



JOY HOFMEISTER  
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 26, 2017

**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 1. State Board of Education  
Subchapter 5. Due Process  
**210:1-5-6. Suspension and/or revocation of certificates [AMENDED]**

Two provisions are added to the rule governing the suspension and revocation of certificates issued to teachers, administrators, and other certified school personnel. Language is added to subsection (k) providing that an individual who has had a certificate revoked may apply for reinstatement if the revocation was based on an offense which has been expunged by a court of competent jurisdiction. A new subsection (l) is also added, directing the State Board of Education to notify the superintendent of the school district that is the last known employer of an educator whose certificate has been suspended or revoked by the Board, and to the extent possible to notify the superintendents of all Oklahoma school districts when an educator's certificate is revoked or suspended.

- (2) Title 210. State Department of Education  
Chapter 20. Staff  
Subchapter 9. Professional Standards: Teacher Education and Certification  
Part 9. Teacher Certification  
**210:20-9-98. Administrative requirements of teacher certification [AMENDED]**

The rule addressing Noncitizen Visiting Teacher Certification must be amended to reflect a change to the controlling federal regulations. The state rule currently only allows for the one-year teaching credential issued to visiting teachers to be renewed on a year-to-year basis for a maximum of three (3) years. The federal regulation governing visas for visiting teachers has been amended to allow for an extension of up to two (2) years beyond the initial 3-year period, for a total of up to five (5) years authorized for noncitizen visiting teachers. Oklahoma's state rule on visiting teachers must now be updated to allow for the maximum 5-year visa period.

(3) Title 210. State Department of Education

Chapter 20. Staff

Subchapter 9. Professional Standards: Teacher Education and Certification

Part 9. Teacher Certification

**210:20-9-110. Alternative placement teaching certificates [AMENDED]**

House Bill 3025 (2016) amended the qualifications and requirements for Alternative Placement Certification, and the rule addressing alternative placement teaching certificates is being updated accordingly. Applicants were historically required to have completed a college major corresponding to an area of certification, but that is no longer a requirement. Applicants must now (1) hold a college degree and (2) demonstrate competency in an area of certification, and the rule provides several different options for demonstrating subject competency. Options for documenting subject area competency include completion of an academic major or minor, relevant work and/or volunteer experience, publication in an academic or trade journal, or other means for showing competency subject to the approval of the State Department of Education.

(4) Title 210. State Department of Education

Chapter 30. School Facilities and Transportation

Subchapter 5. Transportation

**210:30-5-8. School bus driver certification [AMENDED]**

The rule regarding school bus driver certification is being amended to provide that the annual health certificate required for school bus drivers may be signed by qualified health professionals other than physicians. The rule currently limits the health certificate signature to physicians only, but in practice, it is often nurses and physician assistants who perform routine physical exams such as the annual bus driver health certification. School districts have requested expansion of the authorized signatures for bus drivers' annual health certificates to include a licensed nurse or physician assistant working under the supervision of a licensed physician.

**PROPOSED RULE**

**TITLE 210. STATE DEPARTMENT OF EDUCATION  
CHAPTER 1. STATE BOARD OF EDUCATION  
SUBCHAPTER 5. DUE PROCESS**

*Changes to proposed language following public comment appear in red.*

**210:1-5-6. Suspension and/or revocation of certificates**

(a) **Application.** The rules and regulations of the State Board of Education governing the suspension and revocation of certificates apply to the following: superintendents of schools, principals, supervisors, librarians, school nurses, school bus drivers, visiting teachers, classroom teachers and other personnel performing instructional, administrative and supervisory services in the public schools. Except as otherwise specifically provided by law, the issuance or denial of a new certificate shall not be considered an individual proceeding subject to the process and procedures set forth in this Section.

(b) **Grounds for revocation.** A certificate shall be revoked only for:

- (1) A willful violation of a rule or regulation of the State Board of Education, or the United States Department of Education; or
- (2) A willful violation of any federal or state law, or
- (3) A conviction for any of the offenses or bases for revocation set forth in 70 O.S. §§ 3-104 or 3-104.1; or
- (4) For other proper cause.

(c) It shall be a violation of State Board of Education rules and regulations for any person holding a valid teaching certificate to be aware of and fail to report, or knowingly participate in any activity deemed illegal while participating in job-related activities of student organizations, athletic and scholastic competitions, fairs, stock shows, field trips, or any other activity related to the instructional program. Willful violation of (b)(1)-(b)(4) of this regulation or the failure to report or knowing participation in any activity deemed illegal may result in recommendation of revocation or suspension of the certificate, or such other penalty, as may be determined after due process by the State Board of Education.

(d) **Right to hearing on revocation of an existing certificate.** No certificate shall be revoked until the holder of the certificate has been provided with a copy of the application to revoke the certificate and opportunity for a hearing provided by the State Board of Education in accordance with the following procedures:

(1) **Filing of application to revoke a certificate.** An individual proceeding to revoke a certificate shall be initiated by filing an application to revoke a certificate. An application to revoke a certificate shall be filed with the Secretary of the State Board of Education by the State Department of Education. The application shall name the holder of the certificate to be revoked as the respondent in the action, and shall contain:

- (A) A statement of the legal authority and jurisdiction under which the applicant seeks to initiate the proceeding and the hearing is to be held;
- (B) A reference to each particular statute and/or rule involved;
- (C) A short and plain statement of the allegations asserted; and
- (D) A statement of the facts alleged to give rise to the revocation. The application shall also state a proposed effective date for the relief requested (e.g., revocation), which shall be set no earlier than forty-five (45) calendar days from the date the complaint is filed.

(2) **Informal disposition.** Informal disposition of the application to revoke a certificate may be made by stipulation, agreed settlement, consent order, or default, unless otherwise precluded by law. Written notice signed by each party or counsel representatives shall be delivered to the Secretary of the State Board of Education prior to the time of the scheduled hearing.

(3) **Notice to parties.** Within three (3) business days of the date the application to revoke a certificate is filed with the Secretary of the State Board of Education, the Secretary shall send a copy of the application along with a notice of intent to revoke the certificate by certified or registered mail, restricted delivery with return receipt requested, to the holder of the certificate. It is the responsibility of every certificate holder to notify the State Department of Education upon a change of address, and the mailing address on file for each certificate holder shall be presumed to be a proper address for service of notice. Service of notice of intent to revoke a certificate shall be deemed complete upon certified or registered mailing of the notice to the certificate holder's last known address. In addition to the requirements of notice set forth at 75 O.S. § 309, the notice of intent to revoke the certificate shall include:

- (A) A statement setting forth the proposed effective date of revocation of the certificate; and
- (B) A statement advising the holder that if the holder fails to appear for a hearing and contest the revocation, the allegations in the application for revocation will be deemed confessed and the Board may issue a final order to effect revocation of the certificate as of the effective date proposed in the notice.

(e) **Emergency Action.** Pursuant to 75 O.S. § 314, in the event the State Board of Education finds that public health, safety, or welfare imperatively requires emergency action, the State Board of Education may issue an emergency order summarily suspending a certificate pending an individual proceeding for revocation or other action. Such proceedings shall be promptly instituted and determined. Such an order shall include specific findings of fact specifying the grounds for the emergency action. Within three (3) business days of the issuance of the order by the Board, a copy of the order shall be sent to the holder of the certificate via certified or registered mail, delivery restricted to the certificate holder, with return receipt requested.

(f) **Hearing procedures.**

(1) **Hearing and appointment of a hearing officer.** Upon filing the application with the Secretary of the Board, the Secretary shall set the matter for a hearing. The Board, at its discretion, may utilize a hearing officer to conduct the hearing. If utilized, the hearing officer shall be appointed by the Chairperson of the Board.

(2) **Attendance of witnesses.** If the complainant, or the holder of the certificate wants any person to attend the hearing and testify as a witness, he/she shall notify the Chairperson of the State Board of Education at least fifteen (15) calendar days prior to the hearing, in writing, giving the name and address of the desired witness, and the Chairperson shall thereupon subpoena, by mail, the desired witness to attend in accordance with the provisions of this subsection. Every person testifying at a revocation hearing shall be sworn to tell the truth. The parties to the hearing shall exchange witness and exhibit lists and any exhibits no later than fifteen (15) calendar days prior to the hearing.

(3) **Subpoenas.** Subpoenas and/or subpoenas duces tecum may be issued in accordance with the following procedures:

- (A) **Issuance of subpoenas.** Subpoenas for the attendance of witnesses, or for the production of books, records, papers, objects, or other evidence of any kind as may be

necessary and proper for the purposes of a proceeding shall be issued by the Secretary of the Board at the direction of the Chairperson; upon order of the Board; or at the request of any party to a proceeding before the Board. The signature of the Secretary shall be sufficient authentication for any subpoena.

(B) **Service of subpoenas.** Subpoenas shall be served in any manner prescribed for service of a subpoena in a civil action in the district courts of the State of Oklahoma.

(C) **Objections to and compliance with subpoenas.** Any party to the proceeding may move to quash a subpoena or subpoenas duces tecum issued in accordance with the provisions of this Section, provided that, prior to quashing a subpoena or subpoenas duces tecum the agency shall give notice to all parties. A subpoena or subpoenas duces tecum may not be quashed if any party objects.

(D) **Enforcement of subpoenas.** Upon the failure of any person to obey a subpoena, or upon the refusal of any witness to be sworn or make an affirmation or to answer a question put to her or him in the course of any individual proceeding or other authorized action of the Board, the Board as soon as convenient shall consider the issue of enforcement of the subpoena. By resolution, it may direct application to the district or superior court of the county of such person's residence or to any judge thereof for an order to compel compliance with the subpoena or the furnishing of information or the giving of testimony. Meanwhile, the hearing or other matters shall proceed, so far as is possible, but the Board at its discretion at any time may order a stay or continuance of the proceedings for such time as may be necessary to secure a final ruling in the compliance proceedings.

(E) **Costs of issuance and service of subpoenas.** The costs covering the issuance and service of subpoenas and all witness fees incurred on behalf of a party to the proceedings, other than the Board, shall be borne by the party on whose behalf they are incurred.

(4) **Right to representation.** Any party to the individual proceeding shall at all times have the right to representation by counsel, provided that such counsel must be duly licensed to practice law by the Supreme Court of Oklahoma, and provided further that counsel shall have the right to appear and act for and on behalf of the party represented.

(5) **Legal counsel to State Board of Education.** The attorney for the State Board of Education shall present evidence to the Board, in furtherance of the application. If deemed necessary by the Chairperson of the Board, a request may be made of the Attorney General to provide counsel to the Board to rule on questions of admissibility of evidence, competency of witnesses, and any other questions of law. In the event that counsel is not requested from the Attorney General the Chairperson of the Board will rule on the evidence, competency of the witness and other questions of law.

(6) **Disqualification of a Board member or hearing officer.** A Board member or hearing officer shall withdraw from any individual proceeding in which he or she cannot accord a fair and impartial hearing or consideration. Any party may request the disqualification on the ground of his or her inability to give a fair and impartial hearing by filing an affidavit promptly upon discovery of the alleged disqualification, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded. The issue shall be determined promptly by the Board, or if it affects a member of the Board, by the remaining members thereof, if a quorum. Upon the entry of an order of disqualification affecting a hearing officer, the Board shall either assign a replacement hearing officer, or conduct the hearing itself. Upon the entry of an order of disqualification affecting a Board

member, the Governor immediately shall appoint a member pro tempore to sit in place of the disqualified member in that proceeding.

(7) **Notice of facts.** The Board shall give notice to all parties, prior to, or at the hearing, of any facts of which it proposes to take official notice. Any party or her/his attorney may request that official notice be taken of any fact qualified for such notice by the statutes of this state. If such official notice is taken, it shall be stated in the record, and all parties shall have opportunity to contest and give evidence in rebuttal or derogation of the official notice.

(8) **Presentation and consideration of evidence.** The State Board of Education shall consider only evidence upon the specific cause contained in the notice, and evidence will be heard for such cause. Questions of the admissibility of evidence shall be governed by the provisions of 75 O.S. § 310.

(9) **Order of procedure.** The order of procedure at the hearing shall be as follows:

- (A) Opening statements by legal counsel of both parties;
- (B) Presentation of evidence by both parties followed by cross-examination of witnesses, and questions by State Board members or the hearing officer;
- (C) Closing arguments by legal counsel of both parties; and
- (D) Submission of case to the Board or the hearing officer for decision.

(10) **Continuance of a hearing.** The Board or hearing officer may continue or adjourn the hearing at any time for a specified time by notice or motion. The Board or hearing officer may grant a continuance upon motion of a party for good cause shown if written request is filed and served on all parties of record and filed with the Secretary of the Board at least five (5) days prior to the date set for hearing. A respondent may be granted only one (1) continuance.

(g) **Deliberations and decisions.** Deliberations by the Board or the hearing officer in an individual proceeding may be held in executive session pursuant to the provisions of the Open Meeting Act set forth at 25 O.S. § 307.

(1) **Decision.** Decisions shall be issued in accordance with the following procedures:

- (A) After hearing all evidence, and all witnesses, the State Board of Education or, if applicable, the hearing officer, shall render its decision on whether the certificate shall be revoked.
- (B) The decision of the State Board of Education or a hearing officer presiding at the hearing shall be announced at the conclusion of the hearing and notification of that decision shall be by certified or registered mail, restricted delivery with return receipt requested to the holder of the certificate.
- (C) If the holder of the certificate fails to appear at the scheduled hearing without prior notification within the time frame to request a stay or continuance set forth in (f)(10) of this Section, demonstration of good cause, the Board or hearing officer shall hold the party in default and issue an order sustaining the allegations set forth in the application.
- (D) If the applicant fails to appear at the scheduled hearing without prior notification within the time frame to request a stay or continuance set forth in subsection (f)(10) of this Section, demonstration of good cause, or fails to prove the allegations by clear and convincing evidence, the application shall be dismissed.

(2) **Findings of fact and conclusions of law.** After the decision is announced, but before issuance of the final order, if the Board has not heard the case or read the record of the individual proceeding, the hearing officer shall provide the parties with an opportunity to prepare and submit proposed findings of fact and conclusions of law in accordance with the

provisions of 75 O.S. § 311. After the parties have been given notice and an opportunity to file exceptions, present briefs and oral arguments to the proposed findings of fact and conclusions of law, the Board may take action to accept, reject, or modify the proposed Findings and Conclusions of the hearing officer. The Board shall render findings of fact and conclusions of law. All findings of fact made by the Board shall be based exclusively on the evidence presented during the course of the hearing or previously filed briefs, (made a part of the record), of the testimony of witnesses taken under oath.

(3) **Final order.** As the final determination of the matter, the final order shall constitute the final agency order and shall comply with the requirements set forth at 75 O.S. § 312. If no motion for rehearing, reopening or reconsideration of the order is filed in accordance with (h) of this Section, the final agency order shall represent exhaustion of all administrative remedies by the State Board of Education. All final orders in an individual proceeding shall be in writing and made a part of the record. Final orders are to be issued by the Chairperson of the Board or the presiding officer for transmission to the parties by the Secretary of the Board. Within five (5) business days of the date of issuance of the final order, parties shall be notified of a final order either personally or by certified mail, return receipt requested. Upon request, a copy of the order shall be delivered or mailed to each party and the party's attorney of record, if any.

(4) **Communication with parties.** Unless required for the disposition of ex parte matters authorized by law, the Chairperson and the members of the Board, the hearing officer, or the employees or the agents of the Board shall not communicate, directly or indirectly, in connection with any issue of fact, with any person or party, nor, in connection with any issue of law, with any party or his or her representative except upon notice and opportunity for all parties to participate. The Chairperson and members of the Board or their employees may communicate with one another and have the aid and advice of one or more personal assistants. Advice may also be secured from the Attorney General's office.

(h) **Record of hearing.**

(1) The record of a hearing shall be set forth in such form and detail as the Chairperson or the Board may direct. The hearing may also be fully transcribed, and shall be placed on file in the Secretary's office. Parties to the proceeding may have the proceedings transcribed by a court reporter at their own expense. In accordance with the requirements of 75 O.S. § 309, the record shall include:

- (A) All pleadings, motions, and intermediate rulings;
- (B) Evidence received or considered during the individual proceeding;
- (C) A statement of matters officially noticed;
- (D) Questions and offers of proof, objections, and rulings thereon;
- (E) Proposed findings and exceptions;
- (F) Any decision, opinion, or report by the Board or a hearing officer presiding at the hearing; and
- (G) All other evidence or data submitted to the Board or hearing officer in connection with their consideration of the case.

(2) The State Board Secretary shall electronically record the proceedings, with the exception of the executive sessions. The recording shall be made and maintained in accordance with the requirements of 75 O.S. § 309, and a copy shall be provided to any party to the proceeding upon request. If the requesting party should desire the tape(s) to be transcribed by a court reporter, the requesting party shall bear the expense.

(i) **Rights to a rehearing, reopening or reconsideration.**

(1) A petition for rehearing, reopening or reconsideration of a final order must be filed with the Secretary of the State Board within ten (10) days from the entry of the order. It must be signed by the party or his or her attorney, and must set forth with particularity the statutory grounds upon which it is based. However, a petition based upon fraud practiced by the prevailing party or upon procurement of the orders by perjured testimony or fictitious evidence may be filed at any time. All petitions for rehearing, reopening, or reconsideration will be considered and ruled upon as soon as the convenient conduct of the Board's business will permit.

(2) A petition for a rehearing, reopening, or reconsideration shall set forth the grounds for the request. The grounds for such a petition shall be either:

(A) Newly discovered or newly available evidence, relevant to the issues;

(B) Need for additional evidence adequately to develop the facts essential to proper decision;

(C) Probable error committed by the Agency in the proceeding or in its decision such as would be grounds for reversal on judicial review of the order;

(D) Need for further consideration of the issues and the evidence in the public interest; or

(E) A showing that issues not previously considered ought to be examined in order to properly dispose of the matter. The grounds which justify the rehearing shall be set forth by the State Board of Education which grants the order, or in the petition of the individual making the request for the hearing.

(3) It is the burden of the party requesting a rehearing to notify the opposing party of the appeal.

(4) Rehearing, reopening, or reconsideration of the matter may be heard by the State Board of Education or may be referred to a hearing officer. The hearing must be confined to those grounds on which the recourse was granted.

(j) **Judicial review.** Any person or party aggrieved or adversely affected by a final order in an individual proceeding is entitled to certain judicial review in accordance with the provisions of the Oklahoma Administrative Procedures Act, and the procedures set forth therein shall govern appeals.

(k) **Applications for reinstatement of a license certificate.** After five (5) years of the effective date of revocation of a license certificate, or after expungement of the offense(s) that formed the basis for the revocation by a court of competent jurisdiction, an individual may apply for reinstatement of the license certificate in accordance with the application procedures set forth by the State Department of Education.

(l) **Notifications of suspension or revocation.** Upon the suspension or revocation of an individual's certificate, the State Board of Education shall notify the superintendent of the district that most recently employed the certified individual based upon the individual's certification number and the personnel reports currently on file with the State Department of Education. In addition, the State Board of Education shall to the extent possible notify the superintendents of all Oklahoma school districts. Notification shall also be provided to the extent possible to certification officers in each state or territory of the United States.



**PUBLIC COMMENT SUMMARY**

**State Department of Education Proposed Permanent Rule Changes  
Chapter 1. State Board of Education  
Subchapter 5. Due Process**

**210:20-23-3. Requirements for new and incumbent school board member training  
[AMENDED]**

<b>Summary of Public Comment</b>	<b>Agency Response</b>
<p>Commenter (Oklahoma State School Boards Association) requests a change to the language in new proposed subsection (1), clarifying that while the superintendents of all Oklahoma school districts will be notified to the extent possible when an individual's certificate is suspended or revoked, the superintendent of the individual's last known employing district <i>must</i> be notified.</p>	<ul style="list-style-type: none"><li>OSDE has incorporated the commenter's request with the following language:  <u>Upon the suspension or revocation of an individual's certificate, the State Board of Education shall <b>notify the superintendent of the district that most recently employed the certified individual based upon the individual's certification number and the personnel reports currently on file with the State Department of Education. In addition, the State Board of Education shall to the extent possible notify the superintendents of all Oklahoma school districts. Notification shall also be provided to the extent possible to certification officers in each state or territory of the United States.</b></u></li></ul>

## RULE IMPACT STATEMENT

### **210:1-5-6. Suspension and/or revocation of certificate [AMENDED]**

- a. **What is the purpose of the proposed rule change?**  
Two provisions are being added to the rule governing the suspension and revocation of certificates issued by the State Board of Education to teachers, administrators, and other certified school personnel. Language is added to subsection (k) providing that an individual who has had a certificate revoked may apply for reinstatement if the revocation was based on an offense which has been expunged by a court of competent jurisdiction. A new subsection (l) is also added, directing the State Board of Education to notify the superintendents of all Oklahoma school districts when an individual's certificate has been suspended or revoked by the Board.
- b. **What classes of persons will be affected by the proposed rule change and what classes of persons will bear the costs of the proposed rule change?**  
The proposed change will affect school districts, the State Board of Education, and individuals who have had their certificates revoked based on offenses which are later expunged.
- c. **What classes of persons will benefit from the proposed rule change?**  
The proposed changes will benefit school districts, and individuals who have had their certificates revoked based on offenses which are later expunged.
- 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:** December 6, 2016

**STATUTORY AUTHORITY FOR 210:1-5-6**

**Oklahoma Statutes**

**Title 70. Schools**

**Chapter 1 - School Code of 1971**

**Article III - State Department of Education**

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

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The supervision of the public school system of Oklahoma shall be vested in the State Board of Education and, subject to limitations otherwise provided by law, the State Board of Education shall:

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6. Have authority in matters pertaining to the licensure and certification of persons for instructional, supervisory and administrative positions and services in the public schools of the state subject to the provisions of Section 6-184 of this title, and shall formulate rules governing the issuance and revocation of certificates for superintendents of schools, principals, supervisors, librarians, clerical employees, school nurses, school bus drivers, visiting teachers, classroom teachers and for other personnel performing instructional, administrative and supervisory services, but not including members of boards of education and other employees who do not work directly with pupils, and may charge and collect reasonable fees for the issuance of such certificates:

a. the State Department of Education shall not issue a certificate to and shall revoke the certificate of any person who has been convicted, whether upon a verdict or plea of guilty or upon a plea of nolo contendere, or received a suspended sentence or any probationary term for a crime or an attempt to commit a crime provided for in Section 843.5 of Title 21 of the Oklahoma Statutes if the offense involved sexual abuse or sexual exploitation as those terms are defined in Section 1-1-105 of Title 10A of the Oklahoma Statutes, Sections 741, 843.1, if the offense included sexual abuse or sexual exploitation, 865 et seq., 885, 888, 891, 1021, 1021.2, 1021.3, 1040.13a, 1087, 1088, 1111.1, 1114 or 1123 of Title 21 of the Oklahoma Statutes or who enters this state and who has been convicted, received a suspended sentence or received a deferred judgment for a crime or attempted crime which, if committed or attempted in this state, would be a crime or an attempt to commit a crime provided for in any of said laws,

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**Oklahoma Statutes**

**Title 22. Criminal Procedure**

**Chapter 1 - In General**

**Section 18 - Expungement of Criminal Records**

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A. Persons authorized to file a motion for expungement, as provided herein, must be within one of the following categories:

1. The person has been acquitted;
2. The conviction was reversed with instructions to dismiss by an appellate court of competent jurisdiction, or an appellate court of competent jurisdiction reversed the conviction and the prosecuting agency subsequently dismissed the charge;

3. The factual innocence of the person was established by the use of deoxyribonucleic acid (DNA) evidence subsequent to conviction, including a person who has been released from prison at the time innocence was established;
4. The person has received a full pardon on the basis of a written finding by the Governor of actual innocence for the crime for which the claimant was sentenced;
5. The person was arrested and no charges of any type, including charges for an offense different than that for which the person was originally arrested, are filed and the statute of limitations has expired or the prosecuting agency has declined to file charges;
6. The person was under eighteen (18) years of age at the time the offense was committed and the person has received a full pardon for the offense;
7. The person was charged with one or more misdemeanor or felony crimes, all charges have been dismissed, the person has never been convicted of a felony, no misdemeanor or felony charges are pending against the person, and the statute of limitations for refiling the charge or charges has expired or the prosecuting agency confirms that the charge or charges will not be refiled; provided, however, this category shall not apply to charges that have been dismissed following the completion of a deferred judgment or delayed sentence;
8. The person was charged with a misdemeanor, the charge was dismissed following the successful completion of a deferred judgment or delayed sentence, the person has never been convicted of a felony, no misdemeanor or felony charges are pending against the person, and at least one (1) year has passed since the charge was dismissed;
9. The person was charged with a nonviolent felony offense, not listed in Section 571 of Title 57 of the Oklahoma Statutes, the charge was dismissed following the successful completion of a deferred judgment or delayed sentence, the person has never been convicted of a felony, no misdemeanor or felony charges are pending against the person, and at least five (5) years have passed since the charge was dismissed;
10. The person was convicted of a misdemeanor offense, the person was sentenced to a fine of less than Five Hundred One Dollars (\$501.00) without a term of imprisonment or a suspended sentence, the fine has been paid or satisfied by time served in lieu of the fine, the person has not been convicted of a felony, and no felony or misdemeanor charges are pending against the person;
11. The person was convicted of a misdemeanor offense, the person was sentenced to a term of imprisonment, a suspended sentence or a fine in an amount greater than Five Hundred Dollars (\$500.00), the person has not been convicted of a felony, no felony or misdemeanor charges are pending against the person, and at least five (5) years have passed since the end of the last misdemeanor sentence;
12. The person was convicted of a nonviolent felony offense, not listed in Section 571 of Title 57 of the Oklahoma Statutes, the person has received a full pardon for the offense, the person has not been convicted of any other felony, the person has not been convicted of a separate misdemeanor in the last fifteen (15) years, no felony or misdemeanor charges are pending against the person, and at least ten (10) years have passed since the felony conviction;
13. The person was convicted of not more than two nonviolent felony offenses, not listed in Section 571 of Title 57 of the Oklahoma Statutes, the person has received a full pardon for both of the nonviolent felony offenses, no felony or misdemeanor charges are pending against the person, and at least twenty (20) years have passed since the last misdemeanor or felony conviction; or

14. The person has been charged or arrested or is the subject of an arrest warrant for a crime that was committed by another person who has appropriated or used the person's name or other identification without the person's consent or authorization.

B. For purposes of this act, "expungement" shall mean the sealing of criminal records, as well as any public civil record, involving actions brought by and against the State of Oklahoma arising from the same arrest, transaction or occurrence.

C. For purposes of seeking an expungement under the provisions of paragraph 10, 11, 12 or 13 of subsection A of this section, offenses arising out of the same transaction or occurrence shall be treated as one conviction and offense.

D. Records expunged pursuant to paragraphs 8, 9, 10, 11, 12, 13 and 14 of subsection A of this section shall be sealed to the public but not to law enforcement agencies for law enforcement purposes. Records expunged pursuant to paragraphs 8, 9, 10, 11, 12 and 13 of subsection A of this section shall be admissible in any subsequent criminal prosecution to prove the existence of a prior conviction or prior deferred judgment without the necessity of a court order requesting the unsealing of the records. Records expunged pursuant to paragraph 4, 6, 12 or 13 of subsection A of this section may also include the sealing of Pardon and Parole Board records related to an application for a pardon. Such records shall be sealed to the public but not to the Pardon and Parole Board.

**PROPOSED RULE**

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

**210:20-9-98. Administrative requirements of teacher certification**

- (a) **Evaluation of foreign credentials.** Foreign credentials must be either analyzed by a recognized translation service or an Oklahoma college before the State Department of Education will accept them.
- (b) **Noncitizens of the United States.** Requirements for noncitizens seeking an Oklahoma teaching credential are as follows:
- (1) Noncitizens of the United States will be required to submit documentation proving lawful presence with the application before an Oklahoma teaching credential may be issued or reissued.
  - (2) The Oklahoma teaching credential may be issued/reissued for no longer than the validity of the documentation proving lawful presence. If the documentation proving lawful presence does not have an expiration date that affects the duration of a noncitizen's lawful presence, then the teaching credential shall have the same validity period as the teaching credential of a U.S. citizen.
- (c) **Noncitizen Visiting Teacher Certification.** The State Board of Education may, upon request of a local school district, issue an international visiting teacher certification pursuant to 70 O.S. § 3-104(6).
- (1) An international visiting teacher certification may be issued to applicants who meet the following criteria:
    - (A) Applicant presents a document from an accredited public school district in this state offering employment following certification;
    - (B) Applicant must be a citizen of a country other than the United States and hold a J-1 visa issued by the United States Department of State;
    - (C) Applicant holds the equivalent of a bachelor's degree or higher from an accredited college or university in the subject area the applicant intends to teach and in the case of world languages, if the applicant is not a proficient native speaker of the target language to be taught, applicant has completed a major in the target language to be taught;
    - (D) Applicants who seek to teach world languages must have a minimum of three years of teaching experience in the target language requested to be taught unless the applicant is a proficient native speaker of the target language to be taught;
    - (E) Applicant is a participant in a visiting teacher program approved by the Oklahoma State Department of Education;
    - (F) Applicant must demonstrate proficiency at the advanced-low level of the American Council on the Teaching of Foreign Languages' (ACTFL) proficiency scale in both spoken and written English; and
    - (G) Applicant must complete an orientation program prior to employment and must be assigned a mentor teacher by the district.

(2) Applicants meeting all qualifications shall be granted a one-year teaching credential which may be renewed on a year-to-year basis for a maximum of **threefive (5)** years upon request of the employing district.

(d) **Native American Language Teacher Certification.** The State Board of Education may, upon application, issue a teacher certification in Native American Languages. For purposes of this subchapter, a "Native American Language" means the historical, traditional languages spoken by Native Americans. For purposes of this subchapter, "Native American" shall have the meaning set forth in 25 U.S.C § 2902(1)-(2).

(1) A Native American language certification may be issued to applicants who meet the qualifications set forth in 210:20-9-104(b) and provide documentation that the applicant has met the following criteria:

(A) Applicant has obtained a certification of proficiency in the language sought to be certified in accordance with the provisions of 210:20-9-104(b);

(B) Applicant has completed a background check conducted by the State Department of Education in accordance with the provisions of 70 O.S. § 5-142; and

(C) Applicant has submitted a portfolio documenting applicant's experience in teaching the Native American language in which the applicant has been certified by a tribe and any other experience related to education.

(D) Any applicant who does not hold an Oklahoma traditional or alternative teaching credential must complete a school orientation program prior to employment and must be assigned a mentor teacher by the district.

(2) Applicants meeting all of the criteria set forth in this subsection shall be granted a provisional Native Language teacher certification for a period of one year. After the expiration of the one year provisional term, the Native Language teacher certification may be renewed in accordance with the following provisions:

(A) For an applicant who does not hold an Oklahoma traditional or alternative teaching credential, the Native Language certification may be renewed on a year-to-year basis if:

(i) Renewal is requested by the employing district; and

(ii) As a condition of the first two renewals of the teaching certificate, applicant provides evidence of completion of 60 clock hours/points of a professional teaching development program each year. For purposes of (ii) of this subparagraph, a professional teaching development program may include:

(I) Programs, seminars, or conferences recognized for professional development credit by an Oklahoma public school district at the time the teacher attends; or

(II) Higher education coursework in teacher education from an accredited college or university.

(B) For an applicant who holds an Oklahoma traditional or alternative teaching certificate, the Native Language teacher certification may be renewed for a five (5) year period.

(e) **Privacy and access.** Any person, with proper identification, that makes a written or oral request, will be informed of the certification status of any individual subject to certification. No other information will be given to a third party without the written consent of the person about whom the information is sought.

(1) College transcripts and other supporting documents will neither be duplicated by nor released by the State Department of Education.



- (2) An original out-of-state teaching certificate may be returned, upon written request, to the applicant.
- (f) **Multiple applications.** When application is made at the same time for two (2) or more certificates of the same class, only a single processing fee will be charged.
- (1) Applications may be made for multiple classes of certificates on one (1) form. There is a fee for each class.
- (2) When application is made at different times for two (2) or more certificates, a fee will be charged for each certificate requested.
- (g) **Duplicate/update certificates.** A certificate may be duplicated or updated by submitting a written request and paying the fee.
- (h) **Change of name.** A legal change of last name on a certificate may be accomplished at any time upon written request and paying the fee.
- (i) **Refusal of certification.** No certificate will be issued unless all requirements for the certificate in question are fully met. In addition, no certificate will be issued if the attempt to become certified is based on misrepresentation, forgery, or fraud.
- (j) **Grounds for cancellation of certificates.** Any certificate, credential, or endorsement obtained by misrepresentation, forgery, fraud, or issued by error will be cancelled. Upon written request the holder must surrender the certificate in question to the State Department of Education.
- (k) **Felony as grounds for noncertification.** No person shall receive an Oklahoma certificate who has been convicted of a felony, any crime involving moral turpitude, or a felony violation of the narcotics laws of the United States or the State of Oklahoma, provided the conviction was entered within the ten (10) year period immediately preceding application for teacher certification.
- (l) **Revocation of teaching certificate.** Teaching certificates issued by authority of the Oklahoma State Board of Education may be revoked by the board for willful violation of any rule or regulation of the board or any federal or state law or other proper cause. A certificate will be revoked only after a sufficient hearing has been given to the teacher before the State Board of Education in accordance with the hearing procedures set forth at 210:1-5-6.
- (1) No person whose certificate has been revoked in Oklahoma or any other state shall be issued an Oklahoma certificate unless the revoked certificate has been fully reinstated by the revoking state and grounds for the revocation do not conflict with Oklahoma law.
- (2) A person who has either voluntarily surrendered a teaching certificate in another state, been denied certification in another state or has had a certificate suspended in another state is not eligible for Oklahoma certification until an investigation has resolved the issues surrounding the surrender, denial, or suspension of certification.
- (m) **Extending provisional certificates.** A request for extension of validity of any expired provisional certificate will be presented to the State Board of Education only when extenuating circumstances seem to justify its consideration. These requests shall be submitted in writing by the employing superintendent. A superintendent who holds an expired provisional certificate needs to have the president of the local board of education make the written request.
- (n) **Degree/college credit accepted for certification regulations.** Only degrees conferred by state or regionally accredited colleges and universities recognized by the Oklahoma State Board of Education will be accepted by the Professional Standards Section as part of the requirements for teacher certification. Only work completed in state and regionally accredited colleges and universities, or transfer credit validated by them, will be accepted as a basis for teacher

certification. For purposes of Oklahoma certification, state-accredited colleges and universities are considered to be colleges and universities accredited by the Oklahoma State Regents for Higher Education or their counterpart in other states (a statewide higher education coordinating board/agency of control). Regionally accredited colleges and universities are considered to be colleges and universities accredited by regional institutional accrediting bodies recognized by the United States Department of Education.

(o) **Fee for duplicate certificates.** The State Board of Education shall charge and collect reasonable fees for the issuance and duplication of certificates.

## **RULE IMPACT STATEMENT**

### **210:20-9-98. Administrative requirements of teacher certification [AMENDED]**

- a. **What is the purpose of the proposed rule change?**  
The rule addressing Noncitizen Visiting Teacher Certification must be amended to reflect a change to the controlling federal regulations. The state rule currently only allows for the one-year teaching credential issued to visiting teachers to be renewed on a year-to-year basis for a maximum of three (3) years. The federal regulation governing visas for visiting teachers has been amended to allow for an extension of up to two (2) years beyond the initial 3-year period, for a total of up to five (5) years authorized for noncitizen visiting teachers. Oklahoma's state rule on visiting teachers must now be updated to allow for the maximum 5-year visa period.
- b. **What classes of persons will be affected by the proposed rule change and what classes of persons will bear the costs of the proposed rule change?**  
The proposed change will affect school districts and noncitizen visiting teachers whose visas are extended to five (5) years.
- c. **What classes of persons will benefit from the proposed rule change?**  
The proposed change will benefit school districts and noncitizen visiting teachers whose visas are extended to five (5) years.
- 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:** December 6, 2016

**STATUTORY AUTHORITY FOR 210:20-9-98**

**Oklahoma Statutes**

**Title 70. Schools**

**Chapter 1 - School Code of 1971**

**Article III - State Department of Education**

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

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The supervision of the public school system of Oklahoma shall be vested in the State Board of Education and, subject to limitations otherwise provided by law, the State Board of Education shall:

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6. Have authority in matters pertaining to the licensure and certification of persons for instructional, supervisory and administrative positions and services in the public schools of the state subject to the provisions of Section 6-184 of this title, and shall formulate rules governing the issuance and revocation of certificates for superintendents of schools, principals, supervisors, librarians, clerical employees, school nurses, school bus drivers, visiting teachers, classroom teachers and for other personnel performing instructional, administrative and supervisory services, but not including members of boards of education and other employees who do not work directly with pupils, and may charge and collect reasonable fees for the issuance of such certificates:

a. the State Department of Education shall not issue a certificate to and shall revoke the certificate of any person who has been convicted, whether upon a verdict or plea of guilty or upon a plea of nolo contendere, or received a suspended sentence or any probationary term for a crime or an attempt to commit a crime provided for in Section 843.5 of Title 21 of the Oklahoma Statutes if the offense involved sexual abuse or sexual exploitation as those terms are defined in Section 1-1-105 of Title 10A of the Oklahoma Statutes, Sections 741, 843.1, if the offense included sexual abuse or sexual exploitation, 865 et seq., 885, 888, 891, 1021, 1021.2, 1021.3, 1040.13a, 1087, 1088, 1111.1, 1114 or 1123 of Title 21 of the Oklahoma Statutes or who enters this state and who has been convicted, received a suspended sentence or received a deferred judgment for a crime or attempted crime which, if committed or attempted in this state, would be a crime or an attempt to commit a crime provided for in any of said laws,

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**DEPARTMENT OF STATE  
22 CFR PART 62  
EXCHANGE VISITOR PROGRAM—TEACHERS**

**22 C.F.R. § 62.24 Teachers.**

(a) *Purpose.* The regulations in this section govern exchange visitors who teach full-time in accredited public and private U.S. primary and secondary schools (K–12), including prekindergarten language immersion programs offered as regular courses of study by accredited primary schools. Programs in this category promote the interchange of U.S. and foreign teachers and enhance mutual understanding

between the people of the United States and other countries. Exchange teachers sharpen their professional skills and participate in cross-cultural activities in schools and communities, and they return home after the exchange to share their experiences and increased knowledge of the United States and the U.S. educational system. Such exchanges enable foreign teachers to understand better U.S. culture, society and teaching practices at the primary and secondary levels, and enhance U.S. students' knowledge of foreign cultures, customs and teaching approaches.

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(j) *Duration of participation.*

Exchange teachers may be authorized to participate in the Exchange Visitor Program for the length of time necessary to complete the program, which may not exceed three years unless a specific extension of one or two years is authorized by the Department as set forth in paragraph (k) of this section.

(k) *Program extensions.* (1) Sponsors may request from the Department an extension of an exchange teacher's exchange by either one or two years, but not by a semester or by other fractions of academic years.

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**PROPOSED RULE**

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

**210:20-9-110. Alternative placement teaching certificates**

(a) **Issuance of provisional alternative teaching certificates.** The State Department of Education shall issue a three (3) year, nonrenewable provisional alternative placement teaching certificate to an individual who completes the application for an alternative placement teaching certificate and submits all documentation necessary to verify that the applicant meets all of the following criteria:

(1) ~~The applicant holds at least a baccalaureate degree from an institution whose accreditation is recognized by the Oklahoma State Regents for Higher Education and has attained a retention/graduation grade point average of not less than 2.50 on a 4.0 scale; Post-secondary education. The applicant for alternative placement certification holds:~~

(A) At least a baccalaureate degree from an institution whose accreditation is recognized by the Oklahoma State Regents for Higher Education and has attained a retention grade point average of not less than 2.50 on a 4.0 scale; or

(B) A terminal degree in any field from an institution accredited by a national or regional accrediting agency recognized by the United States Department of Education, verified as a terminal degree by the Oklahoma State Regents for Higher Education; or

(C) At least a baccalaureate degree from an institution whose accreditation is recognized by the Oklahoma State Regents for Higher Education, and has completed at least two (2) years of qualified work experience. For purposes of this section, qualified work experience must be documentable through standard employment verification procedures, and relevant to a certification area or area of specialization as determined by the State Board of Education, the Office of Educational Quality and Accountability, the Department of Career and Technology Education, and/or the State Regents for Higher Education.

~~(2) The applicant has either:~~

~~(A) Earned a major in a field of study that corresponds to an area of specialization for an Elementary Secondary Certificate, a Secondary Certificate or a career technical certificate; or~~

~~(B) Provided a letter from the registrar or academic dean of the college or school from which the applicant graduated verifying that the applicant has completed a major in a field that corresponds to an area of specialization for an Elementary Secondary Certificate, a Secondary Certificate or a career technology certificate;~~

~~(3) The applicant can document either:~~

~~(A) Two (2) years of work experience in the applicant's degree field area, unless the applicant is participating in the federal Troops to Teachers Program; or~~

~~(B) Completion of post baccalaureate coursework in the applicant's degree field area;~~

(2) Competency in a certification area. In addition to having completed qualifying post-secondary education, the applicant demonstrates competency in an area of specialization for

an elementary-secondary certificate, a secondary certificate, or a vocational-technical certificate. Competency in a certification area may be demonstrated through the following:

- (A) Completion of an academic major, or at least thirty (30) credit hours of post-secondary coursework, in a field that corresponds to a certification area.
- (B) Completion of an academic minor, or at least fifteen (15) credit hours of post-secondary coursework, in a field that corresponds to a certification area, plus at least one (1) year of qualified work experience or relevant volunteer experience in the same field. Volunteer experience must be verified through documentation and/or references.
- (C) At least three (3) years of qualified work experience or relevant volunteer experience in a field that corresponds to an area of certification, or a combination of relevant work and volunteer experience totaling at least three (3) years, plus a written recommendation from an employer or volunteer coordinator.
- (D) Successful completion of a relevant professional exam (e.g. accountancy, nursing).
- (E) Publication of a relevant article in a peer-reviewed academic journal or trade journal.
- (F) Other documentable means of demonstrating competency, subject to the approval of the State Department of Education.

(43) **Intent to earn standard certification.** The applicant declares the intention to earn standard certification by means of an alternative placement program that meets the requirements of 70 O.S. § 6-122.3 in not more than three (3) years; An applicant shall be deemed to have declared their intent to earn standard certification through submitting a completed application for alternative certification.

(54) **Teacher competency examinations.** The applicant has passed all of the following teacher competency examinations:

- (A) The Oklahoma General Education Test (OGET); and
- (B) The Oklahoma Subject Area Test (OSAT) in the each area of specialization for which certification is sought;

(65) **Intent to serve as a public school teacher.** The applicant declares their intention to serve as a teacher at an Oklahoma public school. An applicant shall be deemed to have declared their intent to seek employment at an accredited Oklahoma public school district through submitting a completed application for alternative certification. ~~provides one of the following types of documentation:~~

- ~~(A) A letter from an accredited Oklahoma public school district offering employment to the applicant in the area of specialization for which the applicant seeks certification that is conditioned upon the applicant's enrollment in an alternative certification program approved by the State Board of Education; or~~
- ~~(B) A letter from the applicant declaring the applicant's intention to seek employment as a teacher in an Oklahoma public school district accredited by the Oklahoma State Department of Education; and~~

~~(7) The applicant has received a favorable recommendation for certification from the Teacher Competency Review Panel (TCRP) for evaluation of the applicant's qualifications and career accomplishments.~~

(b) **Requirements for enrollment in an alternative certification program.** As a prerequisite to enrollment in an alternative placement program set forth in 70 O.S. § 6-122.3, applicants shall meet all of the following requirements;

- (1) The applicant has never been denied admittance to a teacher education program approved by the Oklahoma State Regents for Higher Education, the North Central



Association of Colleges and Schools and by the Oklahoma Commission for **Teacher Preparation Educational Quality and Accountability** to offer teacher education programs; and has never been enrolled in and subsequently failed courses necessary to successfully meet the minimum requirements of the program;

(2) The applicant has on file with the director of teacher education at an Oklahoma institution of higher education a plan for meeting standard certification requirements within three (3) years; and

(3) The applicant is participating in the teacher residency program set forth in 70 O.S. § 6-195, ~~unless the residency program has been suspended for lack of funding.~~

**(c) Requirements for professional education instruction.** Participants in alternative placement programs as addressed in subsection (b) must complete between six (6) and eighteen (18) credit hours of professional education instruction, or between ninety (90) and two hundred seventy (270) clock hours of school district-approved professional development, with the minimum hours of instruction required dependent on the applicant's prior level of education and/or experience. Professional education requirements must be completed within three (3) years after entering the Alternative Placement program. For all participants, professional education instruction must include at least one college credit course addressing pedagogical principles and at least one college credit course addressing classroom management. For each year of documented experience in the relevant certification area, a participant's total required professional education may be reduced by three (3) credit hours or forty-five (45) clock hours, provided all participants must complete at least six (6) credit hours or ninety (90) clock hours of professional education instruction. Minimum required instructional hours shall be determined as follows:

(1) For alternative placement program participants who hold a terminal degree, six (6) credit hours or ninety (90) clock hours of professional education instruction are required.

(2) For alternative placement program participants who hold a non-terminal degree beyond a baccalaureate degree, twelve (12) credit hours or one hundred eighty (180) clock hours of professional education instruction are required.

(3) For alternative placement program participants who hold a baccalaureate degree, eighteen (18) credit hours or two hundred seventy (270) clock hours of professional education instruction are required.

**(ed) Issuance of standard ~~alternative~~ teaching certificates.** The State Department of Education shall issue a standard teaching certificate to an individual who successfully completes all of the requirements set forth in (a), ~~and (b)~~, and (c) of this Section within three (3) years of the date of issuance of the applicant's provisional alternative teaching certificate and meets all of the following requirements:

(1) The applicant has passed the Oklahoma Professional Teaching Exam (OPTE) for either elementary/middle level or secondary level; and

(2) The applicant has completed all professional education requirements of the alternative placement program set forth in 70 O.S. § 6-122.3 and the administrative rules and/or adopted policies of the State Board of Education.

**(de) No student teaching experience required.** Student teaching and/or pre-student teaching field experience shall not be required of alternative program applicants as a condition of receiving a provisional or standard certificate pursuant to the provisions of this Section.

**(f) Criminal history record check.** Prior to employing an alternatively certified teacher, the

district board of education shall request a criminal history record check of the individual under the provisions of 70 O.S. § 5-142.

(eg) **State Board of Education exceptions.** In accordance with the requirements of 70 O.S. § 6-122.3, the State Board of Education may grant a waiver or exception to any of the requirements of this Section and may grant a certificate upon demonstration of specific competency in the subject area of specialization by the applicant. An applicant for alternative certification who does not have at least two (2) years of relevant work experience, but demonstrates competency in the subject area in which certification is sought, may request an exception to the work experience requirement of 70 O.S. § 6-122.3.

## RULE IMPACT STATEMENT

### **210:20-9-110. Alternative placement teaching certificates [AMENDED]**

- a. **What is the purpose of the proposed rule change?**  
House Bill 3025 (2016) amended the qualifications and requirements for Alternative Placement Certification, and the rule addressing Alternative Placement teaching certificates must be updated accordingly. Applicants were historically required to have completed a college major corresponding to an area of certification, but that is no longer a requirement. Applicants must now (1) hold a college degree and (2) demonstrate competency in an area of certification, and the rule provides several different means of demonstrating subject competency. Options for documenting subject area competency include completion of an academic major, relevant work and/or volunteer experience, publication in an academic or trade journal, or other means for demonstrating competency subject to the approval of the State Department of Education. Requirements for participants to complete professional education instruction are also addressed.
- b. **What classes of persons will be affected by the proposed rule change and what classes of persons will bear the costs of the proposed rule change?**  
The proposed changes will affect applicants for/participants in the alternative certification program, school districts, and the State Department of Education.
- c. **What classes of persons will benefit from the proposed rule change?**  
The proposed changes will benefit applicants for/participants in the alternative certification program and school districts.
- 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:** December 6, 2016

**STATUTORY AUTHORITY FOR 210:20-9-110**

**Oklahoma Statutes**

**Title 70. Schools**

**Chapter 1 - School Code of 1971**

**Article VI - Teachers**

**Section 6-122.3 - Eligibility for Grant of Alternative Placement Teaching Certificate**

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A. The State Board of Education shall grant an alternative placement teaching certificate to a person who makes application to the Board and meets the following criteria:

1. a. holds at least a baccalaureate degree from an institution whose accreditation is recognized by the Oklahoma State Regents for Higher Education and has attained a retention grade point average of not less than 2.50 on a 4.0 scale, or

b. has successfully completed a terminal degree, such as a doctorate of philosophy, a doctorate in education, professional doctorates, a master of fine arts degree or a master of library science degree, from an institution accredited by a national or regional accrediting agency which is recognized by the Secretary of the United States Department of Education. The Oklahoma State Regents for Higher Education shall be consulted to verify other terminal degrees, or

c. holds at least a baccalaureate degree from an institution whose accreditation is recognized by the Oklahoma State Regents for Higher Education and has qualified work experience in a field that corresponds to an area of certification as determined by the State Board of Education, and

d. in addition to the requirements of subparagraphs a, b and c of this paragraph, has demonstrated competency or completed a major in a field that corresponds to an area of specialization for an Elementary-Secondary Certificate or a Secondary Certificate as determined by the State Board of Education or a vocational-technical certificate as recommended by the Oklahoma Department of Career and Technology Education;

2. Declares the intention to earn standard certification by means of an alternative placement program in not more than three (3) years. The State Board of Education shall determine the subject matter and the number of clock or semester hours required for the professional education component for each person making application for an alternative placement teaching certificate based on the criteria of paragraph 1 of this subsection.

The State Board of Education shall establish a core minimum of six (6) semester hours or ninety (90) clock hours and a maximum of eighteen (18) semester hours or two hundred seventy (270) clock hours for the professional education component.

The requirements set forth in this subsection shall exclude all student teaching requirements pursuant to the provisions of subsection E of this section;

3. Has passed the general education and subject area portions of the competency examination required in Section 6-187 of this title in the area of specialization for which certification is sought; and

4. Either presents a document from an accredited public school district in this state offering employment in the area of specialization for which certification is sought on condition that the person enroll in an alternative placement program approved by the State Board of Education or declares the intention to seek employment as a teacher at an accredited public school district in this state. The certificate granted pursuant to this subsection shall be considered a "valid certificate of qualification" for the purposes of

Sections 6-107 and 6-108 of this title, and the holder of the certificate shall be considered a resident teacher for the purposes of Section 6-195 of this title.

B. An alternative placement teaching certificate shall be renewed for not more than a maximum of three (3) years upon presentation of a document from an accredited public school district in this state offering renewed employment in the same area of specialization and a document from a teacher education institution verifying satisfactory progress in an appropriate alternative placement program.

C. Persons enrolled in an alternative placement program shall:

1. Have never been denied admittance to a teacher education program approved by the Oklahoma State Regents for Higher Education, the North Central Association of Colleges and Schools and by the Oklahoma Commission for Teacher Preparation to offer teacher education programs, nor have enrolled in and subsequently failed courses necessary to successfully meet the minimum requirements of the program, except those persons who hold a certificate;

2. Have on file with the director of teacher education at an Oklahoma institution of higher education a plan for meeting standard certification requirements within three (3) years;

3. Participate in the Residency Program, established in Section 6-195 of this title and have the same duties and responsibilities as other resident teachers, except those persons who hold a certificate; and

4. Except for persons participating in the federal Troops To Teachers Program, document at least two (2) years of work experience which is related to the subject area of specialization if the person has only a baccalaureate degree with no postbaccalaureate work in a related area.

D. The State Board of Education may grant an exception to the requirements for certification and, upon demonstration by an individual of specific competency in the subject area of specialization, may grant a certificate to the individual. The State Board may establish other requirements necessary to grant exceptions.

E. Student teaching and a prestudent teaching field experience shall not be required of alternative placement program participants for standard certification.

F. The State Board of Education shall promulgate rules authorizing adjunct teachers who shall be persons with distinguished qualifications in their field. Adjunct teachers shall not be required to meet standard certification. Adjunct teachers shall be limited to two hundred seventy (270) clock hours of classroom teaching per semester.

G. Each teacher education institution shall provide the Oklahoma Commission for Teacher Preparation an annual report of information as specified by the Commission regarding participation in the alternative placement programs offered by the institution.

H. The Oklahoma Commission for Teacher Preparation shall not accredit, renew the accreditation of, or otherwise approve any teacher education program of any institution of higher education in this state that has not implemented alternative placement programs in at least four areas of specialization, including mathematics, science and a foreign language. Each institution shall allow individuals who meet the criteria of subsections A and C of this section to be:

1. Admitted to an alternative placement program without further qualification; and

2. Offered the opportunity to complete the requirements for standard certification set forth in subsection A of this section during the summer preceding and the summer following the first year of teaching with an

alternative placement teaching certificate. Any person seeking standard certification through an alternative placement program shall be permitted to take necessary courses during regular semesters if offered.

I. The criteria specified in subsection H of this section can be met through a cooperative arrangement entered into by two or more institutions of higher education.

## PROPOSED RULE

### TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 30. SCHOOL FACILITIES AND TRANSPORTATION SUBCHAPTER 5. TRANSPORTATION

#### **210:30-5-8. School bus driver certification**

(a) **General criteria.**

- (1) Pursuant to the authority granted to the State Board of Education in 70 O.S. § 3-104(6) to regulate school bus drivers and 47 O.S. § 15-109, no board of education shall have authority to enter into any written contract with a school bus driver who does not hold a valid Oklahoma School Bus Driver's Certificate issued by the State Board of Education authorizing said bus driver to operate a school bus within the State of Oklahoma.
- (2) In order to obtain and maintain a standard Oklahoma School Bus Driver's Certificate, the State Board of Education requires all public school bus drivers to:
  - (A) Successfully complete a school bus driver training course approved by the State Department of Education;
  - (B) Possess and maintain a valid Commercial Driver's License (CDL) issued by the Oklahoma State Department of Public Safety, which includes the following endorsements required by 70 O.S. § 6-110.1 in accordance with the qualifications determined by the Department of Public Safety:
    - (i) A school bus "S" endorsement; and
    - (ii) For drivers of vehicles designed to transport sixteen (16) or more passengers (including the driver), a passenger "P" endorsement; and
  - (C) Comply with all other health and safety qualifications set forth in this Section.
- (3) No school district board of education shall assign or allow to be assigned any school bus driving duty involving the transportation of students to any employee or volunteer, regardless of contract status (e.g. coach, teacher, mechanic), unless that person has all required supporting documentation required for school bus drivers on file with the school district and a valid Oklahoma State Department of Education School Bus Driving Certificate as provided for in this section.
- (4) The State Board of Education recognizes the substantial public interest in safe school bus transportation of children. Therefore, in addition to meeting the vision standards required to obtain a CDL from the Department of Public Safety, in order to obtain a standard or emergency Oklahoma School Bus Driver's Certificate, all school bus drivers must have:
  - (A) A visual acuity of not less than twenty-four (20/40) (Snellen) in each eye with or without corrective lenses; and
  - (B) Not less than twenty-four (20/40) (Snellen) with both eyes with or without corrective lenses; and
  - (C) A minimum field of vision of 70 degrees horizontal median vision in each eye.
- (5) The use of tobacco by a school bus driver is not permitted during the operation of the bus while hauling pupils. The use of any intoxicating or non-intoxicating alcoholic beverage by the driver eight (8) hours prior to or during the operation of a school bus is strictly prohibited. The use of any controlled dangerous substance seventy-two (72) hours prior to or during the operation of a school bus is strictly prohibited. The possession of any controlled dangerous substance on a school bus is strictly prohibited.



(6) All school bus drivers shall have an annual health certificate signed by a physician licensed by this state, or a nurse or physician assistant who is licensed to practice in this state and who is working under the supervision of a medical doctor (MD) or doctor of osteopathy (DO) licensed by this state. The certificate shall be filed in the office of the chief administrative officer of the local school district or designee of the chief administrative officer attesting that such physician, or other authorized health care professional working under the supervision of a physician, has examined the applicant and that the applicant has no sign or symptoms of ill health, and is otherwise, from the observation of such physician or other authorized health care professional, physically and mentally capable of safely operating a school bus. As an alternative to the annual physical examination requirements for school bus drivers, school districts may adopt a policy that utilizes a biannual physical examination, provided the examination is in compliance with the physical qualifications and examination requirements at Subpart E of the Federal Motor Carrier Safety Regulations, 49 CFR §§ 391.41 to 391.50.

(7) Substitute and activity school bus drivers shall meet all the requirements prescribed for regular bus drivers.

(8) At a minimum, the chief administrative officer of the local school district or designee of the chief administrative officer shall conduct an annual driving record check of all school bus drivers, including substitute and activity drivers. The Oklahoma State Department of Education shall be immediately notified of any violation(s) that make a school bus driver ineligible to hold an Oklahoma School Bus Driver's Certificate.

(9) The State Board of Education shall revoke the bus driver's certificate of any holder who fails to comply with the provisions of this Section.

(10) School districts who fail to comply with the provisions of this section shall be subject to penalty pursuant to 210:30-5-2.

**(b) School bus driver certificate requirements.**

(1) The chief administrative officer of the local school district or designee of the chief administrative officer shall certify to the State Department of Education that each applicant submitted for Standard Five-Year Certification:

(A) Is at least 18 years of age;

(B) Has successfully completed a special school bus drivers' course approved by the State Department of Education;

(C) Holds a valid Commercial Driver's license (CDL) appropriate for the type of vehicle driven with the proper endorsements required by the Department of Public Safety;

(D) Has not been convicted of a felony, or pled guilty or nolo contendere to a felony during the last ten years; and

(E) Has passed a driving record check, and no certificate shall be issued to any person who, within the preceding three (3) years:

(i) Has had a license suspended or revoked, canceled or withdrawn pursuant to the Implied Consent Laws at 47 O.S. § 751 et seq.;

(ii) Has a conviction for a violation of 47 O.S. § 11-902 which includes driving, operating or being in actual physical control of a vehicle while under the influence of alcohol or any intoxicating drug;

(iii) Has been convicted or plead guilty to a violation of 47 O.S. § 761, operating a motor vehicle while impaired by consumption of alcohol;

- (iv) Has been convicted of any municipal violation of driving under the influence of alcohol or drugs or operating a motor vehicle while impaired or being in actual physical control of a motor vehicle while impaired; or
  - (v) Has had four (4) or more traffic violations (excluding parking violations).
- (2) The chief administrative officer of the local school district or designee of the chief administrative officer shall certify to the State Department of Education that the applicant for an Emergency One-Year School Bus Driver Certificate (Not Renewable):
  - (A) Is at least 18 years of age;
  - (B) Holds a valid Commercial Driver's License with the proper endorsements required by the Department of Public Safety; and
  - (C) Has passed a driving record check and meets the requirements set forth in (1)(D)-(E) of this subsection.
- (3) Requirements for Renewal of the Standard Five-Year Certificate include:
  - (A) Every five (5) years, each driver shall have successfully completed four (4) hours per year of inservice training approved by the State Department of Education;
  - (B) The chief administrative officer of the local school district or designee of the chief administrative officer shall certify to the State Department of Education that the applicant meets all requirements for standard certification; [47 O.S. § 15-109]
  - (C) Each applicant has a health certificate on file signed by a licensed physician, or a nurse or physician assistant who is licensed to practice in this state and who is working under the supervision of a medical doctor (MD) or doctor of osteopathy (DO), and meets all vision requirements;
  - (D) Each applicant has not been convicted or pled guilty to a felony in the last ten (10) years;
  - (E) The applicant's driving record has been checked and meets all other State Board of Education requirements for certification; and
  - (F) Notwithstanding the provisions of this paragraph, in order to renew any school bus driver certificate which has been expired for more than one year, a driver must successfully complete a renewal course approved by the State Department of Education. Such a course must, at a minimum, include topics on:
    - (i) Railroad crossings;
    - (ii) Emergency evacuation procedures;
    - (iii) Mirror placement;
    - (iv) Pick-up and drop-off procedures;
    - (v) Sound driving practices; and
    - (vi) Accident procedures.
- (4) During the period that the application for issuance of a new or renewed school bus driver certificate is pending, applicants must immediately notify the State Department of Education Transportation Section of any arrest, citation, or conviction of any disqualifying offense set forth in (1)(E) of this subsection; any moving violation; or any involvement in a traffic accident.
- (c) **Certification of drivers with a monocular vision condition.**
  - (1) Individuals who wish to obtain an Oklahoma School Bus Driver's Certificate and meet all other requirements of this Section, but cannot meet the vision requirements in (a)(3) of this Section in both eyes due to the presence of a monocular vision condition, may obtain an exemption from the vision requirements of (a)(3) of this Section by providing evidence

showing that Applicant is exempt from the requirements of 49 C.F.R. § 391.41, has fully adapted to the monocular vision condition, and is capable of safely operating a school bus for the purpose of transporting school children. Such evidence must consist of documentation for each one of the following:

(A) Documentation establishing that Applicant's vision condition has been present and unchanged for three years or more prior to the application for an exemption from the vision requirements of (a)(3) of this Section;

(B) Documentation establishing that Applicant has experience in safely operating a Commercial Motor Vehicle with the monocular vision condition within the three (3) year period immediately preceding the date of the application for an exemption from the vision requirements of (a)(3) of this Section; and

(C) One of the following:

(i) An authority letter issued by the Oklahoma State Department of Public Safety (DPS) qualifying the individual as exempt from the vision requirements of 49 C.F.R. § 391.41; or

(ii) A letter or waiver issued by the Federal Motor Carrier Safety Administration (FMCSA) documenting that the applicant has received a waiver from the vision requirements of 49 C.F.R. § 391.41.

(2) Documentation of the evidence required by (1)(A) of this subsection shall consist of documentation for each one of the following:

(A) Applicant must have been examined by a licensed ophthalmologist or optometrist within sixty (60) days prior to obtaining the Commercial Driver License and within one year of applying for the State Department of Education monocular vision exemption. Applicant must provide the State Department of Education a copy of the official Oklahoma State Department of Public Safety vision form documenting the examination.

(B) In addition, if not included on the official Oklahoma State Department of Public Safety vision form, Applicant must submit additional documentation, in which a licensed ophthalmologist or optometrist identifies and describes:

(i) The nature of the vision deficiency, including how long the individual has had the deficiency;

(ii) The date of the examination;

(iii) Whether the applicant's vision is stable;

(iv) The visual acuity of each eye, corrected and uncorrected;

(v) The field of vision of each eye, including central and peripheral fields, testing to at least 120 in the horizontal. (Formal perimetry is required. The doctor must submit the formal perimetry test for each eye and interpret the results in degrees of field of vision.);

(vi) Whether the applicant has the ability to recognize the colors of traffic control signals and devices showing red, green, and amber; and

(vii) The ophthalmologist/optometrist's medical opinion as to whether the individual has sufficient vision to perform the driving tasks required to operate a school bus.

(3) Documentation of the evidence required by (1)(B) of this subsection shall consist of each of the following:

(A) Applicant must provide documentation of experience in operating a commercial motor vehicle (as defined by 47 O.S. §§ 1-107.1, 1-107.2, or 1-107.3) while the

Applicant has a monocular vision condition for the three (3) year period immediately preceding the date of this application which includes the following information:

- (i) For any applicant employed as a driver of a commercial motor vehicle, the DOT # or ICC# of Applicant's employer(s); for any applicant with driving experience as an independent motor carrier, a list of names, addresses, and phone numbers of customers for whom Applicant performed transportation services through the operation of a commercial motor vehicle on public highways;
  - (ii) A list of all dates (month/date/year) during the three (3) year period for which Applicant performed services driving and/or operating a commercial motor vehicle, and the number of hours driven per week; and
  - (iii) A list of all types of commercial motor vehicles operated by Applicant and gross vehicle weight rating ("GVWR") of each vehicle operated by Applicant;
- (B) Acceptable forms of required documentation of the Applicant's driving experience described in (3) of this paragraph may include either:
- (i) A signed, notarized statement from the individual's present or past employer(s) on company letterhead; or
  - (ii) An affidavit by the Applicant.
- (C) Applicant shall provide the State Department of Education with a Motor Vehicle Report demonstrating that applicant's driving record during the three (3) year period prior to the date the application is filed:
- (i) Contains no suspensions or revocations of Applicant's driver's license for the operation of any motor vehicle (including Applicant's personal vehicle);
  - (ii) Contains no record of involvement in an accident involving negligence attributable to the monocular vision condition;
  - (iii) Contains no record of a serious traffic offense attributable to the monocular vision condition (e.g., erratic unsafe lane changes, following too closely, etc.)

(4) Individuals who receive the vision exemption to drive a bus for an accredited school in Oklahoma must submit to their employer a copy of the documentation required by (1)(C) of this subsection.

**(d) Certification of drivers with insulin-dependent diabetes mellitus.**

(1) Any person with diabetes mellitus requiring insulin by injection shall not be eligible for a school bus certificate unless the individual meets all other requirements of (a) and (b) of this Section, and the individual possesses and maintains either:

- (A) An authority letter issued by the Oklahoma State Department of Public Safety (DPS) qualifying the individual as exempt from the physical requirements of 49 C.F.R. § 391.41; or
- (B) A letter or waiver issued by the Federal Motor Carrier Safety Administration (FMCSA) documenting that the applicant has received a waiver from the physical requirements of 49 C.F.R. § 391.41.

(2) Upon hire, exempted individuals will be required to agree to and comply with the following conditions:

- (A) Blood glucose levels shall be self-monitored one (1) hour prior to driving and at least once every four (4) hours while driving a school bus or on duty by using a portable glucose monitoring device with a computerized memory, and take corrective action if necessary;

- (B) The individual shall maintain blood glucose logs, three months from the current date (or the date that insulin use began, whichever is shorter).
    - (i) If the employing district has cause to require a medical evaluation as authorized by (5) of this subsection, logs maintained pursuant to this subsection must be provided to the Oklahoma board certified medical doctor (MD) or doctor of osteopathy (DO) treating the individual.
    - (ii) Blood glucose logs must be created by an electronic blood glucose meter that stores every reading, records date and time of reading, and from which data can be downloaded and printed.
  - (C) The individual shall carry a source of rapidly absorbable glucose at all times while operating a school bus; and
  - (D) The individual shall meet the annual physical examination requirements for drivers with metabolic diseases set forth by the Department of Public Safety in OAC 595:10-5.
  - (E) The individual shall notify the Department of Public Safety and the State Department of Education of any changes in physical or mental ailments or conditions which may cause loss of control or partial control or may otherwise render the individual incapable of properly controlling a school bus.
- (3) Superintendents or their designees who hire individuals who hold a diabetes exemption certification must keep on file in a separate medical record:
- (A) A current copy of the diabetes exemption certificate of the individual;
  - (B) The contact information of the board certified medical doctor (MD) or doctor of osteopathy (DO) who is treating the individual;
  - (C) Record of the annual medical certification issued by the board certified medical doctor (MD) or doctor of osteopathy (DO) pursuant to (1)(B) of this subsection; and
  - (D) Copies of any medical certifications obtained pursuant to (5) of this subsection.
- (4) An individual holding a diabetes exemption certificate shall immediately notify the superintendent (or the superintendent's designee) of the school district in which the individual is employed if the individual's blood glucose level is outside of a range of 100 mg/dl to 400 mg/dl one (1) hour prior to driving. Upon receipt of such notice, the superintendent or the superintendent's designee shall not allow the individual holding the diabetes exemption certificate to drive. If the individual's blood glucose level is below 100 mg/dl or above 400 mg/dl, then the driver cannot operate a school bus or transport school children as an employee of any school district until the blood glucose measure is within the target range.
- (5) In the event an individual holding a diabetes exemption is involved in an incident directly caused by the individual's diabetic condition, the individual cannot operate a school bus or transport school children as an employee of any school district until the individual has been certified in writing as medically able to safely resume work related duties by the Oklahoma board certified medical doctor (MD) or doctor of osteopathy (DO) by whom they are being treated.

## RULE IMPACT STATEMENT

### 210:30-5-8. School bus driver certification [AMENDED]

- a. **What is the purpose of the proposed rule change?**  
The rule regarding school bus driver certification is being amended to provide that the annual health certificate required for school bus drivers may be signed by qualified health professionals other than physicians. The rule currently limits the health certificate signature to physicians only, but in practice, it is often nurses and physician assistants who perform routine physical exams such as the annual health certification. School districts have requested expansion of the authorized signatures for bus drivers' annual health certificates to include a licensed nurse or physician assistant working under the supervision of a licensed physician.
- b. **What classes of persons will be affected by the proposed rule change and what classes of persons will bear the costs of the proposed rule change?**  
The proposed changes will affect school bus drivers and school districts.
- c. **What classes of persons will benefit from the proposed rule change?**  
The proposed changes will benefit school bus drivers and school districts.
- 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:** December 6, 2016

**STATUTORY AUTHORITY FOR 210:30-5-8**

**Oklahoma Statutes**

**Title 70. Schools**

**Chapter 1 - School Code of 1971**

**Article III - State Department of Education**

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

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The supervision of the public school system of Oklahoma shall be vested in the State Board of Education and, subject to limitations otherwise provided by law, the State Board of Education shall:

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6. Have authority in matters pertaining to the licensure and certification of persons for instructional, supervisory and administrative positions and services in the public schools of the state subject to the provisions of Section 6-184 of this title, and shall formulate rules governing the issuance and revocation of certificates for superintendents of schools, principals, supervisors, librarians, clerical employees, school nurses, school bus drivers, visiting teachers, classroom teachers and for other personnel performing instructional, administrative and supervisory services, but not including members of boards of education and other employees who do not work directly with pupils, and may charge and collect reasonable fees for the issuance of such certificates:

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**Oklahoma Statutes**

**Title 47. Motor Vehicles**

**Chapter 15 - Respective Powers of State and Local Authorities**

**Section 15-109 - Regulations Relative to School Buses**

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A. The State Board of Education in accordance with the Federal Motor Vehicle Safety Standards, 49 C.F.R., Part 571, shall adopt and enforce regulations not inconsistent with this act to govern the design and operation of all school buses used for the transportation of school children when owned and operated by any school district or privately owned and operated under contract with any school district in this state, and such regulations shall by reference be made a part of any such contract with a school district. Every school district, its officers and employees, and every person employed under contract by a school district shall be subject to said regulations.

B. Any officer or employee of any school district who violates any of said regulations or fails to include obligation to comply with said regulations in any contract executed by him on behalf of a school district shall be guilty of misconduct and subject to removal from office or employment. Any person operating a school bus under contract with a school district who fails to comply with any of said regulations shall be guilty of a breach of contract and such contract shall be canceled after notice and hearing by the responsible officers of such school district.