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OKLAHOMA STATE DEPARTMENT *of* EDUCATION

MEMORANDUM

TO: The Honorable Members of the State Board of Education
FROM: Joy Hofmeister
DATE: November 25, 2019
SUBJECT: Administrative Rule Promulgation

The State Board of Education will be taking action at the November meeting on the following proposed administrative rule changes 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 1. General Provisions
210:1-1-2. Definitions [AMENDED]

This rule that defines terms used in the "State Board of Education" chapter of the OSDE administrative rules was last amended in 1998, and is being updated to align appropriately with current law and State Department of Education regulations.

- (2) Title 210. State Department of Education
Chapter 10. School Administration and Instructional Services
Subchapter 13. Student Assessment
210:10-13-20. Academic Performance Index [REVOKED]

The Academic Performance Index (API) rule from 2002 is being revoked, due to the API system having been replaced by the current school accountability system pursuant to the federal *Every Student Succeeds Act* (ESSA). Public school accountability in Oklahoma is now governed by 70 O.S. § 1210.545, and the framework described by the API rule is no longer in place.

- (3) Title 210. State Department of Education
Chapter 10. School Administration and Instructional Services
Subchapter 13. Student Assessment
210:10-13-24. Medical exemptions from chronic absenteeism [REVOKED]

House Bill 1988 (2019) amended 70 O.S. § 1210.545 to eliminate the mandate for the State Board of Education to promulgate rules providing for a medical exemption from the chronic absenteeism provision of the Oklahoma school accountability system. This rule that had placed responsibility at the state level for determining eligibility for chronic absenteeism medical exemptions is being revoked accordingly. (A new proposed rule authorizing school districts and charter schools to establish their own chronic absenteeism medical exemption policies within State Board-approved guidelines is currently open for public comment and is expected to be presented to the Board for consideration in December 2019.)

TEXT OF PROPOSED RULE CHANGE

(Proposed new content is underlined.

Old content proposed for deletion is shown in ~~strike~~through.)

TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 1. STATE BOARD OF EDUCATION SUBCHAPTER 1. GENERAL PROVISIONS

210:1-1-2. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

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

"Nonreemployment" means the nonrenewal of a teacher's contract upon expiration of the contract (end of school term).

"Policies" means principles adopted by the State Board of Education (Board) to help it identify and select actions to guide and determine its present and future decisions.

"Policy of evaluation" means ~~the development of a document~~ a school district's policy, developed pursuant to 70 O.S. § 6-101.10, describing the total teacher and administrator evaluation system including the purposes of evaluating, the criteria to be used as standards, and the procedure to be followed in implementing the evaluation process.

"Procedures" means actions specified by rules and regulations to be followed in carrying out a policy or law. It may also mean processes used in the implementation of a program.

"Professional development program" means the program mandated by ~~this act~~ 70 O.S. § 6-194 for the continuous improvement and enrichment of the certified ~~and licensed~~ teachers and administrators of this state.

"Sexual conduct" means ~~the soliciting, or imposing, of criminal activity when such soliciting or imposing occurs during school or school-related activities, or when such soliciting or imposing occurs during nonschool times and is directed toward a student. (70-6-103.15)~~

"Revocation" or "revoked" means the invalidation of a teacher or administrator certification by the State Board of Education pursuant to due process procedures provided for by applicable laws and regulations.

"Suspension" or "suspended" means ~~the temporary discontinuance of a teacher's teaching service or an administrator's administrative duties~~ temporary discontinuance of a teacher or administrator certification pursuant to 75 O.S. § 314, upon a finding by the State Board of Education that public health, safety, or welfare imperatively requires emergency action.

"Teacher (Certified)" means any ~~teacher~~ individual who has been issued a certificate by the Board in accordance with the rules and regulations of the Board, and who falls under the definition of "Teacher" at 70 O.S. § 1-116.

"Teacher (Licensed)" means ~~any person who holds a valid license to teach, issued by the State Board of Education in accordance with the rules and regulations of the Board.~~

"Teacher (Residency Year)" means ~~any licensed teacher who is employed in a local school to serve as a classroom teacher under the guidance and assistance of a mentor teacher and~~

~~a residency committee. Any such person shall have completed the program of the college or school of education from the accredited institution of higher learning from which the person has been graduated.~~

"Student Teacher teacher(Student)" means any student who is enrolled in an institution of higher learning approved by the State Board of Education for teacher training and who is jointly assigned by such institution of higher learning and a school district's board of education to perform practice teaching under the direction of a regularly employed and certified teacher. A student teacher, while serving ~~as a nonsalaried~~an internship under the supervision of a certified teacher, shall be accorded the same protection of the laws that accorded the certified teacher.

RULE IMPACT STATEMENT 210:1-1-2

"Definitions" [AMENDED]

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

The rule setting out definitions for the State Board of Education chapter of Title 210, last amended in 1998, is being updated to align appropriately with current law and State Department of Education regulations.

b. **What classes of persons will be affected by the proposed rule change and what classes of persons will bear the costs of the proposed rule change?**

The rule change will affect school districts and certified educators, the entities that the definitions in the State Board of Education chapter of the administrative rules apply to.

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

The rule change will benefit school districts by providing accurate guidance on the meaning of some common terms used in education law. The rule change will benefit certified school personnel by ensuring the rules governing due process actions taken by the State Board of Education regarding teaching or administrative certificates reflect terminology appropriate to current laws and regulations.

d. **What is the probable economic impact of the proposed rule upon affected classes of persons or political subdivisions?**

The agency does not anticipate any economic impact upon political subdivisions or affected classes as a result of implementation of the proposed rule change at this time.

e. **What is the probable cost to the agency to implement and enforce the proposed rule change?**

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:** October 11, 2019

STATUTORY AUTHORITY FOR 210:1-1-2

Oklahoma Statutes

Title 70. Schools

Chapter 1 - School Code of 1971

Article I - Scope, Organization, and Definitions

Section 1-116 - Positions in School System - Definitions

As used in this title:

1. "Teacher" means any person who is employed to serve as district superintendent, principal, supervisor, a counselor, librarian, school nurse or classroom teacher or in any other instructional, supervisory or administrative capacity. The person shall not be deemed qualified unless the person holds a valid certificate issued by and in accordance with the rules of the State Board of Education or the rules of the State Board of Career and Technology Education, to perform the particular services for which the person is employed;

2. "Superintendent" or "superintendent of schools" means the executive officer of the board of education and the administrative head of the school system of a district maintaining an accredited school, provided the person holds an administrator's certificate recognized by the State Board of Education;

3. "Principal" means any person other than a district superintendent of schools having supervisory or administrative authority over any school or school building having two or more teachers. A teaching principal shall be a principal who devotes at least one-half (1/2) the time school is in session to classroom teaching. Teaching principals shall be required to hold administrative certificates;

4. "Teachers" means, for purposes of complying with the State Aid Law and other statutes, but not any other provision of law, which apportion money on the basis of teaching units or the number of teachers employed or qualified, all persons holding proper certificates and connected in any capacity with the instruction of pupils;

5. "Inductee" means any certified teacher who is employed in a local school to serve as a classroom teacher under the guidance and assistance of a mentor teacher or teachers;

6. "Student teacher" means any student who is enrolled in an institution of higher learning approved by the State Board of Education for teacher training and who is jointly assigned by the institution of higher learning and a board of education of a school district to perform practice teaching under the direction of a regularly employed and certified teacher. A student teacher, while serving an internship under the supervision of a certified teacher, shall be accorded the same protection of the laws as that accorded the certified teacher;

7. "School nurse" means a person employed full time by a board of education who is a registered nurse licensed by the Oklahoma State Board of Nurse Registration and Nursing Education and is certified the same as a teacher by the State Board of Education. Provided, that any person who is employed as a full-time school nurse in any school district in Oklahoma who is not registered on the effective date of this act may continue to serve in the same capacity; however, such person shall, under rules adopted by the State Board of Education, attend classes in nursing and prepare to become registered.

A school nurse employed by a board of education shall be accorded the same protection of laws and all other benefits accorded a certified teacher; and

8. "Support employee" means an employee who provides those services which are not performed by certified teachers, principals, superintendents or administrators and which are necessary for the efficient and satisfactory functioning of a school district.

STATUTORY AUTHORITY FOR 210:1-1-2

Oklahoma Statutes

Title 70. Schools

Chapter 1 - School Code of 1971

Evaluation of Teachers and Administrators - Dismissal

Article VI - Teachers

Section 6-101.10 - Establishment of Written Policy of Evaluation

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

1. Be based upon a set of minimum criteria developed by the State Board of Education, which shall be revised and based upon the Oklahoma Teacher and Leader Effectiveness Evaluation System (TLE) developed by the State Board of Education as provided in [Section 6-101.16](#) of this title. The revisions to each policy of evaluation shall be phased in according to the following schedule:

a. for the 2014-2015, 2015-2016 and 2016-2017 school years, the evaluation rating of teachers and administrators shall be based on the qualitative component of the TLE. For the 2016-2017 school year, the State Department of Education shall work with school districts to develop individualized programs of professional development as described in subsection B of this section. However, nothing in this subparagraph shall preclude a school district with an average daily attendance of more than thirty-five thousand (35,000) from continuing to use quantitative components which the district has incorporated at its own expense prior to the 2015-2016 school year into its evaluation system of teachers and administrators, as defined by the district's written policy,

b. for evaluations of teachers and administrators conducted during the 2017-2018 school year, and each school year thereafter, school districts shall incorporate and put into operation the qualitative component of the TLE as provided for in subsection B of [Section 6-101.16](#) of this title into the evaluations used in all school sites within the district. For the 2017-2018 school year, and each school year thereafter, teachers and administrators shall receive a district evaluation rating based on the components of the TLE as set forth in subsection B of [Section 6-101.16](#) of this title. For the 2017-2018 school year, school districts shall incorporate the individualized programs of professional development as described in subsection B of this section on a pilot program basis, and

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

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

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

4. Provide that every probationary teacher receive formative feedback from the evaluation process at least two times per school year, once during the fall semester and once during the spring semester;

STATUTORY AUTHORITY FOR 210:1-1-2

5. Provide that every teacher be evaluated once every year, except for career teachers receiving a district evaluation rating of "superior" or "highly effective" under the TLE who may be evaluated once every three (3) years; and

6. Provide that, except for superintendents of independent and elementary school districts and superintendents of area school districts who shall be evaluated by the school district board of education, all certified personnel shall be evaluated by a principal, assistant principal, designee of the principal, supervisor, content expert, department chair, peer committee or other trained persons or groups of persons designated by the school district board of education.

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

- a. establish an annual professional growth goal for the teacher or administrator that is developed by the teacher or administrator in collaboration with the evaluator,
- b. be tailored to address a specific area or criteria identified through the qualitative component of the TLE,
- c. allow the teacher or administrator to actively engage with learning practices that are evidence-based, researched practices that are correlated with increased student achievement, and
- d. be supported by resources that are easily available and supplied by the school district and the State Department of Education.

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

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

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

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

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

STATUTORY AUTHORITY FOR 210:1-1-2

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

F. The State Board of Education shall study continued implementation of the TLE to produce a system that promotes reflection and professional growth for teachers and leaders.

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

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

Oklahoma Statutes

Title 70. Schools

Chapter 1 - School Code of 1971

Article VI - Teachers

Section 6-103.15 - Repealed

Repealed by Laws 1989, 1st Extr. Sess., HB 1017, c. 2, § 122, eff. July 1, 1990

Oklahoma Statutes

Title 70. Schools

Chapter 1 - School Code of 1971

Article VI-A - Teacher Licensure and Certification

Section 6-194 - Professional Development Programs - Development and Adoption

A. The district boards of education of this state shall establish professional development programs for the certified teachers and administrators of the district. Programs shall be adopted by each board based upon recommendations of a professional development committee appointed by the board of education for the district. For the fiscal years ending June 30, 2011, and June 30, 2012, a school district board of education may elect not to adopt and offer a professional development program for certified teachers and administrators of the district. If a school district elects not to adopt and offer a professional development program, the district may expend any monies allocated for professional development for any purpose related to the support and maintenance of the school district as determined by the board of education of the school district.

B. Each professional development committee shall include classroom teachers, administrators, school counselors or licensed mental health providers, and parents, guardians or custodians of children in the school district and shall consult with a higher education faculty. A majority of the members of the professional development committee shall be composed of classroom teachers. The teacher members shall be selected by a designated administrator of the school district from a list of names submitted by the teachers in the school district. The members selected shall be subject to the approval of a majority vote of the teachers in the district.

C. In developing program recommendations, each professional development committee shall annually utilize a data-driven approach to analyze student data and determine district and school professional development needs. The professional development programs adopted shall be directed toward development of competencies and instructional strategies in the core curriculum areas for the following goals:

1. Increasing the academic performance data scores for the district and each school site;
2. Closing achievement gaps among student subgroups;

STATUTORY AUTHORITY FOR 210:1-1-2

3. Increasing student achievement as demonstrated on state-mandated tests and the ACT;
4. Increasing high school graduation rates; and
5. Decreasing college remediation rates.

Each program may also include components on classroom management and student discipline strategies, outreach to parents, guardians or custodians of students, special education, and racial and ethnic education, which all personnel defined as teachers in [Section 1-116](#) of this title shall be required to complete on a periodic basis. The State Board of Education shall provide guidelines to assist school districts in developing and implementing racial and ethnic education components into professional development programs.

D. At a minimum of once an academic year a program shall be offered which includes the following:

1. Training on recognition of child abuse and neglect;
2. Recognition of child sexual abuse;
3. Proper reporting of suspected abuse; and
4. Available resources.

E. One time per year, beginning in the 2009-2010 school year, training in the area of autism shall be offered and all resident teachers of students in early childhood programs through grade three shall be required to complete the autism training during the resident year and at least one time every three (3) years thereafter. All other teachers and education support professionals of students in early childhood programs through grade three shall be required to complete the autism training at least one time every three (3) years. The autism training shall include a minimum awareness of the characteristics of autistic children, resources available and an introduction to positive behavior supports to challenging behavior. Each adopted program shall allow school counselors to receive at least one-third (1/3) of the hours or credit required each year through programs or courses specifically designed for school counselors.

Districts are authorized to utilize any means for professional development that is not prohibited by law including, but not limited to, professional development provided by the district, any state agency, institution of higher education, or any private entity.

F. One time per year, beginning in the 2020-2021 school year, a dyslexia awareness program shall be offered. At a minimum, the program shall include:

1. Training in awareness of dyslexia characteristics in students;
2. Training in effective classroom instruction to meet the needs of students with dyslexia; and
3. Available dyslexia resources for teachers, students and parents.

G. Except as otherwise provided for in this subsection, each certified teacher in this state shall be required by the district board of education to meet the professional development requirements established by the board, or established through the negotiation process. Except as otherwise provided for in this subsection, the professional development requirements established by each board of education shall require every teacher to annually complete a minimum number of the total number of points required to maintain employment. Failure of any teacher to meet district board of education professional development requirements may be grounds for nonrenewal of such teacher's contract by the board. Such failure may also be grounds for nonconsideration of salary increments affecting the teacher. For the fiscal years ending June 30, 2011, and June 30, 2012, a certified teacher shall not be required to complete any points of the total number of professional development points required. Provided, a teacher may elect to complete some or all of the minimum number of points required for the two (2) fiscal years and any points completed shall be counted toward the total number of points required to maintain employment. If a teacher does not complete some or all of the minimum number of points required for one (1) or both fiscal years, the total number of points required to maintain employment shall be adjusted and reduced by the number of points not completed.

STATUTORY AUTHORITY FOR 210:1-1-2

H. Each district shall annually submit a report to the State Department of Education on the district level professional development needs, activities completed, expenditures, and results achieved for each school year by each goal as provided in subsection C of this section. If a school district elects not to adopt and offer a professional development program as provided for in subsection A of this section, the district shall not be required to submit an annual report as required pursuant to this subsection but shall report to the State Department of Education its election not to offer a program and all professional development activities completed by teachers and administrators of the school district.

I. Subject to the availability of funds, the Department shall develop an online system for reporting as required in subsection H of this section. The Department shall also make such information available on its website.

Oklahoma Statutes

Title 75. Statutes and Reports

Chapter 8 - Administrative Procedures Act

Section 314 - Issuance or Denial of New License - Revocation, Suspension, Annulment, Withdrawal or Nonrenewal of Existing License

A. Except as otherwise specifically provided by law, the issuance or denial of a new license shall not require an individual proceeding.

B. Except as otherwise prohibited by law, if a licensee has made timely and sufficient application for renewal of a license or a new license with reference to any transfer of an activity of a continuing nature, the existing license does not expire until the application has been finally determined by the agency. In case the application for renewal or for a new license with reference to any transfer of an activity of a continuing nature is denied or the terms of the new license limited, the existing license does not expire until the last day for seeking review of the final agency order or a later date fixed by order of the reviewing court.

C. 1. Unless otherwise provided by law, an existing license shall not be revoked, suspended, annulled, withdrawn or nonrenewed unless, prior to the institution of such final agency order, the agency gave notice by mail to the licensee of facts or conduct which warrant the intended action, and the licensee was given an opportunity to show compliance with all lawful requirements for the retention or renewal of the license.

2. If the agency finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

TEXT OF RULE PROPOSED FOR REVOCATION

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

210:10-13-20. Academic Performance Index [REVOKED]

—Pursuant to Title 70 O.S. § 3-150 through § 3-152 so long as the requirements exist in statute. The Academic Performance Index (API) will measure school performance using a formula that includes a growth index.

(1) **Indicators.** The formula will include the following indicators of school performance:

- (A) — Oklahoma School Testing Program
- (B) — Attendance Rate
- (C) — Graduation Rate
- (D) — Dropout Rate
- (E) — Advanced Placement
- (F) — ACT Score and Participation
- (G) — College Remediation

(2) **Components.** The formula is based on three major components, which include the seven indicators mandated by Oklahoma State Law, Title 70 O.S. § 3-150. The three major components include:

(A) — Oklahoma School Testing Program (OSTP) — Data from the OSTP for all state tests in the subjects of math and reading, calculated as an index using the percent of students at each performance level, multiplied by specified weights.

(i) — School sites with core grade spans that do not include indicator data for the OSTP (e.g., K-2 or a sixth and seventh grade center) will share data with the schools that they feed into and will be classified by the school configuration with which they share data.

(ii) — All end-of-instruction (EOI) tests will be used in high school accountability.

(B) — School Completion — Data regarding school completion, including attendance, graduation, and dropout rates.

(i) — Attendance data calculated as Average Daily Attendance (ADA) divided by Average Daily Membership (ADM).

(ii) — Graduation rate calculated as Number of Graduates, divided by the sum of Number of Graduates and Number of 12th grade Dropouts.

(iii) — Dropout rate calculated according to criteria set by the National Center for Educational Statistics (NCES) for common core data.

(iv) — Each of these indicators is equally weighted within the School Completion component, each contributing 33.3 percent.

(C) — Academic Excellence — Data including ACT scores and participation, Advanced Placement, and college remediation rates.

(i) — ACT data: average composite score and percent of senior students participating.

(ii) — Advanced Placement credit awarded at one of three levels based on student AP examination scores.

(iii) — College remediation rates calculated as first-time college freshman enrolled in reading/math remediation divided by total first-time college freshman at Oklahoma public colleges and universities.

(iv) — These indicators are weighted within the Academic Excellence component as follows: ACT data contributes 60 percent; AP information contributes 30 percent; and college remediation rates contribute 10 percent.

(3) — **Weighting.** District configurations will be defined as a K-12 district, K-8 district or a K-6 district. The schools will be configured as high school, middle school, and elementary school. A district or school type is based on the highest grade level in which the OSTP indicators are available. Each of the components will be weighted according to district/school configuration as follows:

(A) — K-12 districts will be calculated using 80 percent from the Oklahoma School Testing Program indicators, 10 percent from the school completion indicators and 10 percent from the Academic Excellence indicators.

(B) — K-8 districts will be calculated using 90 percent from the Oklahoma School Testing Program indicators and 10 percent from the school completion indicators.

(C) — K-6 districts will be calculated using 90 percent from the Oklahoma School Testing Program indicators and 10 percent from the school completion indicators.

(D) — High Schools will be calculated using 80 percent from the Oklahoma School Testing Program indicators, 10 percent from the school completion indicators and 10 percent from the Academic Excellence indicators.

(E) — Middle Schools will be calculated using 90 percent from the Oklahoma School Testing Program indicators and 10 percent from the school completion indicators.

(F) — Elementary Schools will be calculated using 90 percent from the Oklahoma School Testing Program indicators and 10 percent from the school completion indicators.

(4) — **Growth.** Growth targets will be calculated as 5 percent of the difference between school/district API and API upper limit.

RULE IMPACT STATEMENT 210:10-13-20

"Academic Performance Index" [REVOKED]

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

The Academic Performance Index (API) rule from 2002 is being revoked, due to the API system having been replaced by the current school accountability system pursuant to the federal *Every Student Succeeds Act* (ESSA). Public school accountability in Oklahoma is now governed by 70 O.S. § 1210.545, and the framework described by the API rule is no longer in place.

b. **What classes of persons will be affected by the proposed rule change and what classes of persons will bear the costs of the proposed rule change?**

The rule change will affect public schools, the entities to which the school accountability system applies.

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

The rule change will benefit public schools by ensuring the Administrative Code does not include outdated guidance regarding school accountability.

d. **What is the probable economic impact of the proposed rule upon affected classes of persons or political subdivisions?**

The agency does not anticipate any economic impact upon political subdivisions or affected classes as a result of implementation of the proposed rule change at this time.

e. **What is the probable cost to the agency to implement and enforce the proposed rule change?**

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:** October 11, 2019

STATUTORY AUTHORITY FOR REVOCATION OF 210:10-13-20

Oklahoma Statutes

Title 70. Schools

Chapter 22 - Testing and Assessment

Section 1210.545 - Annual Reports for Oklahoma School Testing Program - Rules - Grades

Cite as: 70 O.S. § 1210.545 (OSCN 2019)

A. Except as otherwise provided, as part of the accountability system developed as provided for in [Section 1210.541](#) of this title, the State Board of Education shall prepare annual reports of the results of the Oklahoma School Testing Program which describe student achievement in the state, and each school site, pursuant to the Elementary and Secondary Education Act of 1965 (ESEA) as reauthorized by P.L. No. 114-95, also known as the Every Student Succeeds Act (ESSA), and any related federal regulations.

B. The annual report as required pursuant to subsection A of this section shall identify school sites as having one of the following grades for each indicator, separately, and by a single overview grade of all indicators, defined according to rules of the State Board of Education:

1. "A" means schools making excellent progress;
2. "B" means schools making above average progress;
3. "C" means schools making satisfactory progress;
4. "D" means schools making less than satisfactory progress; and
5. "F" means schools failing to make adequate progress.

C. Each school that has students who are tested and included in the school grading system as provided for in this section shall receive a school grade, except as follows:

1. A school shall not receive a school grade if the number of students tested and included in the school grading system is less than the minimum sample size necessary for statistical reliability and prevention of the unlawful release of personally identifiable student data. The State Board of Education is directed to establish the lowest minimum sample size necessary to meet the requirements of this paragraph; and
2. The academic performance of students who are enrolled full-time in an online program that is offered by a school district or charter school that is not the district of residence or is not located in the district of residence of the student shall be reported separately by the school district or charter school and shall not be included when determining the grade of the school site or charter school.

D. The State Board of Education may adopt alternate systems of accountability for statewide virtual charter schools, alternative education programs as defined in [Section 1210.568](#) of this title, and schools serving only grades prekindergarten or kindergarten through two.

E. The grade of a school shall be based on a multimeasures approach to accountability in accordance with the Elementary and Secondary Education Act of 1965 (ESEA) as reauthorized by P.L. No. 114-95, also known as the Every Student Succeeds Act (ESSA) and any federal regulations that include, but are not limited to, the following indicators:

1. Statewide assessments, including the establishment of student performance bands;
2. Graduation rates for high schools;
3. Statewide academic measures for elementary and middle schools;
4. English language proficiency for English learners; and
5. At least one additional statewide measure of school quality or student success, including, but not limited to, school climate, school safety, student engagement, educator engagement, and/or advanced coursework and postsecondary readiness.

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F. Of the indicators included in subsection E of this section, not less than seventy percent (70%) of the overview grade must be given to indicators 1, 2, 3 and 4 and, in the aggregate, with not more than thirty percent (30%) of the grade given to indicator 5.

G. Further, the grade of an elementary or middle school site shall include, but not be limited to, a measure of status for English language arts (ELA), math and science, growth in ELA and math, English Language Proficiency Assessment (ELPA) progress, and chronic absenteeism.

H. The grade of a high school site shall include, but not be limited to, a measure of status for English language arts (ELA), math and science status, English Language Proficiency Assessment (ELPA) progress, graduation rate, chronic absenteeism, and postsecondary opportunities. For purposes of this section postsecondary opportunities shall include Advanced Placement, International Baccalaureate, dual and concurrent enrollment, internships, mentorships and apprenticeships, and industry certifications. The Board shall adopt a time line for moving from completion of such opportunities to crediting achievement of such opportunities.

I. The annual report shall identify the performance of each school as having improved, remained the same, or declined. This school improvement rating shall be based on a comparison of the student and school performance data of the current year to the previous year data.

J. The State Department of Education shall annually develop a school site report card to be delivered to parents throughout each school district. The report card shall be in accordance with the requirements of the Elementary and Secondary Education Act of 1965 (ESEA), as reauthorized and amended by P.L. No. 114-95, also known as the Every Student Succeeds Act (ESSA) and includes the grade for the school, information regarding school improvement, an explanation of school performance, and indicators of return on investment. The report card for each school site shall be published annually by the Department on its website, and every school district shall provide the school site report card to the parent or guardian of each student enrolled in the school site. In order to provide information regarding school performance for school report cards issued during the 2016-2017 and 2017-2018 school year, the Department shall include an explanation of the changes to the statewide system of student assessments as required in [Section 1210.508](#) of this title and how the transition in assessments may impact school performance. The Department shall issue school report cards using the 2016-2017 school year assessment data that is available.

K. The Legislature may factor in the performance of schools in calculating any performance-based funding policy that is provided to public school districts.

L. The State Board of Education shall promulgate rules to implement the provisions of this section.

TEXT OF RULE PROPOSED FOR REVOCATION

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

210:10-13-24. Medical exemptions from chronic absenteeism [REVOKED]

(a) — **Purpose of the chronic absenteeism indicator.** Because chronic absenteeism has been linked to lower academic performance, higher dropout rates, and diminished success after high school, Oklahoma has included chronic absenteeism as an indicator in the school accountability system adopted under the requirements of the *Every Student Succeeds Act* (ESSA). By highlighting the importance of regular school attendance to student success in school and beyond, the State of Oklahoma encourages schools to actively engage with students and their families in eliminating barriers to regular attendance, and to ensure students receive the supports needed to attend school every day.

(b) — **Purpose of the medical exemption from chronic absenteeism.** The State Board of Education is directed in 70 O.S. § 1210.545 to promulgate rules providing for a medical exemption from the chronic absenteeism indicator. A public school district or charter school may request an exemption from inclusion in the school's chronic absenteeism indicator calculations for the related absences of a student who meets the criteria established in this Section for a significant medical condition.

(c) — **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) — **"Chronic absenteeism"** means absence from school at least ten percent (10%) of the time that school is in session and the student is included in membership, eighteen (18) or more days on a 180-day school calendar or ten percent (10%) or more of school days on a 1,080 hours school calendar.

(2) — **"Significant medical condition"** means, for the purposes of this Section, a severe, chronic, or life-threatening physical or mental illness, infection, injury, disease, or emotional trauma that meets all of the following criteria:

(A) — The condition affects the student so severely as to incapacitate the student from attending school for an identifiable time period or number of school days, or for which the student must receive regular medical care requiring absence from school;

(B) — The student is unable to receive instruction through homebound education services for an identifiable time period or number of school days due to the medical condition or its treatment, or homebound education is not appropriate due to brief recurring absences for the purpose of receiving treatment;

(C) — The school or school district has been provided with written documentation of the condition that is verified in writing by a physician licensed to practice in the State of Oklahoma, or by a physician licensed in another state if the student has received related treatment out of state. A copy of the documentation verifying the student's condition shall be filed in the student's educational record.

(D) — The term "significant medical condition" shall not include:

(i) — Minor illnesses or injuries that do not incapacitate the student or require recurring treatment;

- (ii)—Short term illnesses or injuries resulting in absences of ten (10) or fewer consecutive instructional days, including those that require short term hospitalization of ten (10) or fewer consecutive instructional days;
 - (iii)—Pregnancy, unless complications of the pregnancy otherwise meet this Section's criteria for a significant medical condition; or
 - (iv)—Refusal of a parent/guardian to permit the student to attend school or receive homebound services due to the illness, injury, or trauma.
 - (v)—The occurrence of one of the conditions listed in (D) shall not disqualify a student who is eligible for a medical exemption on a different basis.
- (E)—Examples of conditions that could be considered "significant medical conditions" for the purposes of this Section may include, but are not limited to:
- (i)—The student is in the final stages of a terminal disease or degenerative illness, or the student has been placed in hospice care;
 - (ii)—The student is comatose;
 - (iii)—The student has a serious chronic medical condition (a condition lasting three months or more), and is absent for the purpose of receiving condition-related treatment such as chemotherapy or dialysis;
 - (iv)—The death or life-threatening injury of an immediate family member of the student (student's parent/guardian, sibling, or child); or
 - (v)—The student has sustained serious mental or physical injury as a result of a catastrophic event such as:
 - (I)—A natural disaster or other event resulting in a declared state of emergency;
 - (II)—An act of violence, including but not limited to: acts of physical assault, sexual assault, kidnapping, homicide, torture, or terrorism;
 - (III)—Drowning;
 - (IV)—Poisoning, fall, or traumatic brain injury; or
 - (V)—Fire or explosion in the student's home when the student was present.
- (d)—**Absences from school that do not accrue toward chronic absentee status.** A student with disabilities who is on an Individualized Education Program (IEP), or a student with a physical or mental impairment who is on a Section 504 Plan, is considered in attendance and does not accrue absences while receiving offsite services addressed in the IEP or Section 504 plan. A student on an IEP or Section 504 Plan whose condition worsens or who requires more frequent treatments should have their IEP or Section 504 Plan updated accordingly. A student who is receiving homebound education services from their school district is considered in attendance and does not accrue absences while in homebound status.
- (e)—**Effect of exempt absence.** The exempt absence(s) of a student who has been granted an exemption of one or more absences from school in accordance with the provisions of this Section shall not be included in the calculation of the chronic absenteeism indicator on the school site report card.
- (f)—**Applications for exemption of one or more student absences.** A school district's application for a significant medical condition exemption for one or more student absences must include all supporting documentation, including physician verification and documentation of each date for which an exemption is requested, and must be submitted in the time, place, and manner designated by the State Department of Education.
- (g)—**Appeal of a denial of a medical exemption.** A request for a medical exemption that has been denied by the State Department of Education for failure to meet the criteria for "significant

medical condition" outlined in (c)(2) of this Section may be appealed to the State Board of Education in accordance with the following procedures:

(1) **Petition for appeal.** The school district or charter school in which the student is enrolled may appeal the Department's denial of a medical exemption to the State Board of Education. The parent or legal guardian of a student, an individual who has been issued letters of guardianship of the person of a student pursuant to the Oklahoma Guardianship and Conservatorship Act, or an adult who has assumed permanent care and custody of a student in accordance with local district policies and applicable state law must grant permission to the school district or charter school to file a petition for appeal to the State Board of Education. Parental consent shall be provided in writing and shall be documented by the requesting school district or charter school.

(2) **Filing requirements.** A petition for appeal must comply with the following requirements:

(A) **Time of filing.** The petition for appeal must be submitted in writing to the Secretary of the State Board of Education within ten (10) business days after the date the school district receives notice of the Department's denial of the medical exemption.

(B) **Method of filing.** Petitions for appeal may be submitted to the Secretary of the State Board of Education in person or by mail. A petition submitted by mail will be accepted as timely if the mailing envelope contains a postmark dated on or before the date of the filing deadline.

(C) **Verification of a petition for appeal.** The petition for appeal must be signed by the school Superintendent or the school Superintendent's designee, or charter school administrator or designee, for the purpose of verifying that, to the best of the individual's knowledge, the information submitted in the appeal is accurate and correct.

(D) **Acceptance of a petition for filing.** Upon receipt of the petition for appeal, the Secretary of the Board of Education shall file the petition and obtain copies of all records and information submitted by the school district or charter school to the State Department of Education pursuant to (f) of this Section. Copies of agency records and additional documentation submitted in the petition for appeal shall be provided to members of the State Board of Education for consideration. Only timely filed petitions for appeal shall be brought to the State Board of Education for consideration. The Board shall take action on the petition at the next regularly scheduled State Board of Education meeting, unless the petition is received ten (10) or fewer calendar days prior to the next regularly scheduled meeting. A petition received ten (10) or fewer calendar days prior to the next regularly scheduled meeting of the Board will be considered at the following month's regularly scheduled meeting.

(3) **Review of petitions.** Because the privacy of individual student data is protected by the Family Educational Rights and Privacy Act (FERPA) and Oklahoma's Student Data Accessibility, Transparency, and Accountability Act, the State Board of Education shall review petitions for appeal in executive session as authorized by 25 O.S. § 307 (A)(7). The State Board of Education shall evaluate each petition for appeal based on the following criteria to determine whether a "significant medical condition" exists as contended by the appealing school district or charter school:

(A) The applicability of the criteria outlined in (c)(2) of this section related to the determination of a "significant medical condition";

(B) The extent of the student's incapacitation or need for treatment; or

~~(C) — The existence of newly discovered documentation or newly available information that significantly and substantively reflects on the student's mental and/or physical state of being and that would have resulted in an exemption being granted for one or more absences if the newly discovered information had been available when the request was denied.~~

~~(4) — **Actions on a petition for appeal.** After review of the petition for appeal in accordance with (g)(3) of this section, the State Board of Education shall take action on a petition for appeal based on the merits of the information provided in the written appeal.~~

~~(A) — The Board shall consider each petition for appeal on an individual basis and shall issue an approval or denial of the request for a medical exemption.~~

~~(B) — The Secretary of the Board shall notify the school district or charter school and the State Department of Education in writing of the Board's determination.~~

~~(C) — The State Department of Education shall document each determination to maintain an accurate agency record of each request for a medical exemption.~~

~~(D) — Requests for student medical exemptions granted by the State Board of Education will be processed pursuant to (f) and (g) of this Section. The absences of students denied medical exemptions by the State Board of Education will be included in the calculation of the chronic absenteeism indicator of the school and/or school district.~~

RULE IMPACT STATEMENT 210:10-13-24

"Medical exemptions from chronic absenteeism" [REVOKED]

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

House Bill 1988 (2019) amended 70 O.S. § 1210.545 to eliminate the mandate for the State Board of Education to promulgate rules providing for a medical exemption from the chronic absenteeism provision of the Oklahoma school accountability system. The rule is being revoked accordingly.

b. **What classes of persons will be affected by the proposed rule change and what classes of persons will bear the costs of the proposed rule change?**

The rule change will affect public schools and the State Department of Education.

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

The rule change will benefit public schools by removing the necessity for school districts to apply to the State Department of Education for a medical exemption from a student's inclusion in the chronic absenteeism indicator of the school accountability system. Guidance will be provided to school districts outlining how they may determine any appropriate medical exemptions regarding the chronic absenteeism indicator.

d. **What is the probable economic impact of the proposed rule upon affected classes of persons or political subdivisions?**

The agency does not anticipate any economic impact upon political subdivisions or affected classes as a result of implementation of the proposed rule change at this time.

e. **What is the probable cost to the agency to implement and enforce the proposed rule change?**

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:** October 11, 2019

STATUTORY AUTHORITY FOR REVOCATION OF 210:10-13-24

ENROLLED HOUSE
BILL NO. 1988

By: Nollan of the House

and

Haste of the Senate

An Act relating to schools; amending 70 O.S. 2011, Section 1210.545, as last amended by Section 2, Chapter 131, O.S.L. 2017 (70 O.S. Supp. 2018, Section 1210.545), which relates to annual accountability reports; removing directive to grant certain exemption for chronic absenteeism; and providing an effective date.

SUBJECT: Annual school accountability reports

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

SECTION 1. AMENDATORY 70 O.S. 2011, Section 1210.545, as last amended by Section 2, Chapter 131, O.S.L. 2017 (70 O.S. Supp. 2018, Section 1210.545), is amended to read as follows:

Section 1210.545 A. Except as otherwise provided, as part of the accountability system developed as provided for in Section 1210.541 of this title, the State Board of Education shall prepare annual reports of the results of the Oklahoma School Testing Program which describe student achievement in the state, and each school site, pursuant to the Elementary and Secondary Education Act of 1965 (ESEA) as reauthorized by P.L. No. 114-95, also known as the Every Student Succeeds Act (ESSA), and any related federal regulations.

B. The annual report as required pursuant to subsection A of this section shall identify school sites as having one of the following grades for each indicator, separately, and by a single overview grade of all indicators, defined according to rules of the State Board of Education:

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1. "A" means schools making excellent progress;
2. "B" means schools making above average progress;
3. "C" means schools making satisfactory progress;
4. "D" means schools making less than satisfactory progress; and
5. "F" means schools failing to make adequate progress.

C. Each school that has students who are tested and included in the school grading system as provided for in this section shall receive a school grade, except as follows:

1. A school shall not receive a school grade if the number of students tested and included in the school grading system is less than the minimum sample size necessary for statistical reliability and prevention of the unlawful release of personally identifiable student data. The State Board of Education is directed to establish the lowest minimum sample size necessary to meet the requirements of this paragraph; and

2. The academic performance of students who are enrolled full-time in an online program that is offered by a school district or charter school that is not the district of residence or is not located in the district of residence of the student shall be reported separately by the school district or charter school and shall not be included when determining the grade of the school site or charter school.

D. The State Board of Education may adopt alternate systems of accountability for statewide virtual charter schools, alternative education programs as defined in Section 1210.568 of this title, and schools serving only grades prekindergarten or kindergarten through two.

E. The grade of a school shall be based on a multimeasures approach to accountability in accordance with the Elementary and Secondary Education Act of 1965 (ESEA) as reauthorized by P.L. No. 114-95, also known as the Every Student Succeeds Act (ESSA) and any federal regulations that include, but are not limited to, the following indicators:

1. Statewide assessments, including the establishment of student performance bands;

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2. Graduation rates for high schools;
3. Statewide academic measures for elementary and middle schools;
4. English language proficiency for English learners; and
5. At least one additional statewide measure of school quality or student success, including, but not limited to, school climate, school safety, student engagement, educator engagement, and/or advanced coursework and postsecondary readiness.

F. Of the indicators included in subsection E of this section, not less than seventy percent (70%) of the overview grade must be given to indicators 1, 2, 3 and 4 and, in the aggregate, with not more than thirty percent (30%) of the grade given to indicator 5.

G. Further, the grade of an elementary or middle school site shall include, but not be limited to, a measure of status for English language arts (ELA), math and science, growth in ELA and math, English Language Proficiency Assessment (ELPA) progress, and chronic absenteeism.

H. The grade of a high school site shall include, but not be limited to, a measure of status for English language arts (ELA), math and science status, English Language Proficiency Assessment (ELPA) progress, graduation rate, chronic absenteeism, and postsecondary opportunities. For purposes of this section postsecondary opportunities shall include Advanced Placement, International Baccalaureate, dual and concurrent enrollment, internships, mentorships and apprenticeships, and industry certifications. The Board shall adopt a time line for moving from completion of such opportunities to crediting achievement of such opportunities.

I. The annual report shall identify the performance of each school as having improved, remained the same, or declined. This school improvement rating shall be based on a comparison of the student and school performance data of the current year to the previous year data.

J. The State Department of Education shall annually develop a school site report card to be delivered to parents throughout each school district. The report card shall be in accordance with the requirements of the Elementary and Secondary Education

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Act of 1965 (ESEA), as reauthorized and amended by P.L. No. 114-95, also known as the Every Student Succeeds Act (ESSA) and includes the grade for the school, information regarding school improvement, an explanation of school performance, and indicators of return on investment. The report card for each school site shall be published annually by the Department on its website, and every school district shall provide the school site report card to the parent or guardian of each student enrolled in the school site. In order to provide information regarding school performance for school report cards issued during the 2016-2017 and 2017-2018 school year, the Department shall include an explanation of the changes to the statewide system of student assessments as required in Section 1210.508 of this title and how the transition in assessments may impact school performance. The Department shall issue school report cards using the 2016-2017 school year assessment data that is available.

K. The Legislature may factor in the performance of schools in calculating any performance-based funding policy that is provided to public school districts.

L. The State Board of Education shall promulgate rules to implement the provisions of this section. ~~The Board shall promulgate rules regarding the school site report card that grant a medical exemption from the eighteen-day chronic absenteeism provision.~~

SECTION 2. This act shall become effective November 1, 2019.