests and end-of-instruction assessments.

(8) **Test security forms.** Test Security Forms provided by the State Department of Education's test contractor(s) shall be distributed by the district test coordinator with test materials to the persons designated on each form.

(A) OSTP Test Security Forms shall be provided for the following:

- (i) Form 1: Superintendent and District Test Coordinator
- (ii) Form 2: Building Principal and Building Test Coordinator
- (iii) Form 3: Test Administrators and Test Monitors.

(B) After completing the test administration, these forms shall be signed by the designated persons and returned to the district test coordinator. The district test coordinator shall return all signed forms to the respective scoring company. Failure to sign and return the appropriate forms may result in:

- (i) A school or district being reported to the State Superintendent; and
- (ii) Invalidation of a school's and/or district's test scores.

(C) The contracting test companies shall provide the State Department of Education the signed OSTP Test Security Forms or a report of names of educators who signed SDE/OSTP Test Security Forms and an accounting of the number of tests and manuals:

- (i) Distributed to, and
- (ii) Returned from each school district.

(b) **Test administration.** All test administration sessions shall be conducted according to the standardized procedures described in the test administrators' manuals

(1) The standardized procedures include, but are not limited to:

- (A) Reading the directions to students verbatim;
 - (B) Refraining from allowing students to read test items before test timing begins and/or beyond the completion specified for each section of each test; and
 - (C) Ensuring that only the materials designated for student test use are on the student's desk during test sessions.
- (2) Every test administered within the OSTP shall be administered by an education-certified professional person employed by the school district.
- (3) All test administration sessions shall be monitored by an adult other than the test administrator. All test monitors shall be approved by the superintendent or school principal. Superintendents and principals may designate school employees or noncertified members of the community to serve as test monitors.
- (4) All test administration procedures including time specifications, State Board of Education Rules 210:10-13, and the Instructions for Test Monitors shall be distributed to test monitor(s) before test administration.
- (5) School administrators or their designee(s) shall assure that all test administration procedures replicate standardized testing conditions to preserve test validity. Such procedures are stated in the manuals for administering the test.
- (c) **Test security violations.** Any violation of security provisions in this Section may constitute a basis for invalidation of the test and test results. Such violations shall be reported to the State Superintendent and the school district board of education, and may result in a school's and/or school district's test scores being declared as invalid.
- (d) **Penalties for test security violations.** In addition to any other penalties set forth in this Section, the State Board of Education may revoke the teaching, counseling, administrative, and/or other certificate(s) issued by the State Board of Education to one or more individuals upon a finding of willful violation of any of the provisions set forth in (a)(8)(A)(a)(7)(A) through (a)(8)(G)(a)(7)(G) of this Section.

RULE IMPACT STATEMENT
210:10-13-4. Test security and validity [AMENDED]

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

A provision is being added to the administrative rule on “Test security and validity” for the Oklahoma School Testing Program (OSTP), to ensure the local school board is apprised in the event a school district is determined to have violated the security provisions of one or more OSTP assessments. The rule currently provides that such a violation shall be reported to the State Superintendent, and the proposed new language provides that such a violation shall also be reported directly to the school district’s board of education. Minor terminology updates are also made throughout the rule.

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 the State Department of Education Office of Assessments, and school districts determined to have violated a test security provision of the Oklahoma School Testing Program (OSTP).

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

The change will benefit the board of education and residents of a school district determined to have violated a test security provision of the OSTP, by ensuring transparency and enabling resolution of the situation.

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: November 30, 2018

STATUTORY AUTHORITY FOR 210:10-13-4

Oklahoma Statutes

Title 70. Schools

Chapter 22 - Testing and Assessment

Oklahoma School Testing Program Act

Section 1210.507 - Promulgation of Rules and Regulations - Information to Public About Proper Meaning and Use of Assessments

A. The State Board of Education shall promulgate rules necessary for the implementation and administration of the provisions of the Oklahoma School Testing Program Act.

B. The State Board of Education shall require school district boards of education to annually provide information to the district's students, parents of students, and the public at large about the proper meaning and use of assessments administered pursuant to the provisions of the Oklahoma School Testing Program Act. The Department shall develop materials and make them available to school districts regarding the Oklahoma School Testing Program.

C. 1. Students enrolled in an online course or program that is offered by a school district or charter school that is not the district of residence or is not located in the district of residence of the student shall be provided the opportunity to take any assessment required pursuant to the Oklahoma School Testing Program Act or any other assessment generally required of students by the school district in which the student is enrolled at an alternative testing location approved by the State Board of Education. The alternative testing locations may be at sites that are not in the school district that is offering the online course or program or the district of residence. Alternative testing locations may include technology center school sites or any other testing location selected by the school district or charter school offering the online course or program. All alternative testing locations shall be subject to testing location rules promulgated by the State Board of Education. The school district or charter school offering the online course or program shall be responsible for any cost incurred in providing an alternative testing location and any additional cost of administering an assessment at an alternative testing location. In order to provide alternative testing locations at geographically dispersed sites, the school district or charter school offering the online course or program shall, at a minimum, provide not less than six alternative testing locations, with at least one location in each quadrant of the state and in each of the two metropolitan areas in the state. Additional alternative testing locations may be provided by the school district or charter school offering the online course or program.

2. The performance of students on any assessment required pursuant to the Oklahoma School Testing Program Act or any other assessments generally required of students by the school district who are enrolled full-time in an online program that is offered by a school district or charter school that is not the district of residence or is not located in the district of residence of the student shall be reported separately by the school district or charter school and shall not be included when determining the performance levels of the school district or charter school in the Oklahoma School Testing Program as reported in the Oklahoma Educational Indicators Program.

D. The State Board of Education shall seek to establish and post on the Internet a sample assessment item bank that will be made available to teachers and will allow them to create and deliver classroom assessments throughout the school year to check for student mastery of key concepts assessed by the assessments administered to students pursuant to the Oklahoma School Testing Program Act. Subject to the availability of funds, the Board shall annually release assessment items and make them available to the public.

E. The State Board of Education shall post on the Internet sample assessments for each grade level and subject matter assessment administered to students pursuant to the Oklahoma School Testing Program Act for the purpose of communicating expectation concerning the difficulty level and format to teacher, parents and students. The Board shall maintain the sample assessments on the Internet throughout the year and, as changes are made in the state academic content standards, shall update the sample

assessments. The Board shall seek to expand the number of sample assessments items each year and to revise items as needed. The sample assessments shall reflect the actual assessments administered to students and may contain questions used on actual assessments given in previous years.

F. The State Board of Education shall implement an electronic delivery system for all assessments administered pursuant to the Oklahoma School Testing Program Act that will allow students to participate in computer-based assessments in order to expedite the delivery and use of the results. The State Board of Education shall adopt a timeline for transition to the electronic delivery system. A school district may choose to offer printed assessments by providing a request for approval and justification to the State Board of Education. The State Department of Education shall publish and make known the date by which districts choosing to offer printed assessments must make such request. In circumstances where the administration or delivery of an online or computer-based assessment has been or will be disrupted, delayed or cause problems with student participation, the Board may stop or cancel the online or computer-based assessment and administer the assessment by another means.

**TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 15. CURRICULUM AND INSTRUCTION
SUBCHAPTER 13. SPECIAL EDUCATION**

210:15-13-7. Lindsey Nicole Henry Scholarship for Students with Disabilities Program

(a) **Scholarship Requests.** The parent or legal guardian of an eligible student with disabilities who has been admitted to an approved private school may request a Lindsey Nicole Henry Scholarship from the Oklahoma State Department of Education (OSDE).

(1) A complete Lindsey Nicole Henry Scholarship for Students with Disabilities Application and all required documentation must be submitted by postal mail, email, or fax to the State Department of Education by December 1 of the year that the scholarship is being requested for. Scholarship requests received after December 1 shall be eligible for consideration, but funding for scholarship requests received after December 1 shall not be available until the beginning of the following school year.

(2) Upon receipt of a Lindsey Nicole Henry Scholarship request, the State Department of Education shall notify the school district of residence.

(3) All recipients of the Lindsey Nicole Henry Scholarship must submit a renewal request for the scholarship each year, by submitting a current Lindsey Nicole Henry Scholarship for Students with Disabilities Application to the State Department of Education. Renewal requests should be submitted in June or July prior to the beginning of the academic year for which the scholarship renewal is requested. If the application is received after the beginning of the school year, the scholarship will be prorated according to the date the renewal request is approved. If a renewal application is not submitted by December 1, the scholarship will be terminated.

(4) If the required annual renewal requests and all other required documentation are submitted to the State Department of Education as provided for in this section and in 70 O.S. § 13-101.2, the scholarship shall remain in force until the student returns to a public school, graduates from high school, or reaches the age of twenty-two (22), whichever occurs first.

(5) 70 O.S. § 13-101.2 provides that Acceptance/acceptance of a Lindsey Nicole Henry Scholarship shall have the same effect as a parental revocation of consent under 20 U.S.C. Section 1414(a)(1)(D) and 1414(C) of the Individuals with Disabilities Education Act (IDEA). The State Department of Education will provide a form, available online from the agency website, which a parent/guardian shall complete to indicate that they understand the revocation of consent for service under IDEA. The parent/guardian shall return the completed revocation of consent form to OSDE, and a copy of the form shall be forwarded by OSDE to the school district that most recently served the student.

(b) **Payments.** Payment of scholarship funds shall be made by the State Department of Education with an individual warrant made payable to the participating student's parent or guardian, and mailed by the Department to the private school where the student is enrolled.

(1) Upon issuance of a Lindsey Nicole Henry Scholarship warrant, the parent or legal guardian to whom the warrant is made shall restrictively endorse the warrant to the private school for deposit into the account of the private school.

(2) The initial payment shall be made after the State Department of Education verifies acceptance and enrollment at the approved private school. Quarterly payments shall be made upon verification of continued enrollment and attendance at the private school.

(3) The parent or legal guardian may not designate any entity or individual associated with the private school as the attorney in fact for the parent or legal guardian to endorse a warrant. Failure to comply with this subsection will result in forfeiture of the scholarship.

(c) **Private School Eligibility.** In order to be eligible to accept students on the scholarship, private schools must be accredited by the State Board of Education or another accrediting association approved by the State Board of Education, and meet all other requirements for participating private schools as listed in 70 O.S. § 13-101.2. No out of state schools are eligible to participate in the scholarship program. The State Department of Education shall maintain a list of private schools that have been determined to be eligible to participate in the Lindsey Nicole Henry scholarship program, to be posted on the State Department of Education website and updated each time a school is added to or removed from the program. Participating schools may be required to periodically provide documentation to OSDE demonstrating that they continue to meet the eligibility requirements for participation in the Lindsey Nicole Henry Scholarship Program. A participating school shall not be required to submit documentation of continued eligibility more than one (1) time per year, unless OSDE receives information that a participating school may no longer meet the program eligibility requirements, in which case documentation of continued eligibility may be requested from the school in question upon receipt of such a complaint. Scholarship requests shall only be considered when the parent of an eligible student submits documentation that the student has been admitted to a school that has been approved as of the date the scholarship request is received by the State Department of Education. Schools that wish to participate in the Lindsey Nicole Henry Scholarship Program should note that the antidiscrimination provisions of 42 U.S.C. § 2000d, which a school must comply with in order to participate in the program, incorporate Executive Order 13160 (2000) and prohibit discrimination on the following bases:

- (1) Race;
- (2) Sex;
- (3) Color;
- (4) National origin;
- (5) Disability;
- (6) Religion;
- (7) Age (except as appropriate in a common education context);
- (8) Sexual orientation; and
- (9) Status as a parent.

(d) **Student Eligibility.** To be eligible for a Lindsey Nicole Henry Scholarship, a student must meet all of the following criteria:

- (1) Has been identified as a student with a disability, and has had an individualized Education Program (IEP) developed in accordance with the Individuals with Disabilities Education Act (IDEA);
- (2) Has an IEP in effect at the time the scholarship request is received by the State Department of Education;
- (3) Has been accepted by a private school approved by the State Department of Education for participation in the Lindsey Nicole Henry scholarship program; and
- (4) Falls within one of the following three categories:
 - (A) Has spent the prior school year in attendance at a public school in Oklahoma; or

(B) Is the child of a member of the United States Armed Forces who transfers to a school in Oklahoma from another state or from a foreign country pursuant to a permanent change of station orders; or

(C) Has been provided services under an Individual Family Service Plan (IFSP) through the SoonerStart program, and during transition was evaluated and determined to be eligible for school district services.

(5) A student who was in out-of-home placement with the Department of Human Services (DHS), a student who was adopted while in the permanent custody of DHS, or a student who was in out-of-home placement with the Office of Juvenile Affairs (OJA) is eligible to apply for the Lindsey Nicole Henry Scholarship regardless of whether they have been identified as a student with disabilities or whether they have spent the prior school year in attendance at an Oklahoma public school.

(e) **Amount of Scholarship.** The maximum scholarship granted for an eligible student with disabilities shall be equivalent to the total State Aid factors for the applicable school year multiplied by the grade and disability weights generated by that student for the applicable school year. For a participating student who is eligible under (d)(5) of this section, the maximum amount of the scholarship shall be equivalent to the total State Aid factors for the applicable school year multiplied by the grade weight and any other factors applicable to the student.

(1) The disability weights used in calculating the scholarship amount shall include all disability weights which correspond to the disabilities included in the multidisciplinary evaluation and eligibility group summary (MEEGS) for the student at the time the request for a scholarship is made by the parent or legal guardian.

(2) The maximum scholarship amount shall be calculated by the State Board of Education for each year the student is participating in the Lindsey Nicole Henry Scholarship program.

(3) Within ten (10) days after receiving a scholarship request, the State Department of Education shall notify the participating private school of the amount of the scholarship, provided the total State Aid factors have been determined for the current fiscal year.

(f) **Tracking.** Lindsey Nicole Henry Scholarship students shall be tracked through the computerized record system used by the State Department of Education.

RULE IMPACT STATEMENT

210:15-13-7. Lindsey Nicole Henry Scholarship Program for Students with Disabilities [AMENDED]

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

The rule outlining the Lindsey Nicole Henry Scholarship Program for Students with Disabilities (LNH Scholarship Program) is being updated to reflect changes in law since the rule's adoption, and to clarify the application process for parents/guardians of eligible students. While the scholarship was initially limited to students with disabilities who have attended public school in Oklahoma and been served under the Individuals with Disabilities Education Act (IDEA), eligibility was later expanded to include students who have been served through the SoonerStart program for children with disabilities from birth through age two (2), and most recently for students who have been in out-of-home placement through the Department of Human Services (DHS); who have been in out-of-home placement with the Office of Juvenile Affairs; or who have been adopted while in the permanent custody of DHS. These eligibility categories must be added to the rule to reflect current law, along with updates necessary due to changes in practice, such as applications now being accepted by email. Content is being added to the rule clarifying the federal civil rights provisions that apply to participating private schools, and providing that participating schools may be asked to periodically verify that they meet the eligibility requirements for the LNH Scholarship Program.

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 the State Department of Education Office of Special Education Services, private schools that participate in the LNH Scholarship Program, and eligible students and their parents/guardians.

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

The change will benefit all stakeholders in the LNH Scholarship Program by clarifying guidelines, responsibilities, and processes.

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: November 30, 2018

STATUTORY AUTHORITY FOR 210:15-13-7

Oklahoma Statutes

Title 70. Schools

Chapter 1 - School Code of 1971

Lindsey Nicole Henry Scholarships for Students with Disabilities Program Act

Article XIII - Special Services for Children With Disabilities

Section 13-101.2 - Lindsey Nicole Henry Scholarships for Students with Disabilities Program

A. There is hereby created the Lindsey Nicole Henry Scholarships for Students with Disabilities Program. The Lindsey Nicole Henry Scholarships for Students with Disabilities Program is established to provide a scholarship to a private school of choice for students with disabilities for whom an individualized education program (IEP) in accordance with the Individuals with Disabilities Education Act (IDEA) or an individualized service plan pursuant to Section 1-4-704 of Title 10A of the Oklahoma Statutes has been developed at any time prior to notifying the State Department of Education of the intent to participate in the Program and the IEP is in effect at the time the request for a scholarship is received by the State Department of Education. Scholarships shall be awarded beginning with the 2010-2011 school year.

B. The parent or legal guardian of a public school student with a disability may exercise their parental option and request to have a Lindsey Nicole Henry Scholarship awarded for the child to enroll in and attend a private school in accordance with this section and the scholarship shall be awarded if:

1. The student has spent the prior school year in attendance at a public school in this state. For purposes of this section, "prior school year in attendance" means that the student was enrolled in and reported by a school district for funding purposes during the preceding school year regardless of whether or not the student had an IEP at the time the student was counted for funding purposes. A student who is a child of a member of the United States Armed Forces who transfers to a school in this state from out of state or from a foreign country pursuant to a permanent change of station orders of the parent shall be exempt from the requirements of this paragraph but shall be required to meet all other eligibility requirements to participate as provided for in this section. A student who has been provided services under an Individual Family Service Plan through the SoonerStart program and during transition was evaluated and determined to be eligible for school district services shall be exempt from the requirements of this paragraph but shall be required to meet all other eligibility requirements to participate as provided for in this section. A student who was in out-of-home placement with the Department of Human Services, who was adopted while in the permanent custody of the Department of Human Services or who was in out-of-home placement with the Office of Juvenile Affairs shall be exempt from the requirements of this paragraph but shall be required to meet all other eligibility requirements to participate as provided for in this section; and

2. The parent or legal guardian has obtained acceptance for admission of the student to a private school that is eligible for the program as provided in subsection H of this section and has notified the State Department of Education of the request for a scholarship. Requests to participate in the program made after December 1 shall be granted, but funding for scholarships requested after December 1 shall not be available until the beginning of the next school year. The request shall be through a communication directly to the Department in a manner that creates a written or electronic record of the request and the date of receipt of the request. The Department shall notify the school district upon receipt of the request. For purposes of continuity of educational choice, the scholarship shall remain in force until the student returns to a public school, graduates from high school or reaches the age of twenty-two (22), whichever occurs first. At any time, the parent or legal guardian of the student may remove the student from the private school and place the student in another private school that is eligible for the program as provided in subsection H of this section or place the student in a public school.

C. A student shall be eligible for a scholarship if the parent or legal guardian of the student made a request for a scholarship for the 2010-2011 school year and the student transferred to an eligible private school but was subsequently denied a scholarship because the student did not have an IEP in effect on

October 1, 2009, but did meet all other eligibility requirements as set forth in the Lindsey Nicole Henry Scholarships for Students with Disabilities Program Act.

D. A student shall not be eligible for a Lindsey Nicole Henry Scholarship if the student is not having regular and direct contact with the private school teachers at the physical location of the private school.

E. School districts shall notify the parent or legal guardian of a public school student with a disability of all options available pursuant to this section and inform the parent or legal guardian of the availability of information about the program from the State Department of Education through the toll-free telephone number or website. The notification shall be provided with or included in the copy of the "Parents Rights in Special Education: Notice of Procedural Safeguards" document given to parents at least annually or as otherwise required by law.

F. 1. Acceptance of a Lindsey Nicole Henry Scholarship shall have the same effect as a parental revocation of consent to service pursuant to 20 U.S.C., Sections 1414(a)(1)(D) and 1414(C) of the IDEA.

2. Upon acceptance of a Lindsey Nicole Henry Scholarship, the parent or legal guardian shall assume full financial responsibility for the education of the student, including but not limited to transportation to and from the private school.

G. If the parent or legal guardian requests a Lindsey Nicole Henry Scholarship and the student is accepted by the private school pending the availability of a space for the student, the parent or legal guardian of the student shall notify the State Department of Education before entering the private school and before December 1 in order to be eligible for the scholarship during the school year when a space becomes available for the student in the private school. If notification is made after December 1, payment of the scholarship shall not begin until the next school year.

H. To be eligible to participate in the Lindsey Nicole Henry Scholarships for Students with Disabilities Program, a private school shall notify the State Department of Education of its intent to participate. The notice shall specify the grade levels and services that the private school has available for students with disabilities who are participating in the scholarship program. The State Department of Education shall approve a private school as eligible to participate in the scholarship program upon determination that the private school:

1. Meets the accreditation requirements set by the State Board of Education or another accrediting association approved by the State Board of Education;

2. Demonstrates fiscal soundness by having been in operation for one (1) school year or providing the State Department of Education with a statement by a certified public accountant confirming that the private school desiring to participate is insured and the owner or owners have sufficient capital or credit to operate the school for the upcoming year by serving the number of students anticipated with expected revenues from tuition and other sources that may be reasonably expected. In lieu of a statement, a surety bond or letter of credit for the amount equal to the scholarship funds for any quarter may be filed with the Department;

3. Complies with the antidiscrimination provisions of 42 U.S.C., Section 2000d;

4. Meets state and local health and safety laws and codes;

5. Will be academically accountable to the parent or legal guardian for meeting the educational needs of the student;

6. Employs or contracts with teachers who hold baccalaureate or higher degrees, or have at least three (3) years of teaching experience in public or private schools, or have special skills, knowledge, or expertise that qualifies them to provide instruction in subjects taught;

7. Complies with all state laws relating to general regulation of private schools; and

8. Adheres to the tenets of its published disciplinary procedures prior to the expulsion of a scholarship student.

I. 1. Lindsey Nicole Henry Scholarship Program participants shall comply with the following:

a. the parent or legal guardian shall select the private school from the schools approved for eligibility pursuant to subsection H of this section and apply for the admission of the child,

b. the parent or legal guardian shall request the scholarship no later than December 1 of the school year during which the scholarship is requested,

c. any student participating in the scholarship program shall attend throughout the school year, unless excused by the school for illness or other good cause, and shall comply fully with the code of conduct for the school,

d. the parent or legal guardian shall fully comply with the parental involvement requirements of the private school, unless excused by the school for illness or other good cause, and

e. upon issuance of a scholarship warrant, the parent or legal guardian to whom the warrant is made shall restrictively endorse the warrant to the private school for deposit into the account of the private school. The parent or legal guardian may not designate any entity or individual associated with the private school as the attorney in fact for the parent or legal guardian to endorse a warrant. A parent or legal guardian who fails to comply with this subparagraph shall forfeit the scholarship.

2. A participant who fails to comply with this subsection forfeits the scholarship.

J. Provisions governing payment of a Lindsey Nicole Henry Scholarship shall be as follows:

1. The State Department of Education shall calculate the total cost of all scholarships for all eligible students in the state. The State Department of Education shall then reserve or retain from the total amount appropriated to the State Board of Education for State Aid purposes and any other revenue available for allocation for State Aid purposes the total cost for all scholarship payments;

2. The maximum scholarship granted for an eligible student with disabilities shall be a calculated amount equivalent to the total State Aid factors for the applicable school year multiplied by the grade and disability weights generated by that student for the applicable school year. The disability weights used in calculating the scholarship amount shall include all disability weights which correspond to the disabilities included in the multidisciplinary evaluation and eligibility group summary for the student at the time the request for a scholarship is made by the parent or legal guardian. The maximum scholarship amount shall be calculated by the State Board of Education for each year the student is participating in the scholarship program;

3. The amount of the scholarship shall be the amount calculated in paragraph 2 of this subsection or the amount of tuition and fees for the private school, whichever is less, minus up to two and one-half percent (2 1/2%) of the scholarship amount which may be retained by the State Department of Education as a fee for administrative services rendered. The amount of any assessment fee required by the private school and the amount associated with providing services and therapies to address the disabilities of the student may be paid from the total amount of the scholarship. The amount of the scholarship shall be prorated to reflect the number of days remaining in the current school year, if the scholarship request is granted after the beginning of the school year;

4. The State Department of Education shall notify the private school of the amount of the scholarship within ten (10) days after receiving the request for a scholarship, when the total State Aid factors have been determined for the current fiscal year. The initial payment shall be made after the Department verifies admission acceptance and enrollment. Quarterly payments shall be made upon verification of continued enrollment and attendance at the private school. Payment shall be made by the Department with an individual warrant made payable to the parent or legal guardian of the student and mailed by the Department to the private school that the parent or legal guardian chooses. The parent or legal guardian shall restrictively endorse the warrant to the private school for deposit into the account of the private school;

5. The State Department of Education shall not be responsible for any additional costs associated with special education and related services incurred by the private school for the student including the cost of teachers, equipment, material, and special costs associated with the special education class;

6. The State Department of Education shall establish a toll-free telephone number or website that provides parents or legal guardians and private schools with information about the program;

7. The State Department of Education shall require an annual, notarized, sworn compliance statement by participating private schools certifying compliance with state laws and shall retain all records received from a participating private school; and

8. The State Department of Education shall cross-check the list of participating scholarship students with the public school enrollments prior to each scholarship payment to avoid duplication.

K. 1. The State Superintendent of Public Instruction shall deny, suspend, or revoke the participation of a private school in the scholarship program if it is determined that the private school has failed to comply with the provisions of this section. However, in instances in which the noncompliance is correctable within a reasonable amount of time and in which the health, safety, or welfare of the students is not threatened, the Superintendent may issue a notice of noncompliance which shall provide the private school with a time frame within which to provide evidence of compliance prior to taking action to suspend or revoke participation in the scholarship program.

2. If the Superintendent intends to deny, suspend, or revoke the participation of a private school in the scholarship program, the Department shall notify the private school of the proposed action in writing by certified mail and regular mail to the private school's address of record with the Department. The Department shall also notify any parents or legal guardians of scholarship students attending the private school. The notification shall include the reasons for the proposed action and notice of the timelines and procedures set forth in this subsection.

3. The private school that is adversely affected by the proposed action shall have fifteen (15) days from receipt of the notice of proposed action to file with the Department a request for an administrative hearing proceeding pursuant to the Administrative Procedures Act.

4. Upon receipt of a request for a hearing, the State Board of Education shall commence a hearing within sixty (60) days after the receipt of the formal written request and enter an order within thirty (30) days after the hearing.

5. The Board may immediately suspend payment of scholarship funds if it is determined that there is probable cause to believe that there is an imminent threat to the health, safety, or welfare of the students or fraudulent activity on the part of the private school.

L. No liability shall arise on the part of the state, the State Board of Education, the State Department of Education or a school district based on the award or use of any scholarship provided through the Lindsey Nicole Henry Scholarships for Students with Disabilities Program.

M. The inclusion of private schools within options available to public school students in Oklahoma shall not expand the regulatory authority of the state or any school district to impose any additional regulation of private schools beyond those reasonably necessary to enforce the requirements expressly set forth in this section.

N. If the State Department of Education determines that a school district prior to the effective date of this act has failed to comply with the provisions of the Lindsey Nicole Henry Scholarships for Students with Disabilities Program Act and has failed to make full or partial scholarship payments for eligible students, the Department shall have authority to reduce the amount of State Aid allocated to the school district or require the school district to make repayment to the Department of State Aid allocations in an amount equal to the amount of scholarship payments the school district failed to make. The Department shall make payment to the parent or legal guardian in the amount the school district failed to make in the manner as provided for in subsection J of this section.

**TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 20. STAFF
SUBCHAPTER 9. PROFESSIONAL STANDARDS: TEACHER EDUCATION
AND CERTIFICATION
PART 9. TEACHER CERTIFICATION**

Language changes made following Public Comment appear in red.

210:20-9-102. Paraprofessional credentials and ~~Career~~career development program for paraprofessionals

(a) **Purpose.** Under Oklahoma law at 70 O.S. § 6-127A, a public school paraprofessional is an employee of a school district whose position is instructional in nature, or who delivers other direct services to students and/or their parents, and for which a certified teacher or other professional has the ultimate responsibility for the design, implementation, and evaluation of the individual educational programs or related services and student performance. Individuals must meet requirements established by federal and state law to be authorized to serve as public school paraprofessionals **in Title I schools and in special education settings**. The State Board of Education is also authorized to issue provisional teaching certification to a qualifying individual with a paraprofessional credential and relevant experience serving as a paraprofessional.

(a)(b) **Paraprofessional credential.** ~~The State Department of Education shall issue a paraprofessional credential to an applicant who meets all of the following requirements:~~ **An individual who wishes to apply for a paraprofessional credential shall submit an application and all required supporting documentation to the State Department of Education Office of Certification.**

(1) **Tier 1.** In order to qualify for a Tier 1 Oklahoma paraprofessional credential issued by the Oklahoma State Department of Education (OSDE), which is **valid**~~required~~ for general education paraprofessionals in Title I schools **or in other general education settings**~~and available to general education paraprofessionals in other settings~~, an applicant shall meet the following eligibility criteria, established through the Elementary and Secondary Education Act (ESEA):

(1)(A) Has a high school diploma, or a General Educational Development (GED) Diploma or other certificate of high school equivalency recognized by the State of Oklahoma.

(2) ~~Has met a career development paraprofessional program approved by the State Board of Education; and~~

(3)(B) Has on file with the State Board of Education a current Oklahoma criminal history record from the Oklahoma State Bureau of Investigation (OSBI) as well as a national fingerprint-based criminal history record provided by the Federal Bureau of Investigation (FBI). Upon receipt of the Oklahoma criminal history record, the Board may issue a temporary credential which shall be effective until receipt of the national fingerprint-based criminal history record. The person applying for a credential shall be responsible for the cost of obtaining the criminal history records.

(C) Meets at least one of the following criteria:

(i) Has completed at least two (2) years of study at an institution of higher education, defined as completion of at least forty-eight (48) credit hours of college coursework;

or

- (ii) Has obtained an associate's degree or higher; or
- (iii) Has either passed the Oklahoma General Education Test (OGET), obtained a National Career Readiness Certificate through successful completion of the ACT WorkKeys assessment, or passed the ParaPro Assessment offered through the Educational Testing Service.

(2) **Tier 2.** In order to qualify for a Tier 2 Oklahoma paraprofessional credential issued by the State Department of Education, which is valid for special education paraprofessionals, an applicant shall meet the criteria for a Tier 1 paraprofessional credential and all of the following qualifications:

- (A) Has completed the Oklahoma Special Education Paraprofessional Training available at Career Technology centers, equivalent training provided by the State Department of Education through an in-person or online program, or other state-approved training provided by a school district.
- (B) Has completed training in cardiovascular pulmonary resuscitation (CPR) and First Aid.
- (C) Has completed training in Universal Precautions/Bloodborne Pathogens.

(3) **Provisional employment of Tier-1 paraprofessionals in special education settings.** In the event a school district requires a special education paraprofessional in order to provide necessary services to one or more students with disabilities, but is unable to secure the services of an individual who holds a Tier 2 paraprofessional credential at the time the services must be delivered, the district may employ an individual ~~who holds a Tier 1 paraprofessional credential~~ on a provisional basis ~~if the district determines the individual is able to provide the appropriate paraprofessional services.~~ An individual who ~~holds a Tier 1 paraprofessional credential and~~ is employed as a paraprofessional to provide special education services on a provisional basis must ~~meet the criteria for a Tier 1 credential, and~~ obtain all ~~additional~~ training required to qualify for a Tier 2 credential as listed in (b)(2) of this section, within one hundred twenty (120) ~~calendar~~ days of employment providing special education paraprofessional services, ~~provided a criminal history record check is obtained within sixty (60) calendar days of initial employment pursuant to 70 O.S. § 5-142.~~ If it is necessary for a school district to provisionally employ a ~~Tier-1~~ paraprofessional to provide special education services, the district shall report the provisional placement of the ~~Tier-1~~ paraprofessional and the paraprofessional's starting date of employment to the State Department of Education Office of Special Education.

(b)(c) **Provisional teaching certificates - paraprofessional.** The State Department of Education shall issue a provisional teaching certificate, valid for up to three (3) years, in early childhood, elementary education, or special education to a paraprofessional who meets all of the following requirements:

- (1) Has been employed for one full school year (i.e., two consecutive semesters, three consecutive trimesters, or four consecutive quarters) in an accredited public or private school as a paraprofessional in the area for which a certificate is being pursued. ~~The full school year (or the equivalent in consecutive school terms) of required paraprofessional experience must be completed in one school district or accredited private school; For purposes of this paragraph, experience obtained while teaching with a non-traditional certification in special education issued in accordance with the provisions of 210:20-9-105 shall not count toward the one year experience requirement;~~

- (2) Has earned at least a bachelor's degree from a college or university whose accreditation is recognized by the Oklahoma State Regents for Higher Education and has attained a cumulative grade point average of not less than 2.5 on a 4.0 scale;
- (3) Has passed all of the following teacher competency examinations adopted by the Oklahoma Commission for Teacher Preparation prior to July 1, 2014, or adopted by the Commission for Educational Quality and Accountability on and after July 1, 2014:
 - (A) The Oklahoma General Education Test (OGET);
 - (B) The Oklahoma Subject Area Test (OSAT) in Early Childhood, Elementary Education, or Special Education; and
 - (C) The Oklahoma Professional Teaching Exam (OPTE) (PK-8);
- (4) Has on file with the State Board of Education a current Oklahoma criminal history record from the Oklahoma State Bureau of Investigation as well as a national fingerprint-based criminal history record provided by the Federal Bureau of Investigation. Upon receipt of the Oklahoma criminal history record, the Board may issue a temporary credential which shall be effective until receipt of the national fingerprint-based criminal history record. The person applying for a credential shall be responsible for the cost of the criminal history records;
- (5) Has made application **for teacher certification** to the Oklahoma State Department of Education.

(e)(d) Standard teaching certificate - paraprofessional. The State Department of Education shall issue a standard teaching certificate to individuals who have met all of the requirements of (b) of this section and met all of the following requirements:

- (1) The applicant has successfully completed at least one (1) full school year (i.e., two consecutive semesters, three consecutive trimesters, or four consecutive quarters) of teaching service in a public or private school accredited by the State Board of Education or a private school accrediting organization approved by the Board. **The full school year (or the equivalent in consecutive school terms) of required teaching experience must be completed in one school district or accredited private school;**
- (2) The applicant provides at least two (2) favorable recommendations for granting a standard teaching certificate to the applicant from:
 - (A) **A The superintendent of a school district board of education where the applicant has served as a teacher, or the principal of a school site where the applicant has served as a teacher;** and
 - (B) The chair or director of the accredited teacher preparation program in which the applicant completed the coursework requirements set forth in (3) of this subsection.
- (3) Within three (3) years of initial issuance of the provisional teaching certificate in accordance with the provisions of **(b)(c)** of this Section, the applicant has successfully completed twelve (12) semester hours of professional education coursework from an institution of higher education whose accreditation is recognized by the Oklahoma State Regents for Higher Education. The twelve (12) hours of coursework required by this paragraph shall consist of coursework that:
 - (A) Is offered in a teacher preparation program that has been accredited by the Oklahoma Commission for Teacher Preparation prior to July 1, 2014 or accredited by the Commission for Educational Quality and Accountability on and after July 1, 2014;
 - (B) Is related to the area of teacher certification sought;
 - (C) Includes a minimum of three (3) semester hours in reading instruction.

~~(d)~~(e) **Reporting.** Any individual who has been issued a provisional certificate in accordance with the provisions of ~~(b)~~(c) of this Section shall be reported on the certified personnel report and be considered as any other certified employee.

RULE IMPACT STATEMENT

210:20-9-102. Paraprofessional credential and Career development program for paraprofessionals [AMENDED]

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

The rule outlining qualifications for public school paraprofessionals, as well as the program through which paraprofessionals can become certified as teachers, is being updated to clarify federal requirements and state practice. The current language of the rule does not reflect the requirements for paraprofessionals in the special education context, which exceed the requirements for eligibility as a Title I or general elementary paraprofessional. The rule update will provide for a distinct credential for qualifying special education paraprofessionals, as well as clarify the process for how a paraprofessional credential may be obtained from the State Department of Education (OSDE).

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 the State Department of Education Office of Certification, individuals applying for a paraprofessional credential, and individuals applying for provisional teacher certification through the paraprofessional career development program.

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

The change will benefit paraprofessionals, teachers provisionally certified through the paraprofessional career development program, and school districts that employ such paraprofessionals and teachers, by streamlining the credentialing process and providing clear guidance on qualifications and roles.

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: November 30, 2018

STATUTORY AUTHORITY FOR 210:20-9-102

Oklahoma Statutes

Title 70. Schools

Chapter 1 - School Code of 1971

Article VI - Teachers

Section 6-127A - Public School Paraprofessionals

A. The Oklahoma Legislature recognizes that public school paraprofessionals play an important role in educating school children and in assisting teachers. The Legislature further recognizes the increasing role of public school paraprofessionals in the school system in light of teacher shortages. To achieve the goal of excellence for all persons who have an impact on student learning, it is the intent of the Oklahoma Legislature that public school paraprofessionals be afforded career opportunities and economic incentives through a career development program.

B. The State Board of Education shall adopt a program for the career development of public school paraprofessionals. The purpose of the program is to provide to public school paraprofessionals a system of career development which is based upon education and training advancement to encourage excellence among public school paraprofessionals. Nothing in this section shall be construed to require public school paraprofessionals to participate in the career development program.

C. The board of education of a school district shall have authority to extend an existing contract with a public school paraprofessional that provides for the payment of compensation for paraprofessional services rendered for the same time period during which the paraprofessional is also assigned to the school district for practice teaching as a student teacher.

D. For the purposes of this section, a public school paraprofessional is an employee of a school district whose position is either instructional in nature, or who delivers other direct services to students and/or their parents. A public school paraprofessional serves in a position for which a teacher or another professional has the ultimate responsibility for the design, implementation, and evaluation of the individual educational programs or related services and student performance.

PUBLIC COMMENT SUMMARY

210:20-9-102. Paraprofessional credentials and career development program for paraprofessionals [AMENDED]

Summary of Public Comment	Agency Response
<p>Commenter states that the wording of the rule implies a school district cannot employ a paraprofessional in either a general education or special education setting unless the paraprofessional holds a Tier 1 or Tier 2 paraprofessional credential issued by OSDE. Commenter requests clarification if that interpretation is not correct.</p>	<ul style="list-style-type: none">• The rule amendment is not intended to establish <i>new</i> requirements for paraprofessionals, but to articulate the requirements that currently apply to paraprofessionals in certain roles.• General education paraprofessionals who do not serve at Title I sites are not required to obtain a paraprofessional credential, but may obtain a Tier 1 credential if they are eligible. Holding a Tier 1 credential may enhance employment opportunities for general education paraprofessionals.• The current eligibility requirements that apply to paraprofessionals at Title I school sites under the Every Student Succeeds Act (ESSA) are codified in the rule as the "Tier 1" qualifications, and the requirements that apply to Special Education paraprofessionals are codified as the "Tier 2" qualifications.• The rule's requirement for individuals employed as Title I or Special Education paraprofessionals to obtain a credential issued by OSDE is not retroactive. While the requirements associated with the credentials are already in place for Title I and Special Education paraprofessionals, Title I and Special Education paraprofessionals who are currently employed by a school district will not be required to obtain a credential issued by OSDE. Beginning with the 2019-2020 school year, an individual newly hired as a paraprofessional in a Title I school will be required to obtain a Tier 1 credential, and an individual newly hired as a Special Education paraprofessional will be required obtain a Tier 2 credential.

<p>Commenter suggests that (b)(1) be amended to remove the requirement that a general education paraprofessional in a setting other than a Title I school site be required to meet the criteria in (b)(1)(C) which apply to Title I paraprofessional requirements.</p> <p>[Comment makes specific language suggestions which are not incorporated due to a simpler clarification being made.]</p>	<ul style="list-style-type: none"> • It is not intended for general education paraprofessionals at non-Title I schools to be required to hold a Tier 1 credential, although obtaining a paraprofessional credential is encouraged. • The proposed language has been modified to clarify that a Tier 1 paraprofessional credential is "required for general education paraprofessionals in Title I schools and available to general education paraprofessionals in other settings".
<p>"Although the state can establish standards for a paraprofessional credential, the State Board of Education should not increase the criteria for the general education paraprofessional credential beyond that required by federal law. If the proposed Rule change is implemented, it is quite possible that public school districts will be able to find, afford and staff non-Title I school positions with general education paraprofessionals who meet at least one of the Section (b)(1)(C) criteria."</p>	<ul style="list-style-type: none"> • The qualifications in (b)(1)(C) are consistent with federal requirements for paraprofessionals serving at Title I school sites. <p>Language has been adjusted to clarify that a credential is not mandatory for general education paraprofessionals at non-Title I schools.</p>
<p>"The proposed rule exceeds requirements set by federal law for employment of paraprofessionals in Oklahoma's public schools...OSSBA recommends this proposed rule be modified to allow two paths for paraprofessionals to receive credentials. The credential requirements should meet, not exceed, federal law requirements."</p>	<ul style="list-style-type: none"> • The Tier 1 requirements are consistent with the federal requirements in effect for paraprofessionals at Title I schools. The Tier 2 requirements also restate the qualifications that are already in place for Special Education paraprofessionals in Oklahoma, as adopted under 34 C.F.R. § 300.156. <p>Language has been adjusted to clarify that a credential is not mandatory for general education paraprofessionals at non-Title I schools.</p>
	<ul style="list-style-type: none"> • Proposed subsection (b)(3) has been adjusted following the Public Comment process, to provide additional flexibility in the provisional employment of Special Education paraprofessionals. Rather than requiring a provisionally employed Special Education paraprofessional to already hold a Tier 1 credential, the proposed language now allows for a 120 day period of provisional

	employment in a Special Education setting while the paraprofessional satisfies both the Tier 1 and Tier 2 eligibility requirements.
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Comments submitted by:

Cooperative Council for Oklahoma School Administration (CCOSA)

Oklahoma State School Boards Association (OSSBA)

**TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 20. STAFF
SUBCHAPTER 9. PROFESSIONAL STANDARDS: TEACHER EDUCATION
AND CERTIFICATION
PART 1. GENERAL TEACHING CERTIFICATE REQUIREMENTS**

210:20-9-9. Kinds, types, classes, and processing fees of certificates

(a) **Kinds of certificates.** The specific use of each kind of certificate, in terms of the nature of services which the holder is permitted to render, is regulated by rules of the State Board of Education. The kinds of certificates available are:

- (1) Administrative certificate
 - (A) Elementary principal (Grades Pre-Kindergarten (Pre-K) through eight (8))
 - (B) Middle level principal (Grades five (5) through nine (9) (optional))
 - (C) Secondary principal (Grades five (5) through twelve (12))
 - (D) Superintendent (Grades Pre-Kindergarten (Pre-K) through twelve (12))
- (2) Early childhood education certificate (Grades Pre-Kindergarten (Pre-K) through three (3))
- (3) Elementary school certificate (Grades one (1) through eight (8))
- (4) Middle level certificate (Grades five (5) through eight (8) (optional))
- (5) Pre-Kindergarten - secondary certificate (Grades Pre-Kindergarten (Pre-K) through twelve (12))
- (6) Secondary school certificate (Grades five (5) through twelve (12))
- (7) Other certified personnel certificate (Grades Pre-Kindergarten (Pre-K) through twelve (12))
- (8) Career ~~technology~~ Technology certificate (Grades five (5) through twelve (12))

(b) **Types of certificates.** The endorsement indicates the type of license/certificate issued.

(c) **Classes of certificates.** The class determines the term of validity. The classes of certificates are:

- (1) Standard certificate and Career Technology standard certificate - valid for five (5) years and renewal upon compliance with prescribed conditions
- (2) Provisional certificate - term of validity varies depending upon regulatory basis for issuance

(d) **Processing fees of certificates.**

- (1) Certificate \$50.00
- (2) Renewals \$50.00
- (3) Alternative Placement Application/Evaluation \$50.00
- (4) All other transactions will be \$50 or less

(e) One-time fee waiver for eligible low income applicants. Pursuant to 59 O.S. § 4003, an individual who meets the statutory guidelines for identification as a "low-income individual" at the time they submit their application for initial educator certification or certificate renewal shall be eligible for a one-time waiver of certification fees. The fee waiver for low-income individuals is available for any type or class of certificate issued by the State Board of Education. For purposes of the fee waiver, "low-income individual" means an individual who is enrolled in a state or federal public assistance program including, but not limited to, Temporary Assistance for Needy Families (TANF), Medicaid, or the Supplemental Nutrition Assistance Program (SNAP), or whose household adjusted gross income is below one hundred forty percent (140%) of the

federal poverty line. An eligible individual is authorized to receive a waiver of certification fees only one time, but the fee waiver is available for either initial certification or certificate renewal. An individual who wishes to apply for a one-time waiver of certification fees shall submit such a request to the State Department of Education Office of Certification along with their initial certification or certificate renewal application materials, and must provide official documentation of their participation in a qualifying program or their qualifying household income. If eligibility cannot be determined from the documentation of program participation or income provided with the application materials, the Office of Certification may require the applicant to submit additional documentation in order to authorize the fee waiver.

RULE IMPACT STATEMENT 210:20-9-9

Reports and records for attendance, enrollment, and transportation [AMENDED]

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

Pursuant to House Bill 2933 (2018), the rule that addresses processing fees for teaching certificates is being amended to provide for the one-time fee waiver now required by state law for low-income individuals as defined by 59 O.S. § 4003. This statutory definition of "low-income individual" includes recipients of state or federal public assistance programs, including but not limited to Temporary Assistance to Needy Families (TANF), Medicaid, or the Supplemental Nutrition Assistance Program (SNAP). An individual whose household adjusted gross income is below 140% of the federal poverty threshold is also eligible for the one-time waiver of certification fees.

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 rule change will affect applicants for initial educator certification, and applicants for renewal of educator certification, who meet the statutory guidelines for identification as a "low-income individual." The costs of the proposed rule change in the form of waived certification fees will be borne by the State Department of Education.

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

The rule change will benefit low-income applicants for initial or renewal educator certification.

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 political subdivisions or affected classes 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?**

There is not a specific estimate of the implementation cost to the agency in the form of certification fees waived for low-income applicants, as the agency does not historically collect data on the income level or public assistance program participation of certification applicants. 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:** October 30, 2018

STATUTORY AUTHORITY FOR 210:20-9-9

Oklahoma Statutes

Title 59. Professions and Occupations

Chapter 58 - Miscellaneous Provisions

Section 4003 - Fee Waivers for License or Certification - Low-Income Individuals - Rules

A. Except for health care professions, every administrative body, state agency director or official with authority over any occupational or professional license or certification, and each of the respective examining and licensing boards, upon presentation of satisfactory evidence that an applicant for licensure or certification is a low-income individual, shall grant a one-time one-year waiver of any fees associated with such licensure or certification. For purposes of the section, "low-income individual" means an individual who is enrolled in a state or federal public assistance program, including, but not limited to, the Temporary Assistance for Needy Families, Medicaid or the Supplemental Nutrition Assistance Program, or whose household adjusted gross income is below one hundred forty percent (140%) of the federal poverty line or a higher threshold to be set by the executive branch department that oversees business regulation.

B. Each administrative body, state agency director or official with authority over any occupational or professional license or certification, and each of the respective examining and licensing boards, shall promulgate rules to implement the provisions of this section.

**TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 20. STAFF
SUBCHAPTER 9. PROFESSIONAL STANDARDS: TEACHER EDUCATION
AND CERTIFICATION
PART 9. TEACHER CERTIFICATION**

210:20-9-91. Application for new certificates

The application processes for individuals seeking new certificates are described separately for individuals completing requirements at an in-state college or an out-of-state college.

(1) **Graduates of Oklahoma colleges and universities.** The application process for graduates of Oklahoma colleges and universities is as follows:

(A) The completed application may be submitted to the director of teacher education at the recommending college or sent directly to the State Department of Education along with an official up-to-date transcript(s) and the appropriate processing fee. See 210:20-9-9 (d)

(B) The signature of the director of teacher education verifies that the applicant has met the requirements of the institution's approved teacher education program for the license/certificate sought and that the applicant possesses the character and general fitness to be a teacher. Application approval by the State Department of Education verifies that the applicant has met an approved program.

(i) Vocational certificate applicants: The director of teacher education at the recommending institution or the applicant will forward the application to the appropriate state supervisor at the Oklahoma Department of Career and Technology Education. After approving the application the state supervisor will send it, along with supporting documents, to the State Department of Education.

(ii) Nonvocational certificate applicants: The director of teacher education at the recommending institution shall forward the approved application, along with supporting documents, to the State Department of Education.

(2) **Graduates of out-of-state colleges and universities.** The application process for graduates of out-of-state colleges and universities is as follows:

(A) The applicant will submit the following items to the State Department of Education as part of the application process:

(i) the completed application form

(ii) official up-to-date transcripts of all college course work

(iii) documentation the applicant has completed an accredited teacher preparation program

(iv) the appropriate processing fee for each class of certificate sought. See 210:20-9-9 (d)

(B) For vocational certificate applications, the applicant will submit all items in (2) (A) of this section directly to the State Department of Education.

(3) **Applicants who are certified out-of-state.** The State Board of Education shall issue a teaching certificate to an applicant who submits a valid out-of-state teaching certificate issued by a state or territory of the United States, a completed application for certification, and the applicable certification fee, and has on file with the State Department of Education a current Oklahoma criminal history record check from the Oklahoma State Bureau of Investigation and a national criminal history record check as defined in 74 O.S. § 150.9. The applicant shall be responsible for the costs of the criminal history record checks. The Oklahoma certificate shall be

valid only for the subject areas and grade levels most closely aligned to those recognized on the applicant's out-of-state certificate. An applicant who holds valid teaching certificates issued by more than one state is eligible for Oklahoma certification in the subject area(s) most closely aligned to any subject area(s) listed on any of the valid out-of-state certificates submitted to the State Department of Education. An applicant who is issued an Oklahoma teaching certificate under this subsection may be eligible for up to five (5) years of credit for documented and verified out-of-state teaching experience.

(4) **Applicants who are certified out-of-country.** The temporary certification of visiting teachers from outside the United States, who serve in teaching positions in Oklahoma schools as guest or exchange teachers under the provisions of 22 C.F.R. § 62.24, is governed not by this section but by OAC 210:20-9-98. The following provisions apply to applicants for Oklahoma teacher certification who hold a teacher certification issued in a country other than the United States:

(A) **Completed application and documentation.** To be eligible for consideration for an Oklahoma teaching certificate based on teaching credentials issued in a country outside the United States, an applicant must submit a completed application for certification, the applicable certification fee, and verifiable documentation of each of the requirements of this section to the State Department of Education. It is the responsibility of the applicant to obtain translation and any necessary analysis of documentation in a language other than English. The applicant shall be responsible for the costs of any necessary translation and/or analysis.

(B) **Verification of lawful presence in the United States.** In accordance with 8 U.S.C. § 1621 and 56 O.S. § 71, an applicant for certification based on an out-of-country teacher certification must provide proof of lawful presence in the United States. Under federal and state law an applicant for a state benefit such as professional licensure is not required to be a U.S. citizen, but if the applicant is not a U.S. citizen they must document that they are a qualified alien under the federal Immigration and Nationality Act who is lawfully present in the U.S. Because lawful presence is distinct from work authorization under federal immigration and labor laws, an applicant who meets all criteria for teacher certification under this subsection may be eligible for certification prior to receiving authorization to work in the United States. The State Board of Education and the State Department of Education have no authority regarding an individual's eligibility for employment under federal law, and make no representation regarding the employment authorization status of an individual who is issued an Oklahoma teaching certificate under this subsection. A school district is responsible for verifying the work authorization status of every individual employed by the district.

(C) **Baccalaureate degree or equivalent.** To be eligible for consideration for an Oklahoma teaching certificate, an applicant must submit documentation verifying that the individual has received a baccalaureate college degree (4-year undergraduate degree), or the equivalent of a baccalaureate degree in the higher education system of the country where the degree was conferred. It is the responsibility of the applicant to obtain any necessary translation and analysis of their foreign education credentials from a reputable educational credential evaluation service approved by the State Department of Education, including but not limited to services approved by the National Association of Credential Evaluation Services (NACES). The applicant shall be responsible for the costs of any necessary translation and/or analysis.

(D) **Out-of-country teaching certification and statement of good standing.**

(i) An applicant for Oklahoma certification under this subsection must submit a copy of their valid current teacher certification issued outside the United States. An applicant who holds teaching credentials issued in more than one country may submit each valid current teaching certification, but is only required to submit the most recently issued out-of-country certification. It is the responsibility of the applicant to obtain any necessary translation and analysis of the certification(s) from a reputable educational credential evaluation service. The applicant shall be responsible for the costs of any necessary translation and/or analysis.

(ii) An Oklahoma teaching certificate issued under this subsection shall be valid only for the subject areas and grade levels most closely aligned to those recognized on the applicant's out-of-country teaching certificate. For an applicant who holds teaching certifications issued by more than one licensing jurisdiction, the Oklahoma teaching certificate may include the grade level(s) or subject area(s) most closely aligned to the grade level(s) or subject area(s) recognized on any of the applicant's currently valid certifications. If the applicant's out-of-country teaching certification does not specify subject areas, the applicant may provide verification of teaching experience in one or more subjects that correspond to Oklahoma certification areas, plus documentation of a passing score on the Oklahoma Subject Area Test (OSAT) in the subject area(s).

(iii) The applicant must also submit written verification, on the letterhead of the licensing authority that issued their out-of-country teaching certification, or the school system where they were most recently employed, indicating their good standing as a member of the teaching profession whose teaching certification has not been revoked or suspended. If the applicable entity does not use an official letterhead, an alternative verification method such as notarization or apostille may be acceptable subject to the approval of the State Department of Education Office of Certification. It is the responsibility of the applicant to obtain any necessary translation and analysis of the statement of good standing from a reputable educational credential evaluation service, or a reputable translation service, subject to the approval of the Office of Certification. The applicant shall be responsible for the costs of any necessary translation and/or analysis.

(E) **Verification of teaching experience.** An applicant must submit documentation confirming that they were employed as a teacher for at least two (2) of the five (5) years preceding the application for Oklahoma certification. Teaching experience may be confirmed with a properly completed and verified "Proof of Teaching Experience" form upon approval of the State Department of Education Office of School Personnel Records. An applicant who is issued an Oklahoma teaching certificate under this subsection may be eligible for up to five (5) years of credit for documented and verified out-of-country teaching experience.

(F) **Recommendation by school administrator or education official.** An applicant must submit a letter of recommendation from a national, regional, or local education official or school administrator who has worked with or evaluated the applicant in a professional capacity. It is the responsibility of the applicant to obtain any necessary translation of the letter of recommendation from a reputable educational credential evaluation service, or a reputable translation service, subject to the approval of the Office of Certification. The applicant shall be responsible for the costs of any necessary translation and/or analysis.

(G) **Criminal history record check and statement of eligibility for certification.** An applicant shall have on file with the State Department of Education a current Oklahoma criminal history record check from the Oklahoma State Bureau of Investigation and a

national criminal history record check as defined in 74 O.S. § 150.9. In addition to the criminal history record checks required by state law, an applicant for Oklahoma certification under this subsection must affirm that they have not been convicted in any jurisdiction, and have not received a suspended or deferred sentence in any jurisdiction, for a crime or attempted crime which would make an individual ineligible for teacher certification under 70 O.S. § 3-104(6)(a) if committed or attempted in Oklahoma.

(H) **English proficiency.** So that they may adequately instruct and communicate with students, an applicant for Oklahoma certification based on a teacher certification issued in another country must be proficient in spoken and written English. By submitting an application for certification under this subsection, an applicant affirms that their command of spoken and written English is equivalent, at a minimum, to competence under the Test of English as a Foreign Language (TOEFL), the International English Language Testing System (IELTS), the American Council on the Teaching of Foreign Languages (ACTFL) oral and written English proficiency assessments, or a similar reputable English language competence examination, subject to the approval of the Office of Certification.

(5) Technology center teaching certificate applicants. Pursuant to 70 O.S. § 6-189, the State Board of Education may issue a technology center teaching certificate to an individual who meets the requirements established by the Oklahoma Department of Career and Technology Education (ODCTE) at Oklahoma Administrative Code 780:20-3-4(a)(2), including a current criminal history record check, and is recommended by ODCTE for technology center teaching certification. The technology center teaching certificate shall be valid only for the subject area(s) aligned to the applicant's degree, credential, and/or work experience, and credit earned by students shall be awarded in accordance with 70 O.S. § 11-103.6.

RULE IMPACT STATEMENT 210:20-9-9

Reports and records for attendance, enrollment, and transportation [AMENDED]

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

The rule outlining applicant requirements for the issuance of new teaching certificates is being amended pursuant to House Bill 3220 (2018). Under a new provision in 70 O.S. § 6-189, the State Board of Education and the State Board of Career and Technology Education "shall promulgate rules for a certification system option specifically for teachers and instructors in the technology center school districts." The new technology center certification option is required to be competency-based, and reflect industry-based skills, standards, and certifications.

The State Board of Career and Technology Education has adopted an emergency rule amendment to *Oklahoma Administrative Code* 780:20-3-4 establishing requirements for applicants for this certificate. The eligibility requirements for applicants include: an associate's degree, an industry recognized credential relevant to the technology center subject matter to be taught, appropriate professional development, and the criminal history record checks that are mandatory for all teacher certification applicants.

The State Department of Education's parallel rule amendment, also already in place under an emergency rule adoption, provides that the State Board of Education may issue a technology center teaching certificate to a qualified applicant upon recommendation by the Department of Career and Technology Education. This permanent version of the emergency rule amendment already in place will ensure the technology center certification provision remains in effect after the emergency version of the rule expires.

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 rule change will affect applicants for technology center certification who qualify under the new competency-based certification requirements established by the State Board of Career and Technology Education at Oklahoma Administrative Code 780:20-3-4(a)(2). The standard certification fees will apply to these applicants.

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

The rule change will benefit applicants who qualify for the competency-based technology center certification option, as well as Oklahoma students who attend Career Tech programs.

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 political subdivisions or affected classes 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?

There is not an anticipated cost to the agency to implement the proposed change. 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:** October 30, 2018

STATUTORY AUTHORITY FOR 210:20-9-91

Oklahoma Statutes

Title 70. Schools

Chapter 1 - School Code of 1971

Article VI-A - Teacher Licensure and Certification

Section 6-189 - Licensure and Certification System - Requirements for Certificate for Superintendent of Schools and Principal

A. The certification system required by the Oklahoma Teacher Preparation Act as part of the new teacher preparation system shall be competency-based. The competencies for certification shall be integrated with competencies specified in [Section 6-185](#) of this title. By July 1, 1996, the State Board of Education shall adopt general competencies for certification, and by January 1, 1997, the Board shall have adopted full competencies and implemented the certification system as required in this act. No higher education courses or credit hours may be specified by the State Board of Education in rules for certification. Nothing in the certification rules adopted by the Board shall prohibit the Oklahoma State Regents for Higher Education from adopting policies and procedures it deems appropriate for coursework, grade point average, or credit hours for teacher preparation at institutions in The Oklahoma State System of Higher Education.

B. The certification requirements for a school principal not alternatively certified under subsection D of this section shall include not less than:

1. Completion of a standard master's degree;
2. Completion of a program in education administration approved by the Oklahoma Commission for Teacher Preparation with an emphasis on curriculum, instruction and building-level leadership skills;
3. Any other professional education and requirements as may be fixed by the State Board of Education;
4. A passing score on the subject area competency examination required in [Section 6-187](#) of this title; and
5. A minimum of two (2) years of successful teaching experience in public or private schools accredited by the State Board of Education or by the proper accrediting authority of another state of the United States.

C. The certification requirements for a superintendent of schools not alternatively certified under subsection D of this section shall include not less than:

1. Certification as a school principal or completion of the certification requirements for a school principal as set forth in subsection B of this section;
2. Completion of a program in education administration approved by the Oklahoma Commission for Teacher Preparation with an emphasis on district-level leadership skills, and which shall include the following competencies:
 - a. instructional leadership,
 - b. organizational leadership, including education finance, education law, and risk management,
 - c. collaborative and community leadership, and
 - d. ethical leadership, or

The requirement in this paragraph shall not apply to any person who has completed an Oklahoma Commission for Teacher Preparation approved Master's Degree in Education Administration or has completed a program in education administration that included competencies that are substantially equal

to those listed in this paragraph, and if the degree or program was completed between the effective date of this act and July 1, 2005;

3. Any other professional education and requirements as may be fixed by the State Board of Education;

4. A passing score on the subject area competency examination required in [Section 6-187](#) of this title; and

5. A minimum of two (2) years of administrative experience in public or private schools accredited by the State Board of Education or by the proper accrediting authority of another state of the United States.

D. 1. The standards for alternative certification for superintendents of schools and principals shall include:

a. the completion of a standard master's degree,

b. two (2) years of relevant work experience in a supervisory or administrative capacity,

c. a passing score on the subject area competency examination required in [Section 6-187](#) of this title, and

d. filing with the director of teacher education at an Oklahoma accredited institution of higher education a plan for completing an alternative administrative preparation program within three (3) years. Relevant work experience and coursework may be considered and applied to complete the plan.

2. An alternative certificate for superintendent of schools and principals shall not exceed three (3) years and shall not be renewable.

3. Upon successful completion of an alternative administrative preparation program by a participant, the State Board of Education shall issue a standard certificate for superintendent or principal, as applicable, to the applicant.

4. Any person participating in an alternative certification program for superintendent of schools and principals on the effective date of this act shall be subject to the program requirements in effect prior to the effective date of this act.

E. The certification requirements for a superintendent of a technology center school district shall include not less than a standard master's degree, any other professional education requirements as may be fixed by the State Board of Education, and a minimum of four (4) years teaching, supervisory or administrative experience, which may include teaching of full-time adult students, in a technology center school district. A person meeting the requirements set forth in subsection C of this section shall be eligible for a certificate for superintendent of a technology center school district.

F. The State Board of Education and the State Board of Career and Technology Education shall promulgate rules for a certification system option specifically for teachers and instructors in the technology center school districts. The teacher preparation system shall be competency-based. The competencies for certification shall be integrated with competencies of this title, as well as reflect industry-based skills, standards and certifications.

G. Certificates issued by the State Board of Education may be revoked by the State Board of Education for willful violation of any rule of the Board or of any federal or state law or other proper cause but only after sufficient hearing has been given before the Board.

H. Teaching in a Head Start program or programs shall be used for renewal of a standard teaching certificate.

**TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 35. STANDARDS FOR ACCREDITATION OF ELEMENTARY, MIDDLE
LEVEL, SECONDARY, AND CAREER AND TECHNOLOGY SCHOOLS
SUBCHAPTER 29. ALTERNATIVE EDUCATION ACADEMIES, PROGRAMS
AND SCHOOLS**

210:35-29-8. Requirements for alternative education programs

(a) **General requirements.** Alternative education is an educational process incorporating appropriate structure, curriculum, interaction, and reinforcement strategies to stimulate learning with students who are at risk of failing to complete their secondary education for reasons which may include academic deficiency, behavioral difficulties, excessive absences, pregnancy or parenting, family issues, substance abuse, financial issues, physical or mental health issues, state custody, juvenile justice involvement, and/or other such factors, not including disability status. An alternative education program must provide the additional services and supports outlined in statute, and not merely an opportunity for credit recovery. To qualify as an approved alternative education program, a school district's alternative school or alternative education program must meet all requirements listed at 70 O.S. § 1210.568, including:

- (1) Student-teacher ratios conducive to effective learning for at-risk students;
- (2) Appropriate structure, curriculum, interaction, and reinforcement strategies for effective instruction;
- (3) An intake and screening process to determine eligibility of students;
- (4) Appropriately certified teaching faculty;
- (5) Teaching faculty with experiences or personal traits that qualify them for successful work with at-risk students;
- (6) Collaboration with state and local agencies;
- (7) Courses that meet the curricular standards adopted by the State Board of Education and additional remedial courses;
- (8) Individualized instruction;
- (9) Clear and measurable program goals and objectives;
- (10) Counseling and social service components;
- (11) Graduation plan for each student;
- (12) Life skills instruction;
- (13) Opportunities for arts education;
- (14) A proposed annual budget;
- (15) An evaluation component that includes an annual written self-evaluation;
- (16) Service to students in grades six (6) through twelve (12) who are most at risk of not completing high school for reasons other than disability; and
- (17) Opportunities for student participation in vocational programs and extra-curricular activities such as athletics, band, and clubs.

(b) **Submission of alternative education plan.** Each school district shall submit and certify an Alternative Education Implementation Plan to the State Department of Education by September 15 of each year. This plan shall outline how the district will meet the criteria listed in subsection (a) to serve its at-risk students. The plan must be submitted and certified by school districts providing their own alternative education programs, as well as districts which offer alternative education through interlocal cooperative arrangements, and districts which have no alternative education program and receive no alternative education funding.

(c) Alternative education waiver available for elementary school districts. For an elementary school district, which does not offer high school grades, the State Board of Education is authorized at 70 O.S. § 1210.568(F) to grant a waiver from the statutory requirement to implement and provide an alternative education program. An elementary school district wishing to request such a waiver must submit an application to the State Department of Education Office of Accreditation no later than May 15 prior to the school year for which the waiver is requested. An elementary school district that has not received any alternative education funding pursuant to 70 O.S. § 1210.568 shall be granted this waiver automatically and need not apply, but an elementary district that has received any amount of alternative education funding must apply for the waiver by May 15 prior to the applicable school year in order to be exempt from implementing an alternative education program.

(e)(d) Deregulation not necessary for conforming alternative education programs. A school district need not apply to the State Board of Education for a deregulation in order to implement an alternative education program that meets all requirements listed in this subchapter and at 70 O.S. § 1210.566 through 70 O.S. § 1210.568.

RULE IMPACT STATEMENT 210:35-29-8

Reports and records for attendance, enrollment, and transportation [AMENDED]

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

The rule that outlines general requirements for alternative education programs is being amended to incorporate guidelines for how an elementary school district (grades PreK-8) may request a waiver from the State Board of Education from the statutory requirement to implement an alternative education program. Elementary districts are authorized to request this waiver under 70 O.S. § 568(F). The new provision will establish an application deadline of May 15 prior to the school year the waiver is requested for, so that alternative education funds declined by an elementary district that does not implement a program may be distributed among districts that do provide alternative education services.

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 rule change will affect elementary school districts (grades PreK-8) that have received alternative education funds in the past, but wish to apply for a waiver of the requirement to implement an alternative education program.

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

The rule change will benefit alternative education programs and students statewide by enabling alternative education funds declined by elementary school districts that apply for the waiver to be distributed among districts with alternative education programs in place.

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 political subdivisions or affected classes 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?

There is not an anticipated cost to the agency to implement the proposed change. 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:** October 30, 2018

STATUTORY AUTHORITY FOR 210:35-29-8

Oklahoma Statutes

Title 70. Schools

Chapter 22A - High Challenge Children and Youth

Section 1210.568 - Implementation of Statewide System of Alternative Education Programs

A. Beginning with the first semester of the 1996-1997 school year, the State Board of Education shall implement a statewide system of alternative education programs which shall be phased-in within seven (7) years. The statewide system shall include but not be limited to Alternative Approaches grant programs, funded pursuant to [Section 1210.561 of this title](#), and alternative academies or alternative programs implemented pursuant to this section.

B. Beginning with the first semester of the 2002-2003 school year, all school districts of this state shall provide alternative education programs that conform to the requirements of statutes and rules applicable to alternative education. A program shall:

1. Allow class sizes and student/teacher ratios which are conducive to effective learning for at-risk students;
2. Incorporate appropriate structure, curriculum, and interaction and reinforcement strategies designed to provide effective instruction;
3. Include an intake and screening process to determine eligibility of students;
4. Demonstrate that teaching faculty are appropriately certified teachers;
5. Demonstrate that teaching faculty have been selected on the basis of a record of successful work with at-risk students or personal and educational factors that qualify them for work with at-risk students;
6. Reflect appropriate collaborative efforts with state agencies and local agencies serving youth;
7. Provide courses that meet the academic curricula standards adopted by the State Board of Education and additional remedial courses;
8. Offer individualized instruction;
9. State clear and measurable program goals and objectives;
10. Include counseling and social services components with the provision that providers of services are not required to be certified as school counselors;
11. Require a plan leading to graduation be developed for each student in the program which will allow the student to participate in graduation exercises for the school district after meeting the requirements of the school district as specified in the individual graduation plan for that student; provided, for students who enter the ninth grade in or prior to the 2007-08 school year, the plan shall specifically address whether the student is required to meet the graduation requirements established in [Section 11-103.6 of this title](#);
12. Offer life skills instruction;
13. Provide opportunities for arts education to students, including Artists in Residence programs coordinated with the Oklahoma Arts Council;
14. Provide a proposed annual budget;
15. Include an evaluation component including an annual written self-evaluation;

16. Be appropriately designed to serve middle school, junior high school and secondary school students in grades six through twelve who are most at risk of not completing a high school education for a reason other than that identified in [Section 13-101 of this title](#); and

17. Allow students in the alternative education program, who otherwise meet all of the participation requirements, to participate in vocational programs and extracurricular activities, including but not limited to athletics, band, and clubs.

C. The alternative education program of a school district shall be operational and serving students by September 15 of each school year.

D. Each alternative education program of a school district shall receive funding based on the combined number of dropouts and students within the district who have been referred to a county juvenile service unit, a county juvenile bureau or who have been committed to the custody of the Office of Juvenile Affairs. Each alternative education program shall receive incentive funding as follows:

1. For the first year of operation, One Thousand Dollars (\$1,000.00) per student;
2. For the second year of operation, Seven Hundred Fifty Dollars (\$750.00) per student; and
3. For the third year of operation and each year thereafter, Seven Hundred Dollars (\$700.00) per student.

Statewide alternative education funding shall not be used to supplant existing school district resources or to support programs that do not meet all the criteria for the statewide alternative education system. No alternative education program shall receive less than a total of Ten Thousand Dollars (\$10,000.00) per school year.

E. By September 15 of each school year, all statewide alternative education funds received and expended for students participating in an alternative education program shall be reported to the State Department of Education by major object codes and by program classifications pursuant to the Oklahoma Cost Accounting System as adopted by the State Board of Education pursuant to [Section 5-135 of this title](#).

F. Elementary school districts, as defined in [Section 5-103 of this title](#), may request a waiver from the State Board of Education from the requirements of this section to implement and provide an alternative education program. Any elementary school district that has not received funding pursuant to the provisions of subsection D of this section shall be automatically granted a waiver. If a school district is granted a waiver, no statewide alternative education funding shall be allocated to the district.

G. 1. The State Board of Education shall contract for technical assistance for operation of an Alternative Education Technical Assistance Center. The technical assistance provider shall be an entity located in Oklahoma that has been officially recognized by the United States Department of Education to assess and facilitate dissemination of validated educational programs in Oklahoma. The technical assistance provider shall have priority, if its operations are deemed satisfactory by the State Board of Education and if funds are available, for annual renewal of the contract.

2. The duties of the technical assistance provider shall include, but shall not be limited to:

- a. providing initial and ongoing training of personnel who will educate at-risk populations through alternative education programs,
- b. providing technical assistance to school districts to enhance the probability of success of their alternative education programs,
- c. evaluating state-funded alternative education programs,
- d. reporting to the State Board of Education the evaluation results of state-funded alternative education programs, and
- e. providing in-depth program analysis and evaluation of state-funded alternative education programs.

3. The State Board of Education shall not provide funding to an alternative education program that does not receive a recommendation for continued funding in the evaluation provided for in this subsection. Provided, any school district not receiving such a recommendation for continued funding may request a hearing before the Board with a review of the evaluation prior to the Board's final determination.

H. All alternative education programs shall be subject to statutes and rules applicable to alternative education, including any exemptions from statutory or regulatory requirements authorized by statutes or rule.

I. An alternative education program may be offered by an individual school district or may be offered jointly by school districts that have formed interlocal cooperative agreements pursuant to [Section 5-117b of this title](#). Any school district submitting a plan for an alternative education program serving fewer than ten students shall enter into a cooperative agreement with another school district to jointly provide the program unless the program has been granted a waiver from this requirement by the State Board of Education.

J. Any materials or equipment purchased by a school district with revenue received for students participating in an alternative education program shall be used only in or directly for the alternative education program offered by the district or any subsequent alternative education program offered to students enrolled in that district. Such materials and equipment shall be made available exclusively to alternative education students during the hours that the alternative education program is operating; provided, the material or equipment may be used for other purposes when the alternative education program is not operating.

K. Upon implementation of this subsection as provided for in subsection M of this section and contingent upon the provision of appropriated funds designated for such purpose, all school districts in the state providing alternative education programs as required in subsection B of this section shall expand the programs to include middle-school-grade students. The program shall conform to the requirements of subsection B of this section.

L. Upon implementation of this subsection as provided for in subsection M of this section and contingent upon the provision of appropriated funds designated for such purpose, each urban school district identified by the State Department of Education as having a high population of elementary grade students who are at-risk and in need of alternative education shall provide elementary level alternative education programs. The State Department of Education shall establish requirements for the programs. For purposes of this section, "urban school district" means a school district with an average daily membership of thirty thousand (30,000) or more.

M. Implementation of subsections K and L of this section shall be delayed until the current expenditure per pupil in average daily attendance in public elementary and secondary schools in unadjusted dollars for the 1998-99 school year or any school year thereafter for Oklahoma, as reported by the National Center for Education Statistics annually in the Digest of Education Statistics, reaches at least ninety percent (90%) of the regional average expenditure for that same year, and funds are provided. For purposes of this subsection, the regional average expenditure shall consist of the current expenditure per pupil in average daily attendance in public elementary and secondary schools in unadjusted dollars for each of the following states: Arkansas, Colorado, Kansas, Missouri, New Mexico, Oklahoma, and Texas, averaged together. By January 1 of each year, the State Board of Education shall report whether or not the ninety-percent expenditure level has been reached based on information reported annually in the Digest of Education Statistics by the National Center for Education Statistics. Subsections K and L of this section shall be implemented on July 1 after the first January 1 report verifies that the ninety-percent expenditure level has been reached and funds have been provided for the specific purposes of this section.