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# The Oklahoma Register

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Oklahoma  
Secretary of State  
Office of Administrative Rules



**Mary Fallin, Governor**  
**Larry Parman,**  
**Secretary of State**  
**Peggy Coe, Editor-in-Chief**

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# Gubernatorial Approvals

Upon notification of approval by the Governor of an agency's proposed PERMANENT rulemaking action, the agency must submit a notice of such gubernatorial approval for publication in the *Register*.

*For additional information on gubernatorial approvals, see 75 O.S., Section 303.2.*

## **TITLE 92. OKLAHOMA STATE ATHLETIC COMMISSION CHAPTER 10. RULES FOR BOXING AND OTHER ACTIVITIES**

*[OAR Docket #13-1059]*

### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

### **RULES:**

Subchapter 1. General Provisions

92:10-1-2 [AMENDED]

92:10-1-6 [AMENDED]

92:10-1-7 [AMENDED]

92:10-1-8 [AMENDED]

Subchapter 3. Boxing and Kickboxing Participants

92:10-3-2 [AMENDED]

92:10-3-5 [AMENDED]

92:10-3-13 [AMENDED]

Subchapter 5. Professional Boxing and Kickboxing Events

92:10-5-2 [AMENDED]

92:10-5-11 [AMENDED]

92:10-5-14 [AMENDED]

92:10-5-15 [AMENDED]

Subchapter 11. Mixed Martial Arts

92:10-11-3 [AMENDED]

### **GUBERNATORIAL APPROVAL:**

April 29, 2013

*[OAR Docket #13-1059; filed 6-7-13]*

## **TITLE 135. COMMISSION ON CHILDREN AND YOUTH CHAPTER 10. PROGRAMS, BOARDS, AND COUNCILS: OPERATION AND ADMINISTRATION**

*[OAR Docket #13-983]*

### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

### **RULES:**

Subchapter 21. Child Death Review Board

135:10-21-2 [AMENDED]

135:10-21-3 [REVOKED]

### **GUBERNATORIAL APPROVAL:**

May 6, 2013

*[OAR Docket #13-983; filed 5-31-13]*

## **TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 1. STATE BOARD OF EDUCATION**

*[OAR Docket #13-966]*

### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

### **RULES:**

Subchapter 5. Due Process

210:1-5-6. Revocation of certificates [AMENDED]

### **GUBERNATORIAL APPROVAL:**

May 13, 2013

*[OAR Docket #13-966; filed 5-30-13]*

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

*[OAR Docket #13-967]*

### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

### **RULES:**

Subchapter 13. Student Assessment

210:10-13-16. Student exceptions and exemptions related to graduation requirements for end-of-instruction exams [AMENDED]

### **GUBERNATORIAL APPROVAL:**

May 13, 2013

*[OAR Docket #13-967; filed 5-30-13]*

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

*[OAR Docket #13-968]*

### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

### **RULES:**

Subchapter 13. Student Assessment

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

# Gubernatorial Approvals

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## GUBERNATORIAL APPROVAL:

May 13, 2013

*[OAR Docket #13-968; filed 5-30-13]*

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

*[OAR Docket #13-969]*

## RULEMAKING ACTION:

Gubernatorial approval of permanent rules

## RULES:

Subchapter 13. Student Assessment

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

## GUBERNATORIAL APPROVAL:

May 13, 2013

*[OAR Docket #13-969; filed 5-30-13]*

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

*[OAR Docket #13-970]*

## RULEMAKING ACTION:

Gubernatorial approval of permanent rules

## RULES:

Subchapter 27. Reading Sufficiency Act

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

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

## GUBERNATORIAL APPROVAL:

May 13, 2013

*[OAR Docket #13-970; filed 5-30-13]*

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

*[OAR Docket #13-971]*

## RULEMAKING ACTION:

Gubernatorial approval of permanent rules

## RULES:

Subchapter 9. Professional Standards: Teacher Education and Certification

Part 9. Teacher Certification

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

210:20-9-104. Certification for languages with no subject area examination [AMENDED]

## GUBERNATORIAL APPROVAL:

May 13, 2013

*[OAR Docket #13-971; filed 5-30-13]*

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

*[OAR Docket #13-971A]*

## RULEMAKING ACTION:

Gubernatorial approval of permanent rules

## RULES:

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

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

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

## GUBERNATORIAL APPROVAL:

May 13, 2013

*[OAR Docket #13-971A; filed 5-30-13]*

**TITLE 210. STATE DEPARTMENT OF  
EDUCATION  
CHAPTER 40. GRANTS AND  
PROGRAMS-IN-AID**

*[OAR Docket #13-972]*

## RULEMAKING ACTION:

Gubernatorial approval of permanent rules

## RULES:

Subchapter 87. Rules for Payment to Charter Schools

210:40-87-6. Charter school surety bonds [NEW]

## GUBERNATORIAL APPROVAL:

May 13, 2013

*[OAR Docket #13-972; filed 5-30-13]*

## Permanent Final Adoptions

- (3) Employees must wear a shirt that has the name of the ETC on it permanently affixed to the shirt;
- (4) The available terms, conditions and rates for the Lifeline product(s) must be prominently posted at the location where the marketing is taking place;
- (5) The marketer must have permission from either the owner of the property where the marketing is taking place or from the individual responsible for the property;
- (6) The marketer must have all required city and county licenses necessary for selling a service at that location;
- (7) The marketing must be done in a manner that it does not create a traffic hazard or distraction;
- (8) Marketing may only be done from a tent of at least 10 foot x 10 foot in size or from an enclosed trailer or panel truck that has the name of the ETC permanently affixed on the truck or trailer in letters that are at least 18 inches in height;
- (9) The ETC must provide PUD a list of locations by email where mobile marketing is taking place, including the date, time and location, at least two weeks prior to the mobile marketing taking place or maintain an active phone number the Commission can call or a web site the public can view, that identifies all mobile marketing locations and times for at least the following three days;
- (10) The ETC has obtained a waiver from the Director of the Public Utility Division regarding a specific requirement of this paragraph.
- (k) Any wireless handset provided in conjunction with the Lifeline Service must clearly and permanently identify the provider of the service.
- (l) An ETC may not provide Lifeline Service purely by resale without a Commission order.
- (m) An approved Lifeline tariff may not be modified without submitting the modification to the Director of the Public Utility Division at least 15 days prior to the effective date of the proposed change for the purpose of receiving a determination whether the modification is in the public interest. Unless the ETC receives written notification that its modification is NOT IN THE PUBLIC INTEREST within 15 days after its submission, the submission is deemed to be in the public interest and may be implemented.
- (n) The ETC shall utilize a third party verification system that has been approved by the Director of PUD to verify the customer's identity and address, or obtain a waiver from the Director of the Public Utility Division from this requirement.
- (o) The ETC must retain a copy of the signed application for Lifeline Service, and any recertification information for five (5) years.
- (p) The ETC shall maintain a database sufficient to identify any duplicates among all companies associated with the ETC.
- (q) Unless otherwise approved by Commission Order, any Lifeline plan on Tribal Land must include a minimum of 1000 minutes of local voice use or unlimited domestic calling, to be considered in the public interest. Any Lifeline plan on non-Tribal Land must include a minimum of 500 minutes of local voice use to be considered in the public interest.
- (r) All marketing efforts must clearly identify the ETC actually providing the Lifeline Service.

- (s) In addition to other remedies available to the Commission, violations of the marketing rules may result in a minimum of a 30 days suspension of an ETC's ability to sign up new customers.

*[OAR Docket #13-1025; filed 6-6-13]*

### TITLE 210. OKLAHOMA STATE DEPARTMENT OF EDUCATION CHAPTER 1. STATE BOARD OF EDUCATION

*[OAR Docket #13-1039]*

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 5. Due Process

210:1-5-6. Revocation of certificates [AMENDED]

**AUTHORITY:**

70 O.S. § 3-104; 70 O.S. § 6-189; 75 O.S. § 314.1; Oklahoma State Department of Education.

**DATES:**

**Comment period:**

February 15, 2013 through March 25, 2013

**Public hearing:**

March 25, 2013

**Adoption:**

March 28, 2013

**Submitted to Governor:**

March 28, 2013

**Submitted to House:**

March 28, 2013

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March 28, 2013

**Gubernatorial approval:**

May 13, 2013

**Legislative approval:**

Failure of the Legislature to disapprove the rules resulted in approval on May 23, 2013.

**Final adoption:**

May 23, 2013

**Effective:**

July 11, 2013

**SUPERSEDED EMERGENCY ACTIONS:**

N/A

**INCORPORATIONS BY REFERENCE:**

N/A

**ANALYSIS:**

The amendments clarify the rules and procedures for hearings on revocation of licenses and/or certificates issued to persons for instructional, supervisory, and administrative positions in state public schools by the State Board of Education. The amendments clarify the circumstances upon which licensure proceedings may be triggered, and the grounds under which licenses may be suspended or revoked and add a provision for emergency suspension in accordance with 75 O.S. §314.1. The amendments update the text of the rule to ensure compliance with the provisions of the Oklahoma Administrative Procedures Act.

**CONTACT PERSON:**

Stephanie Moser Goins, (405) 521-4890

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 11, 2013:**



SUBCHAPTER 5. DUE PROCESS

**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~~ 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 for other proper cause;
- (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 for other proper cause. {70-3-104}

(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 ~~knowingly participate~~ 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 certificate 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 has been held provided by the State Board of Education in accordance with the following procedures: The Board may utilize a hearing officer to conduct the hearing. If utilized, the hearing officer shall be appointed by the Chairperson of the Board. At least twenty (20) days before the hearing, the complaint giving rise to the hearing shall be filed with the Chairperson of the Board, showing grounds or reasons for revocation of the certificate. The complaint shall be in writing, and shall be signed by the complaining party, and the chairperson or chairperson's designee.

(e) **Filing of complaint application to revoke a certificate.** In an individual proceeding to revoke a certificate shall be initiated by filing, there shall be filed a complaint 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: containing

(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 a statement of the matters allegations asserted; and

(D) A statement of the facts alleged to give rise to the revocation, the right to the relief, and naming the persons against whom relief is sought. The application shall also state a proposed effective date for the relief requested (e.g., revocation), which shall be set no earlier than thirty (30) days from the date the complaint is filed.

(42) **Informal disposition.** Informal disposition of any complaint 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.

(53) **Notice to parties.** Whenever such a charge or complaint Within three (3) business days of the date the application to revoke a certificate is filed with the Chairperson Secretary of the State Board of Education, he or she shall send a copy thereof to the holder of the certificate by certified or registered mail, restricted delivery with return receipt requested, the Secretary shall send a copy of the application along with a notice of intent to revoke the certificate Notice of the time and place of the hearing and the name of the hearing officer (if applicable) shall be given by the Chairperson by certified or registered mail, restricted delivery with return receipt requested, to the holder of the certificate. 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

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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.

(62) **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 ten (10) 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 no later than five (5) days prior to the hearing. ~~The hearing shall be electronically recorded by the State Department of Education. A party to the hearing, upon request, shall be supplied a copy of the tape recording of the hearing. Any transcription cost shall be borne by the party requesting transcription. If a hearing officer is utilized, written recommended findings of fact and conclusions of law shall be prepared by the hearing officer after conclusion of the hearing and submitted to the parties and the State Board of Education. The parties shall have the opportunities set out in 75 O. S. Supp. 1997, § 311 before action is taken by the Board on the proposed findings of fact and conclusions of law. After the parties have been given notice and an opportunity to file exceptions, present briefs and oral arguments in accordance with 75 O.S. Supp. 1997, § 311, action shall be taken by the State Board of Education to accept, reject, or modify the proposed Findings and Conclusions of the hearing officer.~~

(73) **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 furnishing of information required by the Board, or for the production of books, records, papers, objects, or other evidence or records 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; or upon order of the Board; or in like manner, and for like purpose, subpoenas shall be issued by the Secretary at the request of any party to a proceeding before the Board for the attendance of witnesses or for the production of evidential materials at a hearing in such proceeding. 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. [75-315]

(8C) **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 a hearing in any rule-making proceeding, proceeding for a declaratory ruling, or in any individual proceeding, or in any other authorized action of the Board, the Board as soon as convenient shall consider the matter 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, the institution of appropriate judicial proceedings under the law of the state for an order to compel compliance with the subpoena or the giving of testimony, as the case may be. 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 continue the proceedings for such time as may be necessary to secure a final ruling in the compliance proceedings.

(9E) **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.

(104) **Right to representation.** The person or persons signing the charge or complaint, the holder of the certificate, and any other interested person may appear at the hearing personally and/or by legal counsel. 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.

(115) **Legal counsel to State Board of Education.** The attorney for the State Board of Education or, upon request, the Attorney General's representative shall present evidence to the Board, in furtherance of the Complaint application. If deemed necessary by the Chairperson of the Board, a request will 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.

~~(12) **Requests for disqualifications.** Requests for the disqualification of a member or members of the Board shall be embodied in an affidavit, stating with particularity the grounds alleged therefor. Such requests must be filed prior to the commencement of the hearing unless it appears in the affidavit that the grounds for disqualification were not previously known and that upon such grounds the application to disqualify was promptly filed. Upon the filing of such affidavit, the Chairperson of the Board or the Secretary, if the affidavit is filed against the Chairperson, shall set the matters for hearing at the earliest date at which the Board can be convened, giving notice thereof personally or by telephone to the party or his or her counsel. The Board, or those members thereof qualified to sit at the hearing, shall take evidence and make prompt decisions. In the event the disqualification is sustained or in the event of a mandamus requiring disqualification, the hearing shall be continued to such time as is necessary for the appointment of members pro tem to proceed with the matters, and due notice of the continuance shall be given to all parties.~~

~~(13) **Disqualification of a Board or Agency member or hearing officer.** A Board or Agency 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 or Agency member, the Governor immediately shall appoint a member pro tempore tem to sit in place of the disqualified member in that proceeding.~~

~~(14) **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.~~

~~(15) **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 ~~75-310~~ 75 O.S. § 310.

~~(16) **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.~~

~~(17) **Decision 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 issue 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.~~

~~(18) **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.~~



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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.

(493) **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.

(204) **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.

### (21h) **Record of hearing.**

(A1) 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 ~~The~~ record shall include:

- (A) All ~~all~~ pleadings, motions, and intermediate rulings;
- (B) Evidence ~~evidence~~ received or considered during the individual proceeding;
- (C) A ~~a~~ statement of matters officially noticed;
- (D) Questions ~~questions~~ and offers of proof, objections, and rulings thereon;
- (E) Proposed findings and exceptions;

(F) ~~Any~~ any decision, opinion, or report by the Board or a hearing officer presiding at the hearing; and

(G) All other evidence ~~all staff memoranda~~ or data submitted to the Board or hearing officer ~~members of the Agency~~ in connection with their consideration of the case.

(B2) The State Board Secretary shall ~~tape~~ 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.

### (22i) **Rights to a rehearing, reopening or reconsideration.**

(A1) 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.

(B2) A petition for ~~The grounds for requesting~~ a rehearing, reopening, or reconsideration shall set forth the grounds for the request. The grounds for such a petition shall be either:

- (i) ~~newly~~ Newly discovered or newly available evidence, relevant to the issues;
- (ii) ~~need~~ Need for additional evidence adequately to develop the facts essential to proper decision;
- (iii) 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;
- (iv) ~~need~~ Need for further consideration of the issues and the evidence in the public interest; or
- (v) ~~a~~ 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.

(C3) It is the burden of the party requesting a rehearing to notify the opposing party of the appeal.

(D4) ~~On reconsidering~~ Rehearing, reopening, or reconsideration of the matter, ~~it~~ may be heard by the State Board of Education or ~~it~~ may be referred to a hearing officer. ~~Board or Agency Member and the~~ The hearing must be confined to those grounds on which the recourse was granted. [75-317]

(23j) **Judicial review.** Any person or party aggrieved or adversely affected by a final order in an individual proceeding is entitled to certain judicial review pursuant to ~~75-318-323~~ 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.** After five (5) years of the effective date of revocation of a license, an individual may apply for reinstatement of the license in accordance with the application procedures set forth by the State Department of Education.

*[OAR Docket #13-1039; filed 6-6-13]*

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

*[OAR Docket #13-1033]*

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

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

**AUTHORITY:**

70 O. S. § 3-104; 70 O. S. § 1210.541; Oklahoma State Department of Education

**DATES:**

**Comment period:**

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March 6, 2013

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Failure of the Legislature to disapprove the rules resulted in approval on May 23, 2013.

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**SUPERSEDED EMERGENCY ACTIONS:**

N/A

**INCORPORATIONS BY REFERENCE:**

N/A

**ANALYSIS:**

The amendments to the rule update the language of the rule relating to the Oklahoma School Accountability System and the identification of schools failing to make Adequate Yearly Progress (AYP) in student achievement in accordance with the provisions of 70 O.S. § 1210.541.

**CONTACT PERSON:**

Stephanie Moser Goins, (405) 521-4890

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN,  
THE FOLLOWING RULES ARE CONSIDERED  
FINALLY ADOPTED AS SET FORTH IN 75 O.S.,**

**SECTION 308.1(A), WITH AN EFFECTIVE DATE  
OF JULY 11, 2013:**

**SUBCHAPTER 13. STUDENT ASSESSMENT**

**210:10-13-18. Oklahoma School Accountability System**

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

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

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

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

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

(4) If any violation of security provisions (Section 210:10-13-4) occurs, such violations shall be reported in writing to the Student Assessment Section of the State Department of Education and may result in a student's, a

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

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

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

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

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

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

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

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

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

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

(3) Subsequent to the review of the preliminary ~~AYP Data Report~~ data report, if a principal of a school, or a majority of the parents of the students enrolled in a school, believe that ~~any~~ the accountability decision contained in the ~~AYP Data Report~~ data report is in error the principal shall provide supporting evidence to the district. The district must consider the evidence and if warranted, request an appeal in writing to the State Department of Education. The State Department of Education must receive the appeal request within ten working days of the electronic release of the ~~AYP Data Reports~~ data reports.

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

(5) When a school district or charter school appeals an accountability decision, the appeal request will be sent to the Office of Accountability and Assessment ~~State Department of Education~~ on the appeal form or other electronic

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

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

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

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

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

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

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

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

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

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

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

[OAR Docket #13-1033; filed 6-6-13]

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

[OAR Docket #13-1036]

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 13. Student Assessment  
210:10-13-22. Implementation of a System of School Improvement and Accountability [AMENDED]

**AUTHORITY:**

70 O.S. § 3-104; 70 O.S. § 1210.545; Oklahoma State Department of Education

**DATES:**

**Comment period:**

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# Permanent Final Adoptions

## Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on May 23, 2013.

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## SUPERSEDED EMERGENCY ACTIONS:

N/A

## INCORPORATIONS BY REFERENCE:

N/A

## ANALYSIS:

The amendments implement changes to the criteria used to calculate the formula used in the A-F School Report Card grading system pursuant to 70 O.S. § 1210.545.

## CONTACT PERSON:

Stephanie Moser Goins, (405) 521-4890

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 11, 2013:**

## SUBCHAPTER 13. STUDENT ASSESSMENT

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

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

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

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

(A) Thirty-three percent (33%) on student test scores, based on the Oklahoma School Testing Program assessments in grades three (3) through twelve (12);

(B) Seventeen percent (17%) on annual student learning gains as measured by the State's annual standardized assessments in reading and mathematics in grades three (3) through eight (8); and Algebra I and English II end-of-instruction tests;

(C) Seventeen percent (17%) on annual student learning gains for the lowest twenty-five (25%) of students in the school, as measured by the State's annual standardized assessments in reading and mathematics in grades three (3) through eight (8); and Algebra I and English II end-of-instruction tests ~~for the lowest twenty-five percent (25%) of students in the school, unless the students so designated are exhibiting satisfactory performance~~ as required by 70 O.S. § 1210.545;

(D) Thirty-three percent (33%) on whole school improvement, based on the factors listed in sub-section (f)(4) of this rule.

(2) Schools shall earn ~~individual~~ a separate performance ~~grades~~ grade ~~measuring the individual for each of the four~~ criteria listed in sub-sections (b)(1) and (f) of this rule. Additionally, schools shall earn an overall performance grade based on a combination of the criteria listed in sub-sections (b)(1) and (f) of this rule.

(3) To ensure that student data accurately represent school performance, schools shall be required to assess at least ninety-five percent (95%) of eligible students to earn a school performance grade. Failure to assess at least ninety-five percent (95%) of eligible students will result in a letter grade reduction in the school's overall school performance grade. Schools assessing less than ninety percent (90%) of eligible students will result in the school earning an overall performance grade of F.

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

(d) **Reporting Student Achievement Data for School Accountability.** Student achievement data shall be reported for all students in a school. Each year, reports of achievement data for all students shall be prepared for each school, each district, and the State. District reports shall be calculated in the same manner as a school site, aggregated at the student level.

(1) The scores will be computed from the number of eligible students ~~of~~ enrolled in the school. Eligible students shall include all students enrolled for the full academic year in the school and taking the State's annual standardized assessments or end-of-instruction tests. ~~(A)~~—Only first opportunity students are included in the calculation of eligible students.

(2) All eligible students, regardless of disability or limited English proficiency classification, with valid state standardized assessment scores in reading and math in both the current school year and the previous school year



are included in paragraphs (f)(2) and (f)(3) of this rule regarding the determination of student learning gains. In addition, the inclusion of these students shall be applied to sub-section (b)(3) of this rule, regarding the percentage of students assessed. Current and previous school years reading and math scores for students with disabilities assessed on the State's annual standardized alternate assessment shall be included in the determination of test scores, including achievement and improvement addressed in sub-sections (f)(1) and (f)(4) of this rule.

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

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

(B) If the highest grade offered by a school site is the (7<sup>th</sup>) through tenth (10<sup>th</sup>) grade, the school shall be graded according to the middle school criteria. Schools in this category shall not earn advance coursework credit for ninth and tenth grade students completing high school coursework unless the course qualifies as advanced coursework pursuant to subsection (f)(4)(A)(ii) or (f)(4)(B)(i).

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

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

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

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

(2) For purposes of calculating student growth pursuant to subsection (f)(2), has at least ten (10) thirty (30) eligible students with valid student state standardized assessment scores or end-of-instruction test scores in reading or math in both the current and the previous school years, and.

(3) For purposes of calculating student growth pursuant to subsection (f)(3), has at least ten (10) thirty (30) eligible students scores with from with valid student state standardized assessment scores or end-of-instruction test scores in reading or math in the current and previous school years, or end of instruction tests. Performance designations shall be made using School Performance Grades A, B, C, D, and F. School performance grades

~~shall be based on the assessments and criteria as specified in subsection (f) of this rule. The Superintendent of Public Instruction is authorized to establish and adjust appropriate achievement level criteria to the extent allowed by law for submission to the State Board of Education for final approval.~~

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

(f) **Criteria for Designating School Performance Grades.** ~~School~~Overall school performance grades shall be based on a combination of the four ~~components~~criteria outlined in sub-section (b)(1) of this rule: (1) student achievement scores; (2) annual learning gains; (3) improvement of the lowest twenty-five percent (25%); and (4) whole school improvement.

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

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

- (i) Unsatisfactory = 0
- (ii) Limited Knowledge = ~~0.20~~
- (iii) Proficient = 1.0
- (iv) Advanced = ~~1.21.0~~

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

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

(2) **Student growth index.** Annual learning gains are represented through a growth index, aggregated for each school. The score shall be calculated in whole and by subject-matter by assigning points for a positive change in proficiency level for eligible students from the previous school year to the current school year or by a positive change in Oklahoma Performance Index (OPI) score that meets or exceeds the State average of students with a positive OPI change.

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

- (i) Improved their state standardized assessment achievement level or state standardized

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alternative assessment achievement level, as applicable, from the previous school year to the current school year; or

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

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

- (i) Change from Unsatisfactory to Limited Knowledge = 1.0  
(ii) Change from Unsatisfactory to Proficient or Satisfactory = ~~2.0~~ 1.0  
(iii) Change from Unsatisfactory to Advanced = ~~3.0~~ 1.0  
(iv) Change from Limited Knowledge to Proficient or Satisfactory = 1.0  
(v) Change from Limited Knowledge to Advanced = ~~2.0~~ 1.0  
(~~vi~~) Remain Proficient from Previous to Current Year 2 = 1.0  
(~~vii~~) Change from Proficient or Satisfactory to Advanced = 1.0  
(~~viii~~) Remain Proficient or Advanced from Year 1 to Year 2 = 1.0  
(~~ix~~) Remained at Unsatisfactory from Year 1 to Year 2 and Meets or Exceeds State Average Positive Change or remained at Limited Knowledge from Year 1 to Year 2 and Meets or Exceeds State Average Positive Growth Change = 1.0  
(~~x~~) Remained at Unsatisfactory from Year 1 to Year 2 and Fails to Meet or Exceed State Average Positive Change or remained at Limited Knowledge from Year 1 to Year 2 and Fails to Meet or Exceed State Average Positive Change = 0

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

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

- (v) 59 or Below = F

(3) Growth of the lowest twenty-five percent of students. Improvement of the lowest twenty-five percent (25%) of students in reading and math shall be aggregated, ~~unless the students in this category are exhibiting satisfactory performance, as defined by scoring Satisfactory, Proficient or Advanced as required by 70 O.S. § 1210.545.~~ The score shall be calculated in whole and by subject-matter by assigning points for a positive change in proficiency score for eligible students from the previous school year to the current school year or by a positive change in Oklahoma Performance Index (OPI) score that meets or exceeds the State's positive average growth change.

(A) The calculation of a positive change in OPI score that meets or exceeds the State's average growth represents the number of eligible students who have:

- (i) Improved their state standardized assessment achievement level or state standardized alternative assessment achievement level, as applicable, from the previous school year to the current school year; or  
(ii) Retained their state standardized assessment achievement level or state standardized alternative assessment achievement level and such change in OPI from the previous school year to the current school year met or exceeded the State average of students with a positive OPI change.  
(~~ii~~) Remained within a not proficient achievement level, but who demonstrated state average growth.

(B) The score shall be based on improved state standardized assessment and end-of-instruction test performance from the previous school year to the current school year. Points based on student gains shall be summed and divided by the number of exams administered, and shall include only eligible students for whom comparative test scores exist. The growth of the lowest twenty-five percent (25%) shall be calculated based on the following criteria:

- (i) Change from Unsatisfactory to Limited Knowledge = 1.0  
(ii) Change from Unsatisfactory to Proficient or Satisfactory = ~~2.0~~ 1.0  
(iii) Change from Unsatisfactory to Advanced = ~~3.0~~ 1.0  
(iv) Change from Limited Knowledge to Proficient or Satisfactory = 1.0  
(v) Change from Limited Knowledge to Advanced = ~~2.0~~ 1.0  
(vi) Remained at Unsatisfactory from Year 1 to Year 2 and Meets or Exceeds State Average Positive Growth Change = 1.0  
(vii) Remained at Unsatisfactory from Year 1 to Year 2 and Fails to Meet or Exceed State Average

Positive Change or remained at Limited Knowledge from Year 1 to Year 2 and Fails to Meet or Exceed State Average Positive Change = 0

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

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

(4) **Whole school improvement.** The criteria listed in sub-sections (4)(A) and (4)(B) shall be used to calculate whole school improvement for high schools, middle schools, and elementary grade schools. Annually, the Oklahoma State Department of Education shall publish technical assistance specifically detailing the weighted formula and the projected availability of valid data used for computing whole school improvement. Technical assistance shall be published in time for school districts to make meaningful use of the information and data.

(A) **High schools.** For schools comprised of high school grades, the whole school improvement grade shall include:

(i) **Graduation rate.** Four-year high school graduation rate. For this component, a letter grade shall be earned based on the calculation of a graduation rate, only including students counted as on-time graduates as defined by federal regulations.

- (I) 90% - 100% = A
- (II) 80% - 89% = B
- (III) 70% - 79% = C
- (IV) 60% - 69% = D
- (V) 59% or Below = F

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

Oklahoma School of Science and Mathematics. A letter grade for accelerated coursework shall be earned based on percentage of participation listed below. The scale provided to assign a grade will be converted to a transformed scale so that the A will range from 90-100, the B will range from 80-89, the C will range from 70-79, the D will range from 60-69, and the F will range from 59 and below. Points will be earned based on a transformed scale.

- (I) 70% - 100% = A
- (II) 60% - 69% = B
- (III) 50% - 59% = C
- (IV) 30% - 49% = D
- (V) 29% or Below = F

~~(iii) Performance in Advanced Placement (AP) and International Baccalaureate (IB). For this component, a letter grade shall be earned based on the percent of students scoring a three (3) or better on the AP exams, or a four (4) or better on IB exams:~~

- ~~(I) 75% - 100% = A~~
- ~~(II) 65% - 74% = B~~
- ~~(III) 50% - 64% = C~~
- ~~(IV) 30% - 49% = D~~
- ~~(V) 29% or Below = F~~

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

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performance shall include all coursework regardless of whether the course was taught at the high school, at a career technology center, an accredited college or university, or at a regional site of the Oklahoma School of Science and Mathematics. A letter grade shall be earned based on the percentage of students enrolled in these programs who meet the criteria listed above:

- (I) 90% - 100% = A
- (II) 80% - 89% = B
- (III) 70% - 79% = C
- (IV) 60% - 69% = D
- (V) 59% or Below = F

(v) **ACT and SAT participation.** For this component, schools will earn a grade based on the calculated percent of students taking the ACT and/or SAT. The percent is calculated by dividing the number of twelfth (12<sup>th</sup>) grade students who have taken the ACT and/or SAT tests, divided by the number of students enrolled in grade twelve (12). Students will be counted once for the ACT and/or once for the SAT, regardless of the number of times or at which grade levels the test(s) are taken. The high school will earn credit for the most recent test score reported at the time the test is administered. A letter grade for ACT and SAT participation shall be earned based on the ~~following~~ criteria listed below. The scale provided to assign a grade will be converted to a transformed scale so that the A will range from 90-100, the B will range from 80-89, the C will range from 70-79, the D will range from 60-69, and the F will range from 59 and below. Points will be earned based on a transformed scale.

- (I) 75% - 100% = A
- (II) 65% - 74% = B
- (III) 50% - 64% = C
- (IV) 30% - 49% = D
- (V) 29% or Below = F

(vi) **ACT and SAT performance.** For this component, schools will earn a grade based on the percentage of students scoring an ACT composite score of 20 or greater based on 36-point scale, and/or an SAT score of 1410 or greater based on a 2400-point scale. Students will be counted once for the ACT and/or once for the SAT, regardless of the number of times or at which grade levels the test(s) are taken. The high school will earn credit for the most recent test score reported at the time the test is administered. A letter grade for ACT and SAT performance shall be earned based on the ~~following~~ criteria listed below. The scale provided to assign a grade will be converted to a transformed scale so that the A will range from 90-100, the B will range from 80-89, the C will range from 70-79, the D will range from 60-69, and the F will range from 59 and below. Points will be earned based on a transformed scale.

- (I) 75% - 100% = A
- (II) 65% - 74% = B
- (III) 50% - 64% = C
- (IV) 30% - 49% = D
- (V) 29% or Below = F

(vii) **High school graduation rate of eighth (8<sup>th</sup>) graders.** For this component, schools shall earn a grade based on the high school graduation rate of students who scored at limited knowledge or unsatisfactory on the eighth (8<sup>th</sup>) grade reading and mathematics criterion-referenced test administered pursuant to the Oklahoma State Testing Program (OSTP). For this component, schools shall earn a grade based on the calculation of the graduation rate of this population of eighth (8<sup>th</sup>) graders, regardless of where the student attended the eighth (8<sup>th</sup>) grade. ~~This component shall only include students counted as on-time graduates.~~ The scale provided to assign a grade will be converted to a transformed scale so that the A will range from 90-100, the B will range from 80-89, the C will range from 70-79, the D will range from 60-69, and the F will range from 59 and below. Points will be earned based on a transformed scale.

- (I) 85% - 100% = A
- (II) 75% - 84% = B
- (III) 65% - 74% = C
- (IV) 55% - 64% = D
- (V) 54% or Below = F

(viii) **Graduation rate, including students taking ~~four (4)~~ five (5) or more years to graduate.** For this component, schools shall earn a grade based on the calculation of a graduation rate to include all graduates regardless of the amount of time required to meet graduation requirements.

- (I) 90% - 100% = A
- (II) 80% - 89% = B
- (III) 70% - 79% = C
- (IV) 60% - 69% = D
- (V) 59% or Below = F

(B) **Middle schools.** For schools comprised of middle school grades, the whole school improvement grade shall include:

(i) **The percentage of students who are taking higher level coursework at a satisfactory or higher level in middle school.** For this component, schools shall earn a grade based on the percentage of students taking traditional high school courses in the middle school grades, pre-Advanced Placement courses, ~~or other advanced coursework~~ or honors courses in a traditional classroom or in a virtual environment who score at a satisfactory level or higher on the corresponding state standardized assessment. Schools shall earn credit for every accelerated course in which a student is enrolled. Students enrolled in multiple accelerated courses shall be counted once for each



course in which they are enrolled. A letter grade will be earned based on the following criteria listed below. The scale provided to assign a grade will be converted to a transformed scale so that the A will range from 90-100, the B will range from 80-89, the C will range from 70-79, the D will range from 60-69, and the F will range from 59 and below. Points will be earned based on a transformed scale.

- (I) 30% or Higher = A
- (II) 25% - 29% = B
- (III) 20% - 24% = C
- (IV) 15% - 19% = D
- (V) 14% or Below = F

(ii) **Attendance.** For this component, schools will earn a grade for the level of student attendance based on the calculation of a student attendance rate. This rate is the Average Daily Attendance (ADA) divided by the Average Daily Membership (ADM). ADA is calculated by dividing the total number of days students were present by the number of days in the school calendar or by dividing the number of hours students were present by the number of hours in the school calendar, whichever applicable. ADM is calculated by dividing the total number of days students were enrolled in school by the number of days in the school calendar or by dividing the number of hours students were enrolled by the number of hours in the school calendar, whichever applicable. A letter grade for attendance will be earned based on the following criteria listed below. The scale provided to assign a grade will be converted to a transformed scale so that the A will range from 90-100, the B will range from 80-89, the C will range from 70-79, the D will range from 60-69, and the F will range from 59 and below. Points will be earned based on a transformed scale.

- (I) 94% - 100% = A
- (II) 92% - 93% = B
- (III) 90% - 91% = C
- (IV) 88% - 89% = D
- (V) 87% or Below = F

(iii) **Dropout rate.** For this component, schools shall earn a grade based on the annual number of students reported as dropouts to the Oklahoma State Department of Education on the Annual Dropout Report. A letter grade for dropout rate will be earned based on the following scale listed below. The scale provided to assign a grade will be converted to a transformed scale so that the A will range from 90-100, the B will range from 80-89, the C will range from 70-79, the D will range from 60-69, and the F will range from 59 and below. Points will be earned based on a transformed scale.

- (I) 0% - 0.9% = A
- (II) 1% - 1.9% = B

- (III) 2% - 2.9% = C
- (IV) 3% - 3.9% = D
- (V) 4% or More = F

(C) **Elementary schools.** For schools comprised of elementary school grades, the whole school improvement grade shall include:

(i) **Attendance.** For this component, schools will earn a grade for the level of student attendance based on the calculation of a student attendance rate. This rate is the Average Daily Attendance (ADA) divided by the Average Daily Membership (ADM). ADA is calculated by dividing the total number of days students were present by the number of days in the school calendar or by dividing the number of hours students were present by the number of hours in the school calendar, whichever applicable. ADM is calculated by dividing the total number of days students were enrolled in school by the number of days in the school calendar or by dividing the number of hours students were enrolled by the number of hours in the school calendar, whichever applicable. A letter grade for attendance will be earned based on the following criteria listed below. The scale provided to assign a grade will be converted to a transformed scale so that the A will range from 90-100, the B will range from 80-89, the C will range from 70-79, the D will range from 60-69, and the F will range from 59 and below. Points will be earned based on a transformed scale.

- (I) 94% - 100% = A
- (II) 92% - 93% = B
- (III) 90% - 91% = C
- (IV) 88% - 89% = D
- (V) 87% or Below = F

(ii) **Dropout rate.** For this component, schools shall earn a grade based on the annual number of students reported as dropouts to the Oklahoma State Department of Education on the Annual Dropout Report. A letter grade for dropout rate will be earned based on the following scale listed below. The scale provided to assign a grade will be converted to a transformed scale so that the A will range from 90-100, the B will range from 80-89, the C will range from 70-79, the D will range from 60-69, and the F will range from 59 and below. Points will be earned based on a transformed scale.

- (I) 0% - 0.9% = A
- (II) 1% - 1.9% = B
- (III) 2% - 2.9% = C
- (IV) 3% - 3.9% = D
- (V) 4% or More = F

(g) **Additional points.** In addition to the criteria listed in sub-section (f)(4) of this rule, schools may earn additional points that will be factored into the school's whole school improvement grade. Annually, the Oklahoma State Department of Education shall publish technical assistance specifically



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detailing the weighted formula used for computing additional points into the whole school improvement grade. Technical assistance shall be published in time for school districts to make meaningful use of the information and data.

(1) **Parent and community engagement factors.** For all schools comprised of high school, middle school, and elementary school grades, additional points may be earned and factored into the whole school improvement grade based on the following school improvement factors: For this component, schools shall earn additional points based on the number of volunteer hours performed during the school year by parents and/or community members.

(A) ~~School climate indicators. For this component, schools shall earn additional points based on the results of the Oklahoma School Climate Survey, which should be made available to all faculty, parents, and students. The Oklahoma School Climate Survey must be completed by at least ninety percent (90%) of faculty, twenty percent (20%) of students, and ten percent (10%) of parents in the school. The survey shall be administered online and results submitted directly to the Oklahoma State Department of Education.~~

(B) ~~Parent and community engagement factors. For this component, schools shall earn additional points based on the number of volunteer hours performed during the school year by parents and/or community members.~~

(2) ~~In addition to the factors outlined in sub-section (g)(1), for schools comprised of elementary school grades, additional points may be earned and factored into the whole school improvement grade based on the following school improvement factors:~~

(A) ~~Higher Level Coursework. The percentage of students who are taking higher level coursework at a satisfactory or higher level in elementary school. For this component, schools shall earn points based on the percentage of students taking traditional middle school courses in the elementary school grades or other advanced coursework in a traditional classroom or in a virtual environment whose score at a satisfactory level or higher on the corresponding state standardized assessment.~~

(3) ~~In addition to the factors outlined in sub-section (g)(1), for schools comprised of high school grades, additional points may be earned and factored into the whole school improvement grade based on the following school improvement factors:~~

(A) **College preparatory coursework.** For this component, high schools serving students in grades nine (9) through twelve (12) shall earn points based on the percentage of students completing the State's college and career preparatory curriculum. This shall be calculated based on a sum of all students, in grades nine (9) through twelve (12), enrolled in college preparatory coursework divided by the total number of students enrolled in the school in grades nine (9) through twelve (12).

(B) **College remediation.** For this component, a college remediation rate shall be calculated by dividing the unduplicated count of students needing remediation in reading, English, math, or science by the total number of the students attending an Oklahoma college or university.

(h) **School Performance Grading Scale.** The School Performance Grade shall be based on a combination of the factors outlined in sub-section (b)(1) of this rule and detailed in sub-section (f) of this rule. Thirty-three percent (33%) shall be based on student test scores; seventeen percent (17%) on student learning gains; seventeen percent (17%) on improvement of the lowest twenty-five percent (25%) of students in the school in reading and mathematics; and thirty-three percent (33%) on whole school improvement. Letter grades will be ~~converted~~ calculated according to the assigned weight of each criteria and by combining points earned for each component within each criteria. ~~based on the following point distribution: A's will be converted to 4 points; B's will be converted to 3 points; C's will be converted to 2 points; D's will be converted to 1 point; and F's will be converted to 0 points.~~ The grades for each factor described in sub-section (b)(1) will be averaged ~~to compute earned an overall grade and assigned according to the following scale:~~

- (1) ~~A grade point average of 3.75 - 4.0 shall be required for a School Performance Grade of A. 90 or Above = A~~
- (2) ~~A grade point average of 2.75 - 3.74 shall be required for a School Performance Grade of B. 80 - 89 = B~~
- (3) ~~A grade point average of 1.75 - 2.74 shall be required for a School Performance Grade of C. 70 - 79 = C~~
- (4) ~~A grade point average of 0.75 - 1.74 shall be required for a School Performance Grade of D. 60 - 69 = D~~
- (5) ~~If a school's grade point average is lower than 0.74, it shall be assigned a School Performance Grade of F. 59 or Below = F~~

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

- (1) Each school district superintendent shall designate a school accountability contact person to be responsible for verifying accuracy of data.
- (2) The Superintendent of Public Instruction shall withhold the designation of a school's performance grade if he or she determines that the performance data does not accurately represent the progress of the school.

(A) Circumstances under which a school's performance data may be considered to not accurately represent the progress of the school include:

- (i) Less than ninety-five percent (95%) of the school's student population eligible for inclusion in the designation of the school's performance grade was assessed.
- (ii) Circumstances identified before, during, or following the administration of any state assessment where the validity or integrity of the test results are called into question and are subject to

review as determined by the State Department of Education.

~~(B) After the initial issuance of school performance grades, the school district shall have at least thirty (30) calendar days to review the data on which the performance grade was based. If the school district determines that a different performance grade should be assigned because of the omission of student data, a data miscalculation, or special circumstances that might have affected the grade assigned, a request for a review of the data can be submitted to the State Department of Education. Changes to the criteria or process shall not be considered as part of this review. Documentation of all elements and data to be reviewed by the Department must be submitted within the time limits specified in this sub-section. No changes to data shall be made after the expiration of the thirty (30) calendar day review period.~~

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

(1) **Initial Data Verification.** Initial data verification of the data used to calculate school performance grades shall occur throughout the school year as data becomes available to the State Department of Education. School district accountability staff shall have the opportunity to perform data verification and confirm that data being used to calculate school performance grades are accurate prior to the review period required by (j)(2) of this rule. The school district shall have at least thirty (30) calendar days to review each data component, as it becomes available. No changes to data shall be made after the expiration of the respective thirty (30) calendar day review period.

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

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

(1) **Planned System Enhancements.** As indicated in this subsection, planned enhancements will occur in the System of School Improvement and Accountability. The Superintendent of Public Instruction will periodically recommend additional changes to the system to the State

Board of Education for approval as necessary to ensure that continuous improvements are made in the educational programs of the State.

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

[OAR Docket #13-1036; filed 6-6-13]

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

[OAR Docket #13-1034]

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 27. Reading Sufficiency Act

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

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

**AUTHORITY:**

70 O.S. § 3-104; 70 O.S. § 1210.508C; 70 O.S. § 1210.508D; 70 O.S. § 1210.508E; Oklahoma State Department of Education

**DATES:**

**Comment period:**

February 1, 2013 through March 6, 2013

**Public hearing:**

March 6, 2013

**Adoption:**

March 28, 2013

**Submitted to Governor:**

March 28, 2013

**Submitted to House:**

March 28, 2013

**Submitted to Senate:**

March 28, 2013

**Gubernatorial approval:**

May 13, 2013

**Legislative approval:**

Failure of the Legislature to disapprove the rules resulted in approval on May 23, 2013.

**Final adoption:**

May 23, 2013

**Effective:**

July 11, 2013

**SUPERSEDED EMERGENCY ACTIONS:**

N/A

**INCORPORATIONS BY REFERENCE:**

N/A

**ANALYSIS:**

Amendments to the rules incorporate 2012 amendments to 70 O.S. § 1210.508C regarding good cause exemptions from retention for students who score at an unsatisfactory level on the reading portion of the statewide third grade standardized test. Amendments to the rules also revise and clarify requirements for submission of district reading sufficiency plans required by § 1210.508C and allocation of Reading Sufficiency Act funds pursuant to § 1210.508D. The rule also adds a procedure for approval of an alternate

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schedule of a Summer Academy Reading Program for schools observing a continuous learning calendar.

**CONTACT PERSON:**

Stephanie Moser Goins, (405) 521-4890

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 11, 2013:**

## **SUBCHAPTER 27. READING SUFFICIENCY ACT**

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

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

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

(b) ~~If any expenditure for the district's reading program is deleted or changed or if any other type of expenditure for the district's reading program is implemented, the school district shall be required to submit the latest annual update for approval. Notwithstanding the provisions of (a)(1) and (2) of this Section, if a district has one or more schools that are not achieving the annual improvement goals as outlined in the Reading Sufficiency Act, or if a district has one or more schools designated as a school in need of improvement, the district shall submit its district reading sufficiency plan for approval.~~

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

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

~~date to be determined by the Office of Instruction of the State Department of Education.~~

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

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

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

(g) ~~Each school district with one or more school sites identified for School Improvement shall submit its district reading sufficiency plan to the State Board of Education. Submission date to be determined by the Office of Instruction of the State Department of Education.~~

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

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

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

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



(h) Summer academy reading programs for students shall be courses that:

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

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

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

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

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

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

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

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

- (1) ~~Completion of transitional grades shall be considered a previous retention for purposes of 70 O.S. § 508C, Section (K). A transitional grade consists of subject area curriculum selected from two consecutive grade levels to provide differentiated instruction needed for a student to master appropriate skills required for promotion. Students~~

with limited English proficiency may be granted a good cause exemption for promotion to the fourth grade pursuant to 70 O.S. § 1210.508C(K)(1). To qualify for this exemption, the student must:

- (A) Be identified as Limited-English Proficient (LEP)/English Language Learner (ELL) on a screening tool approved by the Oklahoma State Department of Education Office of Bilingual/Migrant Education and have a Language Instruction Educational Plan (LIEP) in place prior to the administration of the third grade criterion referenced test; and
- (B) The student must have had less than two (2) years of instruction in an English Language Learner (ELL) program.

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

- (A) The student must be identified as needing special education services prior to the administration of the third grade criterion referenced test;
- (B) The student must have an Individualized Education Program (IEP) in place prior to the administration of the third grade criterion referenced test; and
- (C) The student's IEP must direct that the student is to be assessed with alternate achievement standards through the Oklahoma Alternative Assessment Program (OAAP) based upon the OSDE Criteria Checklist for Assessing Students with Disabilities on State Assessments.

(e3) Students who demonstrate an acceptable level of performance on an alternative standardized reading assessment may be granted a good cause exemption for promotion to the fourth grade pursuant to 70 O.S. § 1210.508C(K)(3). To promote a student using an alternative standardized reading assessment, the following criteria shall apply:

(4A) The student must score an acceptable level of performance on an approved alternative standardized reading assessment. The following are approved alternative standardized reading assessments that may be used to justify a good cause promotion pursuant to 70 O.S. § 1210.508C(K)(3). The listed score constitutes an acceptable level of performance, and the student must score at or above the following percentiles:

- (Ai) Stanford Achievement Test, Tenth Edition, (SAT 10) \_ 45th Percentile
- (Bii) Iowa Test of Basic Skills (ITBS) Complete Battery Form A, C or E, Level 9, Reading Comprehension \_ 45th Percentile
- (Ciii) Iowa Test of Basic Skills (ITBS) Core Battery, Form A, C, or E, Level 9, Reading Comprehension \_ 45th Percentile

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

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

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

~~(d4)~~ Students who can demonstrate evidence through a student portfolio that the student has mastered state standards beyond the retention level and that the student is reading on grade level or higher may be granted a good cause exemption pursuant to 70 O.S. § 1210.508C(K)(4). ~~To promote a student using a student portfolio as a good cause exemption there must be evidence that demonstrates the student's mastery of state standards beyond the retention level and that the student is reading on grade level or higher.~~ To promote a student through the use of a student portfolio, the following criteria shall apply:

~~(4A)~~ The student portfolio shall include evidence demonstrating~~demonstration~~ of the student's mastery of the Oklahoma state standards in reading equal to grade level performance on the Reading portion of the statewidethird grade ~~Grade 3~~ criterion-referenced test(s). Such evidence shall be documented through an organized collection of work representing the student's mastery of such standards, including a demonstration of mastery of all of the following essential components of reading:-

(i) Phonological awareness;

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

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

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

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

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

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

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

~~(B)~~ Be an accurate representation of the student's reading achievement level, and only include work that

has been independently produced in the third grade by the student in the classroom of the student's Reading teacher;

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

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

(ii) Teacher-prepared assessments.

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

~~(D)~~ The student portfolio shall include copies of the screening assessments and benchmark/progress monitoring assessments administered pursuant to 70 O.S. 1210.508C(B) and (C), as well as a copy of the student's Academic Progress Plan.

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

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

(ii) The portfolio includes only work that has been independently produced by the student in the third grade, including programs of reading instruction provided after regular school hours, on Saturdays, and during the summer following the student's third grade year; and

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

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

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

~~(A)~~ Student portfolios compiled pursuant to section (e) of this rule shall contain documentation of the intellectual assessment administered to the student and the respective score report. The intellectual



assessment must be administered by a licensed psychologist, certified school psychologist, or certified psychometrist.

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

- ~~(i) WISC-IV~~
- ~~(ii) Stanford Binet V~~
- ~~(iii) Woodcock Johnson III Normative Update~~

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

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

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

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

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

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

~~(B) The student's IEP must:~~

- ~~(i) Identify Reading as an area of education need for the student or identify some type of special education service in the area of Reading; and~~
- ~~(ii) Reflect that the student has received intensive remediation for more than two (2) years. Intensive remediation may include any type of program offering intensive reading instruction that is identified as appropriate by the IEP team.~~

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

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

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

(c) Each student completion of a transitional grade between kindergarten and third grade shall be considered a previous retention for purposes of 70 O.S. § 1210.508C(K). A transitional grade consists of subject area curriculum selected from two consecutive grade levels to provide differentiated instruction

needed for a student to master appropriate skills required for promotion.

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

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

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

- (1) Identification of assessments used for diagnostic purposes and periodic monitoring;
- (2) The results of the assessment(s) used to identify the reading deficiency;
- (3) A list of the developmental reading skill areas targeted for improvement (i.e., comprehension, phonics, phonological awareness, spelling, reading fluency, or vocabulary);
- (4) A description of the supplemental and/or remedial services and supports provided to the student in accordance with the provisions of 70 O.S. § 1210.508C(N)(2);
- (5) A description of parental involvement strategies; and
- (6) Identification of any collaborative services provided to the child in order to facilitate the APP (i.e., Title I, IDEA, ELL/Title III).

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

- (1) For students identified for Tier I intervention, a minimum of ninety (90) minutes of uninterrupted daily scientific-research-based reading instruction;
- (2) For students identified for Tier II intervention, at least thirty (30) to forty-five (45) minutes of additional uninterrupted daily scientific-research-based reading instruction in addition to the ninety (90) minutes of uninterrupted daily reading instruction provided under Tier I; and
- (3) For students identified for Tier III intervention, at least forty-five (45) to sixty (60) minutes of additional uninterrupted daily scientific-research-based reading instruction in addition to the ninety (90) minutes of uninterrupted daily reading instruction provided under Tier I.

[OAR Docket #13-1034; filed 6-6-13]

# Permanent Final Adoptions

## TITLE 210. OKLAHOMA STATE DEPARTMENT OF EDUCATION CHAPTER 20. STAFF

[OAR Docket #13-1035]

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

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

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

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

### AUTHORITY:

70 O.S. § 3-104; 70 O.S. § 6-101.10; 70 O.S. § 6-101.16; Oklahoma State Department of Education

### DATES:

#### Comment period:

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Failure of the Legislature to disapprove the rules resulted in approval on May 23, 2013.

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July 11, 2013

### SUPERSEDED EMERGENCY ACTIONS:

N/A

### INCORPORATIONS BY REFERENCE:

N/A

### ANALYSIS:

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

### CONTACT PERSON:

Stephanie Moser Goins, (405) 521-4890

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 11, 2013:**

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

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

##### (a) ~~Practice.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

##### (b) ~~Products.~~

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

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

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

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

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

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

**(a) Practice.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[OAR Docket #13-1035; filed 6-6-13]

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

[OAR Docket #13-1038]

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 9. Professional Standards: Teacher Education and Certification

Part 9. Teacher Certification

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

210:20-9-104. Certification for languages with no subject area examination [AMENDED]

**AUTHORITY:**

70 O.S. § 3-104; 70 O.S. § 6-189; 70 O.S. § 11-103.6; State Department of Education

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**SUPERSEDED EMERGENCY ACTIONS:**

N/A

**INCORPORATIONS BY REFERENCE:**

N/A

**ANALYSIS:**

The amendments to the rules establish a process for certification of Native American languages and teachers of Native American languages which have no subject matter competency examination, and will provide a procedure for the State Department of Education to recognize tribal certification of proficiency in Native American languages. The amendment to 210:20-9-98 also updates the criteria for certification of noncitizen foreign language teachers.

**CONTACT PERSON:**

Stephanie Moser Goins, (405) 521-4890

# Permanent Final Adoptions

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 11, 2013:

## 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 an unexpired United States Citizenship and Immigration Services (USCIS) employment authorization document with the application before an Oklahoma teaching credential may be issued.

(2) The Oklahoma teaching credential may be issued/reissued for no longer than the validity of the employment authorization document.

(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; ~~in a world language other than English (WLOE) to be taught in Oklahoma;~~

(D) Applicants who seek to teach world languages must have a minimum of three years of teaching experience in the world language other than English (WLOE) 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 three 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.

**(de) 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.

**(ef) 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.

**(fg) Duplicate/update certificates.** A certificate/license may be duplicated or updated by submitting a written request and paying the fee.

**(gh) Change of name.** A legal change of last name on a certificate/license may be accomplished at any time upon written request and paying the fee.

**(hi) Refusal of certification.** No certificate/license will be issued unless all requirements for the certificate/license in question are fully met. In addition, no certificate/license will be issued if the attempt to become certified is based on misrepresentation, forgery, or fraud.

**(ij) Grounds for cancellation of certificates.** Any certificate/license, credential, or endorsement obtained by misrepresentation, forgery, fraud, or issued by error will be cancelled. Upon written request the holder must surrender the certificate/license in question to the State Department of Education.

**(jk) Felony as grounds for noncertification.** No person shall receive an Oklahoma certificate/license 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.

**(kl) Revocation of teaching certificate.** Teaching certificates/licenses 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/license 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/license has been revoked in Oklahoma or any other state shall be issued an Oklahoma certificate/license unless the revoked certificate/license 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/licensure 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.

**(lm) 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.

**(mn) 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.

**(no) Fee for duplicate licenses and certificates.** The State Board of Education shall charge and collect reasonable fees for the issuance and duplication of licenses and certificates.

**210:20-9-104. Certification for languages with no subject area examination**

(a) The Oklahoma State Department of Education (OSDE) shall issue a certification in world languages that have no state competency examination to qualified applicants who meet the following eligibility requirements.

**(1b)** A qualified applicant seeking certification in a world language that has no state competency examination

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must obtain a score of at least "intermediate-high" on the following exams administered by the American Council on the Teaching of Foreign Languages (ACTFL) in the foreign language for which the applicant is seeking certification:

(A) The Oral Proficiency Interview (OPI) or the Oral Proficiency Interview Computer (OPIc); and

(B) The Writing Proficiency Test (WPT)

(2e) The testing assessments listed in (b) of this ~~rule~~Section are the only testing assessments which may be used as appropriate subject area assessments in a world language that has no state competency examination, unless the world language falls within the definition of a Native American Language set forth in 210:20-9-98(d).

(3d) Applicants holding a valid Oklahoma traditional or alternative credential may add a world language that has no state competency examination by meeting the requirements listed in ~~sub-section (b)(1) of this rule~~subsection.

(4e) Applicants seeking certification in a world language that has no state competency examination who do not hold an Oklahoma traditional or alternative credential must meet the requirements of ~~sub-section (b)(1) of this rule~~subsection and must qualify for an Alternative Placement Teaching Certificate. Applicants seeking certification pursuant to this section must comply with all statutory requirements of the Alternative Placement Program listed in 70 O.S. § 6-122.3.

(b) The Oklahoma State Department of Education (OSDE) shall issue a certification in Native American Languages that have no state competency examination to qualified applicants who meet all of the criteria set forth in 210:20-9-98(d) and who demonstrate proficiency in the Native American Language sought to be certified as determined by a federally-recognized tribe or tribal entity. For purposes of this subsection, proficiency in a Native American Language may be established as follows:

(1) Applicant holds a Native American Language certificate issued by:

(A) A federally-recognized tribe or tribal entity; or

(B) An organization which has been recognized by a federally-recognized tribe or tribal entity with authority to certify Applicant's proficiency in the Native American Language(s) of the Tribe; and

(2) Applicant has obtained a bachelor's degree or other academic degree designated by the federally recognized Tribe or Tribal Entity as a prerequisite to certification of proficiency in the Native American Language.

(c) As a prerequisite to recognition of certification of proficiency in a Native American Language, a tribe or tribal entity certifying proficiency in a Native American Language must provide the OSDE with an official statement issued by a tribe or tribal entity which identifies:

(1) The Native American Language(s) for which the Tribe or Tribal Entity intends to certify individuals as proficient, or, in the case of an organization identified pursuant to (b)(1)(B) of this subsection, the Native American Language for which the Tribe or Tribal Entity recognizes an organization with the authority to certify proficiency;

(2) A description of the systems and standards and subject area proficiency assessments that will be used by a tribe, tribal entity, or other organization identified in (b)(1)(B) of this subsection in certifying Native American Language teachers;

(3) A description of the educational requirements, training, professional development, language ability, and other qualifications necessary for teacher certification by the Tribe/Tribal Entity; and

(4) A description of the levels of proficiency and/or particular Native American Language course(s) for which the Tribe/Tribal entity intends to certify or recognize certification of an individual to teach.

(d) A certificate in Native American Languages shall qualify the authorized individual to accept a teaching position or assignment in any school district of the State of Oklahoma that offers or permits courses in Native American Language at the proficiency and/or grade level(s) for which they hold certification, provided that:

(1) A holder of Native American Languages teaching certificate who does not also have a current, valid Oklahoma traditional or alternative teaching credential may not teach any subject other than the Native American language and level(s) for which the individual has been certified; and

(2) In order to teach any Native American Language course offered by a school district for core academic subject as a world language credit rather than elective credit, a holder of a Native American Language teaching certificate who does not hold an Oklahoma traditional or alternative teaching credential must either qualify for an Alternative Placement Teaching Certificate or teach the class in collaboration with a teacher of record who is highly qualified in any content area for the appropriate level of instruction.

[OAR Docket #13-1038; filed 6-6-13]

### TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 40. GRANTS AND PROGRAMS-IN-AID

[OAR Docket #13-1037]

#### RULEMAKING ACTION:

PERMANENT final adoption

#### RULES:

Subchapter 87. Rules for Payment to Charter Schools  
210:40-87-6. Charter school surety bonds [NEW]

#### AUTHORITY:

70 O.S. § 3-104; 70 O.S. 3-136; State Department of Education

#### DATES:

##### Comment period:

February 15, 2013 through March 25, 2013

##### Public hearing:

March 25, 2013

##### Adoption:

March 28, 2013

##### Submitted to Governor:

March 28, 2013

**Submitted to House:**

March 28, 2013

**Submitted to Senate:**

March 28, 2013

**Gubernatorial approval:**

May 13, 2013

**Legislative approval:**

Failure of the Legislature to disapprove the rules resulted in approval on May 23, 2013.

**Final adoption:**

May 23, 2013

**Effective:**

July 11, 2013

**SUPERSEDED EMERGENCY ACTIONS:**

N/A

**INCORPORATIONS BY REFERENCE:**

N/A

**ANALYSIS:**

The new rule at 210:40-87-6 clarifies requirements for charter schools pursuant to 70 O.S. § 3-136, which requires charter schools to comply with federal, state, and local rules and statutes relating to health, safety, civil rights, and insurance and comply with reporting requirements and financial audits. The new rule clarifies the requirement of superintendents, financial officers, and/or custodians of charter school funds to submit the surety bonds required under 70 O.S. § 5-129 and 70 O.S. §5-116A.

**CONTACT PERSON:**

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**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 11, 2013:**

**SUBCHAPTER 87. RULES FOR PAYMENT TO CHARTER SCHOOLS**

**210:40-87-6. Charter school insurance and surety bonding**

(a) Liability insurance. Each charter school shall be required to furnish and maintain liability insurance coverage and fidelity bonding of the same terms, conditions, types and amounts required of public schools under Oklahoma law. The provisions of this subsection shall not be interpreted to preclude any charter school from obtaining liability insurance coverage or fidelity bonds in addition to or in excess of the requirements of this section.

(b) Surety bonds. Charter school officers and/or employees shall be required to furnish and maintain surety bonds with the same terms, conditions, penalty, types and amounts required of public school officers and/or employees under Oklahoma law.

(1) All surety bonds shall comply with the requirements set forth in 70 O.S. § 5-116a, provided that in the case of a charter school established in accordance with the provisions of the Oklahoma Charter Schools Act, at the surety bond shall be made payable to the charter school instead of the school district.

(2) The provisions of this subsection shall not be interpreted to preclude any charter school officer and/or employee from furnishing and maintaining a surety bond in excess of the requirements of this section.

(3) Further, the provisions of this subsection shall not be interpreted to preclude a school board, school district, or charter school sponsor from requiring a charter school officer and/or employee charged with custody of public funds from furnishing a surety bond as a prerequisite of employment unless otherwise prohibited by law.

[OAR Docket #13-1037; filed 6-6-13]

**TITLE 230. STATE ELECTION BOARD  
CHAPTER 10. THE COUNTY ELECTION BOARD**

[OAR Docket #13-1003]

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 1. General Provisions

230:10-1-1. Purpose [AMENDED]

Subchapter 3. Election Personnel

Part 1. County Election Board Members and Employees

230:10-3-1. Membership [REVOKED]

230:10-3-2. Appointment of Secretary [REVOKED]

230:10-3-3. Appointment of County Election Board members and alternate members [REVOKED]

230:10-3-4. Organization [REVOKED]

230:10-3-5. Eligibility [REVOKED]

230:10-3-5.1. Disqualification of County Election Board member or Secretary [REVOKED]

230:10-3-6. Creation of vacancies [REVOKED]

230:10-3-7. Filling vacancies [REVOKED]

230:10-3-8. Salary of the Secretary [REVOKED]

230:10-3-9.2. Employment and supervision of County Election Board personnel when office of Secretary is vacant [REVOKED]

230:10-3-10. Compensation ~~of~~ claims for the Chairman and Vice Chairman [AMENDED]

230:10-3-11. Employment of the Assistant Secretary [REVOKED]

230:10-3-12. Compensation of the Assistant Secretary [AMENDED]

230:10-3-13. Employment of the Chief Clerk [REVOKED]

230:10-3-14. Compensation of the Chief Clerk [AMENDED]

230:10-3-15. Additional clerical personnel [AMENDED]

230:10-3-16. Compensation of additional personnel [AMENDED]

230:10-3-16.1. Compensation for temporary personnel must be funded [REVOKED]

Part 3. The Precinct Election Board

230:10-3-23. Membership [REVOKED]

230:10-3-24. Appointment of Inspector [REVOKED]

230:10-3-25. Appointment of Judge and Clerk [REVOKED]

230:10-3-26. Retention of lists [AMENDED]

230:10-3-27. Vacancies on the Precinct Election Board [REVOKED]

230:10-3-29. Eligibility [REVOKED]

230:10-3-30. Disqualification of Precinct Election Board member; "consanguinity," "affinity," "third degree" defined [REVOKED]

230:10-3-33. Compensation of Inspector [REVOKED]

230:10-3-34. Compensation of Judges and Clerks [REVOKED]

230:10-3-35. No double compensation [AMENDED]

230:10-3-36. Removal of Inspectors, Judges, and Clerks [REVOKED]

230:10-3-38. Record of appointment of Precinct Officials [AMENDED]

Subchapter 5. Election Training

Part 1. The County Election Board

230:10-5-2. Reimbursement for workshops [REVOKED]

230:10-5-7. Inspections [AMENDED]

Part 3. The Precinct Election Board

230:10-5-12. Precinct Official training [AMENDED]

230:10-5-13. Reimbursement for training [AMENDED]

Subchapter 7. General Administration of the County Election Board

Part 1. Meetings of the Board

230:10-7-1-1. Open Meeting Act shall be observed [NEW]