

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

SUBCHAPTER 11. EARLY CHILDHOOD PROGRAMS

**210:15-11-3. Criteria for pilot early childhood program pursuant to Title 70 O.S. § 10-105.4
[AMENDED]**

- (a) Qualifying children are those children aged birth through three years, who are identified as at-risk as determined by Federal Poverty Guidelines.
- (b) Qualifying programs must meet childcare licensing requirements as provided by the Oklahoma Department of Human Services for Children aged birth through three years.
- (c) The adult child ratio shall meet minimum childcare licensing requirements as provided by the Oklahoma Department of Human Services for children aged birth through three years.
- (d) The provider will ensure the operational schedule is a minimum of eight hours a day for 50 ~~46~~ weeks a year. Children will be served 48 ~~44~~ weeks, with two additional weeks for staff training.
- (e) Staffing requirements are:
 - (1) ~~The lead teacher must hold early childhood certification and a bachelor's degree. Lead teachers must hold one of the following:~~
 - (i) an associate's degree (AA), baccalaureate degree (BA), or master's degree (MA) in early childhood, child development, elementary education, or early childhood special education;
 - (ii) an associate's degree (AA), baccalaureate degree (BA), or master's degree (MA) in social work, nursing, psychology, human development and family studies and one year experience as a teacher;
 - (iii) at least 60 college/university credits with at least 30 college credits in early childhood education, child development, elementary education, or early childhood special education; or
 - (iv) a baccalaureate degree or higher in any discipline with at least 36 college credits in early childhood education, child development, elementary education, or early childhood special education.
 - (2) ~~The assistant teacher must hold a minimum of an associate's degree (60 college credits) in child development or a related field. Assistant teachers must hold one of the following:~~
 - (i) a high school diploma and a current Child Development Associate (CDA) degree (120 clock hours);
 - (ii) a high school diploma and at least 12 college credits in early childhood education, child development, elementary education, or early childhood special education; or
 - (iii) one of the options outlined in section (e)(1).
 - (3) Each staff member must undergo a Federal Bureau of Investigation (FBI) background check.
 - (4) Any staff member not meeting the requirements outlined in section (e)(1) or (e)(2) above will be given a "plan of correction" and meet requirements within a 2-year period.
 - (5) The provider shall employ a family support worker whose caseload shall be approximately 50 families.
- (f) All staff must participate in initial training and annual training in infant and toddler development, curriculum, and parent education.
- (g) The curriculum shall be aligned with Oklahoma's Early Learning Guidelines for Infants and Toddlers.
- (h) All programs must undergo an annual program evaluation.

RULE IMPACT STATEMENT 210:15-11-3

Criteria for pilot early childhood program pursuant to Title 70 O.S. § 10-105.4 [AMENDED]

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

The current rules governing the Oklahoma Early Childhood Program (OECF) were adopted in 2007, shortly after the creation of the program by the Oklahoma Legislature. The updated staffing requirements expand the background qualifications for teachers and assistant teachers to include areas beyond early childhood education while maintaining similar qualifications. This ensures that the pool of applicants is large enough to adequately staff classrooms with high-quality teachers. The updated timeframe for which programming is offered aligns more accurately with partnering childcare providers.

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

The rule change will directly affect students and individuals who benefit and participate in the Oklahoma Early Childhood Program, established in 70 O.S. § 10-105.4.

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

The rule change will benefit students and individuals who benefit and participate in the Oklahoma Early Childhood Program, established in 70 O.S. § 10-105.4.

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

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

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

The agency does not anticipate any cost to the agency to implement and enforce as a result of the proposed change in the rule at this time.

f. What is the economic impact on any political subdivision to implement the proposed rule change?

The agency does not anticipate any economic impact on any political subdivision to implement the proposed rule change at this time.

g. Will implementing the rule change have an adverse effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act?

The agency does not anticipate any adverse economic impact on small business as a result of the proposed rule change at this time.

- h. **Are there any other methods which are less costly, nonregulatory, or less intrusive to achieve the purpose of the proposed rule change?**

No.

- i. **Will the rule change impact the public health, safety, and environment, and is the change designed to reduce significant risks to the public health, safety, and environment? If so, explain nature of risk and to what extent the proposed rule change will reduce the risk.**

The updated staffing requirements expand the background qualifications for teachers and assistant teachers to include areas beyond early childhood education while maintaining similar qualifications. This ensures that the pool of applicants is large enough to adequately staff classrooms with high-quality teachers. As such, the agency believes the changes will positively impact the public health, safety and environment.

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

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

- k. **Date Prepared:** February 1, 2022

STATUTORY AUTHORITY FOR 210:15-11-3

Oklahoma Statutes Citationized



Title 70. Schools



Chapter 1 - School Code of 1971



Article Article X - School Population and Attendance



Section 10-105.4 - Early Childhood Pilot Program for At-Risk Children

Cite as: O.S. §, __ __

The State Board of Education shall establish a pilot early childhood program to consist of private donations and state funds that will serve at-risk children in at least one urban area and one rural area of this state to be selected by the Board. The Board shall solicit applications from the private sector for the program and require applicants to match state funds on a two-to-one basis and commit a minimum investment of Ten Million Dollars (\$10,000,000.00) in the program.

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

SUBCHAPTER 27. READING SUFFICIENCY ACT

YELLOW HIGHLIGHTS INDICATE CHANGES FOLLOWING PUBLIC COMMENT

210:15-27-4. Individualized Program of Reading Instruction [AMENDED]

- (a) **Eligible students.** Each ~~s~~Students enrolled in kindergarten, first, second, and third grade in the public schools of Oklahoma shall be assessed at the beginning, middle, and end of each school year using a screening instrument approved by the State Board of Education. This includes all students except the following:

(1) Students assessed through the Oklahoma Alternative Assessment Program (OAAP); and

(2) Student with an Individualized Education Program (IEP) in the primary disability category of visual impairment or hearing impairment may be exempt as determined by the student's IEP team.

Any student found not to be reading at grade level shall be provided an Individualized Program of Reading Instruction designed to enable the student to acquire the appropriate grade level reading skills. Diagnostic assessment shall be provided if determined appropriate, and progress monitoring shall continue throughout the year.

- (b) **Student Reading Proficiency Team.** For students found not to be reading at the corresponding grade level upon completion of an approved screening instrument, a Student Reading Proficiency Team shall be created. The following guidelines apply to Student Reading Proficiency Teams:

(1) For a student not reading at the corresponding grade level in first grade or second grade as identified by an approved screening instrument, the Student Reading Proficiency Team shall develop an individualized program of reading instruction. The team shall be composed of:

- (A) The student's parent(s) or guardian(s);
- (B) The teacher assigned responsibility for the student's reading instruction in that academic year;
- (C) A teacher assigned responsibility for reading instruction in the student's next grade level; and
- (D) A certified reading specialist, if available.

(2) For a third grade student who is not eligible for automatic promotion and who does not meet criteria on the reading foundations/processes and vocabulary portions of the third-grade assessment administered pursuant to 70 O.S. § 1210.508, a Probationary Promotion Reading Proficiency Team may evaluate the student for probationary promotion. Upon the unanimous recommendation of the Probationary Promotion Reading Proficiency Team and approval of the school principal and district superintendent, a student recommended for probationary promotion shall be promoted to fourth grade. The Probationary Promotion Reading Proficiency Team shall be composed of:

- (A) The student's parent(s) or guardian(s);

- (B) The teacher assigned responsibility for the student's reading instruction in that academic year;
 - (C) A teacher assigned responsibility for reading instruction in the student's next grade level; and
 - (D) A certified reading specialist.
- (c) **Program requirements.** Each program of reading instruction shall include provisions of the READ Initiative adopted by the school district as provided for in 70 O.S. § 1210.508C. For purposes of the Reading Sufficiency Act, a "program of reading instruction" shall be based upon a Multi-Tiered Systems of Support (MTSS) model, and shall include:
- (1) **Tier I.** Tier I, or core instruction, is research-based reading instruction for all students that is based on the science of how students learn to read and is aligned with the Oklahoma Academic Standards. Tier I instruction provides all students a minimum of ninety (90) minutes of daily reading instruction.
 - (2) **Tier II.** Tier II intervention is supplemental, direct, research-based instruction based on the cognitive science of how students learn to read, designed to supplement core instruction and address students' reading skill deficits. Tier II intervention is:
 - (A) Based on specific student needs;
 - (B) Reflects the needed intensity and/or frequency as identified by an appropriate reading assessment; and
 - (C) Is determined by the teacher responsible for grade level Tier I reading instruction, reading specialist (if available), and building principal.
 - (3) **Tier III.** Tier III intervention is supplemental, direct, customized, and intensive research-based instruction based on the cognitive science of how students learn to read, designed to supplement core instruction and address students' reading skill deficits by targeting the area(s) of greatest need. Tier III intervention is:
 - (A) Based on specific student needs;
 - (B) Reflects the needed intensity and/or frequency as identified by a diagnostic assessment; and
 - (C) Is determined by the teacher responsible for grade level Tier I reading instruction, reading specialist (if available), and building principal.
- (d) **District review of program.** Each district shall conduct a review of the program of reading instruction for all students who do not meet criteria on the reading foundations/processes and vocabulary portions of the third grade assessment and do not qualify for a good-cause exemption under 70 O.S. § 1210.508C. For each student retained under the provisions of the Reading Sufficiency Act, the school district shall require a student portfolio to be completed. The district review of each retained student's program of reading instruction shall address additional supports and services needed to remediate the identified areas of reading deficiency, which may include but not limited to:
- (1) Small group instruction;
 - (2) Reduced teacher-student ratios;
 - (3) More frequent progress monitoring;
 - (4) Tutoring or mentoring;
 - (5) Transition classes containing third and fourth grade students;
 - (6) Extended school day, week, or year; and

(7) Summer Academy Reading Programs as provided for in 70 O.S. § 1210.508E, if available.

- (e) **Students approved for probationary promotion.** For a student who is approved for probationary promotion, the Probationary Promotion Reading Proficiency Team shall continue to review the student's reading performance and repeat the evaluation and recommendation process described in 1210.508C each academic year until the student demonstrates grade-level reading proficiency on an approved screening instrument or transitions to another school. If a student who has been approved for probationary promotion transitions to another school before demonstrating grade-level proficiency on an approved screening instrument, a copy of the student's Individualized Program of Reading Instruction shall be provided to the student's subsequent school.

PUBLIC COMMENT SUMMARY

210:15-27-4 Individualized Program of Reading Instruction [AMENDED]

Summary of Public Comment	Agency Response
<p>1. Commenter supports the two proposed exceptions in subsection (a); however, advises that the statute does not authorize OSDE to adopt rules concerning certain specified areas of the Reading Sufficiency Act and does not grant authority to limit the students subject to the screening and assessment. As such, the proposed rule exceeds the scope of authority of the OSDE.</p>	<p>1. The Agency is directed in <u>70 O.S. § 1210.508C</u> to adopt rules for the <i>implementation</i> and evaluation of the provisions of the Reading Sufficiency Act (RSA or the Act). However, the OSDE appreciates the comments provided and will accept the proposal, as provided. Please see the Proposed Final Rule.</p>

RULE IMPACT STATEMENT 210:15-27-4

Individualized Program of Reading Instruction [AMENDED]

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

The current Administrative Rules for the Reading Sufficiency Act (RSA): Individualized Program of Reading Instruction (210:15-27-4) were updated in 2020. When discussing the Program Requirements for Tier 1 instruction, it was discovered that the word “daily” was eliminated from the update when referring to the ninety (90) minutes of reading instruction. The word “daily” needs to be added to this description to provide clarity and consistency for districts.

Regarding recommended changes for Eligible Students, there are two groups of students for whom screening is not beneficial when considering the intent of the legislation and best practice for screening. Both groups are identified under IDEA. In order to provide consistency, these two groups are defined in the rules as exempt from screening requirements. This change ensures alignment with mirrored guidance for dyslexia screening and students receiving special education services.

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

The rule change will directly affect students and staff in public schools who provide programs of reading instruction pursuant to the Reading Sufficiency Act (RSA), 70 O.S. § 1210.508A *et seq.*

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

The rule change will benefit students and to ensure sufficient reading instruction is provided to students, and will provide clarity and consistency for school districts to know the amount of time required for reading instruction to students under the RSA as provided relating to individualized programs of reading instruction.

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

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

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

The agency does not anticipate any cost to the agency to implement and enforce as a result of the proposed change in the rule at this time. Additional record keeping, if any, will be performed by existing staff.

- f. **What is the economic impact on any political subdivision to implement the proposed rule change?**

The agency does not anticipate any economic impact on any political subdivision to implement the proposed rule change at this time.

- g. **Will implementing the rule change have an adverse effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act?**

The agency does not anticipate any adverse economic impact on small business as a result of the proposed rule change at this time.

- h. **Are there any other methods which are less costly, nonregulatory, or less intrusive to achieve the purpose of the proposed rule change?**

No.

- i. **Will the rule change impact the public health, safety, and environment, and is the change designed to reduce significant risks to the public health, safety, and environment? If so, explain nature of risk and to what extent the proposed rule change will reduce the risk.**

The agency does not anticipate passage of this emergency rule will have an impact on the public health, safety and environment.

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

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

- k. **Date Prepared:** February 1, 2022

STATUTORY AUTHORITY FOR 210:15-27-4

Oklahoma Statutes Citationized



Title 70. Schools



Chapter 22 - Testing and Assessment



Reading Sufficiency Act



Section 1210.508C - Assessments for Reading Skills

Cite as: 70 O.S. § 1210.508C (OSCN 2022), Reading Sufficiency Act

A. 1. Each student enrolled in kindergarten in a public school in this state shall be screened at the beginning, middle and end of each school year for reading skills including, but not limited to, phonemic awareness, letter recognition, and oral language skills as identified in the subject matter standards adopted by the State Board of Education. A screening instrument approved by the State Board shall be utilized for the purposes of this section.

2. For those kindergarten children at risk for reading difficulties at the beginning of the year, teachers shall emphasize reading skills as identified in the subject matter standards adopted by the State Board of Education, monitor progress throughout the year and measure mid-year and year-end reading progress.

3. Kindergarten students who are not meeting grade-level targets by mid-year in reading shall be provided a program of reading instruction designed to enable the student to acquire the appropriate grade-level reading skills.

4. Classroom assistants, which may include parents, grandparents, or other volunteers, shall be provided in kindergarten classes to assist with the screening of students if a teacher aide is not already employed to assist in a kindergarten classroom.

B. Each student enrolled in first, second and third grade of the public schools of this state shall be assessed at the beginning, middle and end of each school year using a screening instrument approved by the State Board of Education for the acquisition of reading skills including, but not limited to, phonemic awareness, phonics, reading fluency, vocabulary, and comprehension.

C. Any student enrolled in first, second or third grade who is assessed and who is not meeting grade-level targets in reading shall be provided a program of reading instruction designed to enable the student to acquire the appropriate grade level reading skills. The program of reading instruction shall include provisions of the READ Initiative adopted by the school district as provided for in subsection P of this section.

Throughout the year progress monitoring shall continue, and diagnostic assessment, if determined appropriate, shall be provided. Year-end reading skills shall be measured to determine reading success.

D. The State Board of Education shall approve screening instruments for use at the beginning and end of the school year, for monitoring of progress, and for measurement of reading skills at the end of the school year as required in subsections A and B of this section; provided, at least one of the screening instruments shall meet the following criteria:

1. Assess for phonemic awareness, phonics, reading fluency, vocabulary and comprehension;
2. Document the validity and reliability of each assessment;
3. Can be used for identifying students who are at risk for reading deficiency and progress monitoring throughout the school year;
4. Can be used to assess students with disabilities and English language learners; and

5. Accompanied by a data management system that provides profiles for students, class, grade level and school building. The profiles shall identify each student's instructional point of need and reading achievement level. The State Board shall also determine other comparable reading assessments for diagnostic purposes to be used for students at risk of reading failure. The State Board shall ensure that any assessments approved are in alignment with the subject matter standards adopted by the State Board of Education.

E. 1. The program of reading instruction required in subsections A and B of this section shall align with the subject matter standards adopted by the State Board of Education and shall include provisions of the READ Initiative adopted by the school district as provided for in subsection P of this section. A program of reading instruction may include, but is not limited to:

a. sufficient additional in-school instructional time for the acquisition of phonemic awareness, phonics, reading fluency, vocabulary, and comprehension,

b. if necessary, tutorial instruction after regular school hours, on Saturdays and during summer; however, such instruction may not be counted toward the one-hundred-eighty-day or one-thousand-eighty-hour school year required in [Section 1-109](#) of this title, and

c. assessments identified for diagnostic purposes and periodic monitoring to measure the acquisition of reading skills including, but not limited to, phonemic awareness, phonics, reading fluency, vocabulary, and comprehension, as identified in the student's program of reading instruction.

2. A student enrolled in first or second grades who has been assessed as provided for in subsection B of this section and found not to be meeting grade-level targets in reading, shall be entitled to supplemental instructional services and supports in reading until the student is determined by the results of a screening instrument to be meeting grade-level targets in reading. The program of reading instruction for each student shall be developed by a Student Reading Proficiency Team and shall include supplemental instructional services and supports. Each team shall be composed of:

a. the parent or guardian of the student,

b. the teacher assigned to the student who had responsibility for reading instruction in that academic year,

c. a teacher who is responsible for reading instruction and is assigned to teach in the next grade level of the student, and

d. a certified reading specialist, if one is available.

F. The program of reading instruction shall continue until the student is determined by the results of approved reading assessments to be meeting grade-level targets.

G. 1. Every school district shall adopt, and implement a district reading sufficiency plan which has had input from school administrators, teachers, and parents and if possible a reading specialist, and which shall be submitted electronically to and approved by the State Board of Education. The plan shall be updated annually. School districts shall not be required to electronically submit the annual updates to the Board if the last plan submitted to the Board was approved and expenditures for the program include only expenses relating to individual and small group tutoring, purchase of and training in the use of screening and assessment measures, summer school programs and Saturday school programs. If any expenditure for the program is deleted or changed or any other type of expenditure for the program is implemented, the school district shall be required to submit the latest annual update to the Board for approval. The district reading sufficiency plan shall include a plan for each site which includes an analysis of the data provided by the Oklahoma School Testing Program and other reading assessments utilized as required in this section, and which outlines how each school site will comply with the provisions of the Reading Sufficiency Act.

2. The State Board of Education shall adopt rules for the implementation and evaluation of the provisions of the Reading Sufficiency Act. The evaluation shall include, but not be limited to, an analysis of the data required in subsection S of this section.

H. For any third-grade student found not to be meeting grade-level targets as determined by reading assessments administered pursuant to this section, a new program of reading instruction, including provisions of the READ Initiative adopted by the school district as provided for in subsection P of this section, shall be developed by a Student Reading Proficiency Team and implemented as specified in subsection E of this section. In addition to other requirements of the Reading Sufficiency Act, the plan may include specialized tutoring.

I. 1. Any first-grade, second-grade or third-grade student who demonstrates end of year proficiency in reading at the third-grade level through a screening instrument which meets the acquisition of reading skills criteria pursuant to subsection B of this section shall not be subject to retention pursuant to this section. After a student has demonstrated proficiency through a screening instrument, the district shall provide notification to the parent or guardian of the student that they have satisfied the requirements of the Reading Sufficiency Act and will not be subject to retention pursuant to this section.

2. If a third-grade student is identified at any point of the academic year as having a significant reading deficiency, which shall be defined as not meeting grade-level targets on a screening instrument which meets the acquisition of reading skills criteria pursuant to subsection B of this section, the district shall immediately begin a student reading portfolio as provided by subsection L of this section and shall provide notice to the parent of the deficiency pursuant to subsection J of this section.

3. If a student has not yet satisfied the proficiency requirements of this section prior to the completion of third grade and still has a significant reading deficiency, as identified based on assessments administered as provided for in subsection B of this section, has not accumulated evidence of third-grade proficiency through a student portfolio as provided in subsection L of this section, or is not subject to a good-cause exemption as provided in subsection L of this section, then the student shall not be eligible for automatic promotion to fourth grade.

4. The minimum criteria for grade-level performance of third-grade students pursuant to the Reading Sufficiency Act shall be that students are able to read and comprehend grade-level text. To determine the promotion and retention of third-grade students pursuant to the Reading Sufficiency Act, the State Board of Education shall use only the scores for the standards for reading foundations/processes and vocabulary portions of the statewide third-grade assessment administered pursuant to [Section 1210.508](#) of this title and shall not use the scores from the other language arts portions of the assessment. The performance levels established by the Commission for Educational Quality and Accountability pursuant to [Section 1210.508](#) of this title shall ensure that students meeting the performance-level criteria are performing at grade level on the reading foundations and vocabulary portions of the statewide third-grade assessment.

5. a. A student not eligible for automatic promotion as provided for under paragraph 3 of this subsection and who does not meet the criteria established by the Commission for Educational Quality and Accountability on the reading portion of the statewide third-grade assessment administered pursuant to [Section 1210.508](#) of this title may be evaluated for probationary promotion by the Student Reading Proficiency Team which was created for the student pursuant to subsection E of this section.

b. The student shall be promoted to the fourth grade if the team members unanimously recommend probationary promotion to the school principal and the school district superintendent and the principal and superintendent approve the recommendation that promotion is the best option for the student. If a student is allowed a probationary promotion, the team shall continue to review the reading performance of the student and repeat the requirements of this paragraph each academic year until the student demonstrates grade-level reading proficiency, as identified through a screening instrument which meets the acquisition of reading skills criteria pursuant to subsection B of this section, for the corresponding grade level in which the student is enrolled or transitions to a locally designed remediation plan after the fifth grade which shall have the goal of ensuring that the student is on track to be college and career ready.

6. Beginning with the 2017-2018 school year, students who do not meet the performance criteria established by the Commission for Educational Quality and Accountability on the reading portion of the statewide third-grade assessment administered pursuant to [Section 1210.508](#) of this title, who are not

subject to a good cause exemption as provided in subsection L of this section, and who do not qualify for promotion or probationary promotion as provided in this subsection, shall be retained in the third grade and provided intensive instructional services and supports as provided for in subsection O of this section.

7. Each school district shall annually report to the State Department of Education the number of students promoted to the fourth grade pursuant to this subsection and the number of students promoted to a subsequent grade pursuant to the provisions in paragraph 5 of this subsection. The State Department of Education shall publicly report the aggregate and district-specific number of students promoted on their website and shall provide electronic copies of the report to the Governor, Secretary of Education, President Pro Tempore of the Senate, Speaker of the House of Representatives, and to the respective chairs of the committees with responsibility for common education policy in each legislative chamber.

J. The parent of any student who is found to have a reading deficiency and is not meeting grade-level reading targets and has been provided a program of reading instruction as provided for in subsection B of this section shall be notified in writing of the following:

1. That the student has been identified as having a substantial deficiency in reading;
2. A description of the current services that are provided to the student pursuant to a conjoint measurement model such that a reader and a text are placed on the same scale;
3. A description of the proposed supplemental instructional services and supports that will be provided to the student that are designed to remediate the identified area of reading deficiency;
4. That the student will not be promoted to the fourth grade if the reading deficiency is not remediated by the end of the third grade, unless the student is otherwise promoted as provided for in subsection I of this section or is exempt for good cause as set forth in subsection L of this section;
5. Strategies for parents to use in helping their child succeed in reading proficiency;
6. The grade-level performance scores of the student;
7. That while the results of the statewide assessments administered pursuant to [Section 1210.508](#) of this title are the initial determinant, they are not the sole determiner of promotion and that portfolio reviews and assessments are available; and
8. The specific criteria and policies of the school district for midyear promotion implemented as provided for in paragraph 4 of subsection O of this section.

K. No student may be assigned to a grade level based solely on age or other factors that constitute social promotion.

L. For those students who do not meet the academic requirements for promotion and who are not otherwise promoted as provided for in subsection I of this section, a school district may promote the student for good cause only. Good-cause exemptions for promotion shall be limited to the following:

1. English language learners who have had less than two (2) years of instruction in an English language learner program;
2. Students with disabilities whose individualized education program (IEP), consistent with state law, indicates that the student is to be assessed with alternate achievement standards through the Oklahoma Alternate Assessment Program (OAAP);
3. Students who demonstrate an acceptable level of performance on an alternative standardized reading assessment approved by the State Board of Education;
4. Students who demonstrate, through a student portfolio, that the student is reading on grade level as evidenced by demonstration of mastery of the state standards beyond the retention level;
5. Students with disabilities who participate in the statewide assessments administered pursuant to [Section 1210.508](#) of this title and who have an individualized education program that reflects that the

student has received intensive remediation in reading and has made adequate progress in reading pursuant to the student's individualized education program;

6. Students who have received intensive remediation in reading through a program of reading instruction for two (2) or more years but still demonstrate a deficiency in reading and who were previously retained in prekindergarten for academic reasons, kindergarten, first grade, second grade, or third grade; and

7. Students who have been granted an exemption for medical emergencies by the State Department of Education.

M. A student who is otherwise promoted as provided for in subsection I of this section or is promoted for good cause as provided for in subsection L of this section shall be provided intensive reading instruction that includes specialized diagnostic information and specific reading strategies for each student until the student meets grade-level targets in reading. The school district shall assist schools and teachers to implement reading strategies for the promoted students that research has shown to be successful in improving reading among low-performing readers.

N. Requests to exempt students from the retention requirements based on one of the good-cause exemptions as described in subsection L of this section shall be made using the following process:

1. Documentation submitted from the teacher of the student to the school principal that indicates the student meets one of the good-cause exemptions and promotion of the student is appropriate. In order to minimize paperwork requirements, the documentation shall consist only of the alternative assessment results or student portfolio work and the individual education plan (IEP), as applicable;

2. The principal of the school shall review and discuss the documentation with the teacher and, if applicable, the other members of the Student Reading Proficiency Team as described in subsection E of this section. If the principal determines that the student meets one of the good-cause exemptions and should be promoted based on the documentation provided, the principal shall make a recommendation in writing to the school district superintendent; and

3. After review, the school district superintendent shall accept or reject the recommendation of the principal in writing.

O. Each school district shall:

1. Conduct a review of the program of reading instruction for all students who do not meet the performance criteria established by the Commission for Educational Quality and Accountability on the reading portion of the statewide assessment administered pursuant to [Section 1210.508](#) of this title and did not meet the criteria for one of the good-cause exemptions as set forth in subsection L of this section. The review shall address additional supports and services, as described in this subsection, needed to remediate the identified areas of reading deficiency. The school district shall require a student portfolio to be completed for each retained student;

2. Provide to students who have been retained as set forth in subsection I of this section with intensive interventions in reading, intensive instructional services and supports to remediate the identified areas of reading deficiency, including a minimum of ninety (90) minutes of daily, uninterrupted, scientific-research-based reading instruction. Retained students shall be provided other strategies prescribed by the school district, which may include, but are not limited to:

- a. small group instruction,
- b. reduced teacher-student ratios,
- c. more frequent progress monitoring,
- d. tutoring or mentoring,
- e. transition classes containing third- and fourth-grade students,
- f. extended school day, week, or year, and

g. summer reading academies as provided for in [Section 1210.508E](#) of this title, if available;

3. Provide written notification to the parent or guardian of any student who is to be retained as set forth in subsection I of this section that the student has not met the performance criteria required for promotion and was not otherwise promoted and the reasons the student is not eligible for a good-cause exemption. The notification shall include a description of proposed interventions and intensive instructional supports that will be provided to the student to remediate the identified areas of reading deficiency;

4. Implement a policy for the midyear promotion of a retained student who can demonstrate that the student is a successful and independent reader, is reading at or above grade-level targets, and is ready to be promoted to the fourth grade. Tools that school districts may use in reevaluating any retained student may include screening assessments, alternative assessments, and portfolio reviews, in accordance with rules of the State Board of Education. Retained students may only be promoted midyear prior to November 1 and only upon that the student has met the performance criteria established by the Commission for Educational Quality and Accountability on the reading portion of the statewide third-grade assessment administered pursuant to [Section 1210.508](#) of this title, or upon demonstrating proficiency in reading at the third-grade level through a screening instrument administered pursuant to subsection B of this section, and upon showing progress sufficient to master appropriate fourth-grade-level skills, as determined by the school. A midyear promotion shall be made only upon agreement of the parent or guardian of the student and the school principal;

5. Provide students who are retained with a high-performing teacher who can address the needs of the student, based on student performance data and above-satisfactory performance appraisals; and

6. In addition to required reading enhancement and acceleration strategies, provide students who are retained with at least one of the following instructional options:

a. supplemental tutoring in scientific-research-based reading services in addition to the regular reading block, including tutoring before or after school,

b. a parent-guided "Read at Home" assistance plan, as developed by the State Department of Education, the purpose of which is to encourage regular parent-guided home reading, or

c. a mentor or tutor with specialized reading training.

P. Beginning with the 2011-2012 school year, each school district shall establish a Reading Enhancement and Acceleration Development (READ) Initiative. The focus of the READ Initiative shall be to prevent the retention of third-grade students by offering intensive accelerated reading instruction to third-grade students who failed to meet standards for promotion to fourth grade and to kindergarten through third-grade students who are exhibiting a reading deficiency. The READ Initiative shall:

1. Be provided to all kindergarten through third-grade students at risk of retention as identified by the assessments administered pursuant to the Reading Sufficiency Act. The assessment used shall measure phonemic awareness, phonics, reading fluency, vocabulary, and comprehension;

2. Be provided during regular school hours in addition to the regular reading instruction;

3. Provide a reading curriculum that, at a minimum, meets the following specifications:

a. assists students assessed as exhibiting a reading deficiency in developing the ability to read at grade level,

b. provides skill development in phonemic awareness, phonics, reading fluency, vocabulary, and comprehension,

c. provides a scientific-research-based and reliable assessment,

d. provides initial and ongoing analysis of the reading progress of each student, and

e. is implemented during regular school hours,

4. Establish at each school, where applicable, an Intensive Acceleration Class for retained third-grade students who subsequently do not meet the performance criteria established by the Commission for Educational Quality and Accountability on the reading portion of the statewide assessment administered pursuant to [Section 1210.508](#) of this title. The focus of the Intensive Acceleration Class shall be to increase the reading level of a child at least two grade levels in one (1) school year. The Intensive Acceleration Class shall:

- a. be provided to any student in the third grade who does not meet the performance criteria established by the Commission for Educational Quality and Accountability on the reading portion of the statewide assessments and who was retained in the third grade the prior year because of not meeting the performance criteria on the reading portion of the statewide assessments,
- b. have a reduced teacher-student ratio,
- c. provide uninterrupted reading instruction for the majority of student contact time each day and incorporate opportunities to master the fourth-grade state standards in other core subject areas,
- d. use a reading program that is scientific-research-based and has proven results in accelerating student reading achievement within the same school year,
- e. provide intensive language and vocabulary instruction using a scientific-research-based program, including use of a speech-language therapist, and
- f. include weekly progress monitoring measures to ensure progress is being made,

5. Provide reports to the State Board of Education, upon request, on the specific intensive reading interventions and supports implemented by the school district. The State Superintendent of Public Instruction shall annually prescribe the required components of the reports; and

6. Provide to a student who has been retained in the third grade and has received intensive instructional services but is still not ready for grade promotion, as determined by the school district, the option of being placed in a transitional instructional setting. A transitional setting shall specifically be designed to produce learning gains sufficient to meet fourth-grade performance standards while continuing to remediate the areas of reading deficiency.

Q. 1. Each school district board of education shall annually publish on the school website, and report in writing to the State Board of Education by September 1 of each year, the following information on the prior school year:

- a. the provisions of this section relating to public school student progression and the policies and procedures of the school district on student retention and promotion,
- b. the number and percentage of all students in grade three that did not meet the performance criteria established by the Commission for Educational Quality and Accountability on the reading portion of the statewide assessment administered pursuant to [Section 1210.508](#) of this title,
- c. by grade, the number and percentage of all students retained in grades three through ten,
- d. information on the total number and percentage of students who were promoted for good cause, by each category of good cause as specified above, and
- e. any revisions to the policies of the school district on student retention and promotion from the prior year.

2. The State Department of Education shall establish a uniform format for school districts to report the information required in this subsection. The format shall be developed with input from school districts and shall be provided not later than ninety (90) days prior to the annual due date. The Department shall annually compile the information required, along with state-level summary information, and report the information to the public, the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives.

R. The State Department of Education shall provide technical assistance as needed to aid school districts in administering the provision of the Reading Sufficiency Act.

S. On or before January 31 of each year, the State Department of Education shall issue to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives and members of the Senate and House of Representatives Education Committees a Reading Sufficiency Report which shall include, but is not limited to, trend data detailing three (3) years of data, disaggregated by student subgroups to include economically disadvantaged, major racial or ethnic groups, students with disabilities, and English language learners, as appropriate for the following:

1. The number and percentage of students in kindergarten through third grade determined to be at risk for reading difficulties compared to the total number of students enrolled in each grade;
2. The number and percentage of students in kindergarten who continue to be at risk for reading difficulties as determined by the year-end measurement of reading progress;
3. The number and percentage of students in kindergarten through third grade who have successfully completed their program of reading instruction and are reading on grade level as determined by the results of approved reading assessments;
4. The number and percentage of students that meet or do not meet the performance criteria established by the Commission for Educational Quality and Accountability on the reading portion of the statewide third-grade assessment administered pursuant to [Section 1210.508](#) of this title;
5. The number of students tested, the number of students promoted through meeting proficiency on a screening instrument as provided for in subsection I of this section, the number of students promoted through each of the good-cause exemptions as provided for in subsection L of this section and the number of students retained and the number of students promoted through probationary promotion as provided for in subsection I of this section for each elementary site;
6. Data tracking the progression of students promoted through each of the good-cause exemptions as provided for in subsection L of this section and students promoted through probationary promotion or students who are retained in third grade as provided for in subsection I of this section. The data shall include but not be limited to information regarding whether students graduate on time;
7. The amount of funds for reading remediation received by each district;
8. An evaluation and narrative interpretation of the report data analyzing the impact of the Reading Sufficiency Act on students' ability to read at grade level;
9. The type of reading instruction practices and methods currently being used by school districts in the state;
10. Socioeconomic information, access to reading resources outside of school and screening for and identification of learning disabilities for students not reading at the appropriate grade level by third grade;
11. The types of intensive remediation efforts being conducted by school districts to identify best practices for students that are not reading at the appropriate grade level and are not retained under the provisions of this section; and
12. Any recommendations for improvements or amendments to the Reading Sufficiency Act.

The State Department of Education may contract with an independent entity for the reporting and analysis requirements of this subsection.

T. Copies of the results of the assessments administered shall be made a part of the permanent record of each student.

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

**SUBCHAPTER 9. PROFESSIONAL STANDARDS: TEACHER EDUCATION AND
CERTIFICATION
PART 9. TEACHER CERTIFICATION**

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

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

(1) **Post-secondary education.** The applicant for alternative placement certification holds:

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

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

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

(2) **Competency in a certification area.** In addition to having completed qualifying post-secondary education, the applicant demonstrates competency in an area of specialization for an elementary-secondary certificate, a secondary certificate, or a vocational-technical certificate. Competency in a certification area may be demonstrated through the following:

(A) Completion of an academic major, or at least thirty (30) credit hours of post-secondary coursework, in a field that corresponds to a certification area.

(B) Completion of an academic minor, or at least fifteen (15) credit hours of post-secondary coursework, in a field that corresponds to a certification area, plus at least one (1) year of qualified work experience or relevant volunteer experience in the same field. Volunteer experience must be verified through documentation and/or references.

(C) At least three (3) years of qualified work experience or relevant volunteer experience in a field that corresponds to an area of certification, or a combination of relevant work and volunteer experience totaling at least three (3) years, plus a written recommendation from an employer or volunteer coordinator.

(D) Successful completion of a relevant professional exam (e.g. accountancy, nursing).

(E) Publication of a relevant article in a peer-reviewed academic journal or trade journal.

(F) Other documentable means of demonstrating competency, subject to the

approval of the State Department of Education.

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

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

(A) The Oklahoma General Education Test (OGET); and

(B) The Oklahoma Subject Area Test (OSAT) in each area of specialization for which certification is sought, unless the applicant is eligible for an exception to the OSAT requirement under 70 O.S. § 6-122.3(e). Pursuant to statute, in consultation with the Commission for Educational Quality and Accountability, the State Board of Education may grant an exception to the requirement to complete the OSAT exam for initial certification in a subject area for which the applicant holds a substantially related advanced degree from an accredited institution. This exception is not available for subject areas which require an advanced degree for certification, such as school administrator, school counselor, library media specialist, and reading specialist certificates.

(5) **Intent to serve as a public school teacher.** The applicant declares their intention to serve as a teacher at an Oklahoma public school. An applicant shall be deemed to have declared their intent to seek employment at an accredited Oklahoma public school district through submitting a completed application for alternative certification.

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

(1) The applicant has never been denied admittance to a teacher education program approved by the Oklahoma State Regents for Higher Education, the North Central Association of Colleges and Schools and by the Oklahoma Commission for Educational Quality and Accountability to offer teacher education programs; and has never been enrolled in and subsequently failed courses necessary to successfully meet the minimum requirements of the program;

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

(3) The applicant is participating in the teacher residency program set forth in 70 O.S. § 6-195.

(c) **Requirements for professional education instruction.** Participants in alternative placement programs as addressed in subsection (b) must complete between six (6) and eighteen (18) credit hours of professional education instruction, or between ninety (90) and two hundred seventy (270) clock hours of school district-approved professional development, with the minimum hours of instruction required dependent on the applicant's prior level of education and/or experience. Professional education requirements must be completed within three (3) years after entering the Alternative Placement program. For all participants, except school counselors, professional education instruction must include at least one college credit course addressing pedagogical principles and at least one college credit course addressing classroom management. For school counselors, professional education instruction must include at least two college credit courses addressing the components of a comprehensive school counseling program, including but not

limited to, data-informed decision making, closing achievement and opportunity gaps, school counseling ethical standards, and improving student achievement, attendance and discipline. For each year of documented experience in the relevant certification area, a participant's total required professional education may be reduced by three (3) credit hours or forty-five (45) clock hours, provided all participants must complete at least six (6) credit hours or ninety (90) clock hours of professional education instruction. Minimum required instructional hours shall be determined as follows:

- (1) For alternative placement program participants who hold a terminal degree, six (6) credit hours or ninety (90) clock hours of professional education instruction are required.
- (2) For alternative placement program participants who hold a non-terminal degree beyond a baccalaureate degree, twelve (12) credit hours or one hundred eighty (180) clock hours of professional education instruction are required.
- (3) For alternative placement program participants who hold a baccalaureate degree, eighteen (18) credit hours or two hundred seventy (270) clock hours of professional education instruction are required.

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

- (1) The applicant has passed the Oklahoma Professional Teaching Exam (OPTe) for either elementary/middle level or secondary level; and
- (2) The applicant has completed all professional education requirements of the alternative placement program set forth in 70 O.S. § 6-122.3 and the administrative rules and/or adopted policies of the State Board of Education.

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

(f) **Criminal history record check.** Prior to employing an alternatively certified teacher, the district board of education shall request a criminal history record check of the individual under the provisions of 70 O.S. § 5-142.

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

RULE IMPACT STATEMENT 210:20-9-110

Alternative Placement Teaching Certificates [AMENDED]

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

The purpose of this rule amendment is to update professional education instruction requirements for alternatively certified school counselors to exempt them from pedagogy and classroom management college coursework and instead requiring the completion of college coursework aligned with the competencies of comprehensive school counseling. This training will count towards the minimum required amounts professional education instruction while ensuring school counselors receive training better aligned with their duties.

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

The rule change will directly affect school counselors with alternative teaching certificates, in addition to the students and public school districts (ie. traditional, charter, virtual charter) they serve.

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

The rule change will benefit students and school communities by ensuring all school counselors, are properly trained and equipped to provide meaningful and effective mental health supports, regardless of a counselor's pathway to certification.

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

The agency does not anticipate any economic impact upon political subdivisions, but does anticipate some impact on school counselors with an alternative teaching certificate as they will be exempt from the pedagogy and classroom management college coursework but be required to obtain other college credit coursework that aligns with counseling competencies.

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

The agency does not anticipate any material or significant cost to the agency to implement and enforce as a result of the proposed change in the rule at this time.

f. What is the economic impact on any political subdivision to implement the proposed rule change?

The agency does not anticipate any economic impact on any political subdivision to implement the proposed rule change at this time.

- g. **Will implementing the rule change have an adverse effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act?**

The agency does not anticipate any adverse economic impact on small business as a result of the proposed rule change at this time.

- h. **Are there any other methods which are less costly, nonregulatory, or less intrusive to achieve the purpose of the proposed rule change?**

No.

- i. **Will the rule change impact the public health, safety, and environment, and is the change designed to reduce significant risks to the public health, safety, and environment? If so, explain nature of risk and to what extent the proposed rule change will reduce the risk.**

No.

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

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

- k. **Date Prepared:** February 1, 2022

STATUTORY AUTHORITY FOR 210:20-9-110

Oklahoma Statutes Citationized



Title 70. Schools



Chapter 1 - School Code of 1971



Alternative Certification and Licensing



Article Article VI - Teachers



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

Cite as: 70 O.S. § 6-122.3 (OSCN 2022), Alternative Certification and Licensing

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

1. a. holds at least a baccalaureate degree from an institution whose accreditation is recognized by the Oklahoma State Regents for Higher Education and has attained a retention grade point average of not less than 2.50 on a 4.0 scale, or
 - b. has successfully completed a terminal degree, such as a doctorate of philosophy, a doctorate in education, professional doctorates, a master of fine arts degree or a master of library science degree, from an institution accredited by a national or regional accrediting agency which is recognized by the Secretary of the United States Department of Education. The Oklahoma State Regents for Higher Education shall be consulted to verify other terminal degrees, or
 - c. holds at least a baccalaureate degree from an institution whose accreditation is recognized by the Oklahoma State Regents for Higher Education and has qualified work experience in a field that corresponds to an area of certification as determined by the State Board of Education, and
 - d. in addition to the requirements of subparagraphs a, b and c of this paragraph, has demonstrated competency or completed a major in a field that corresponds to an area of specialization for an Elementary-Secondary Certificate or a Secondary Certificate as determined by the State Board of Education or a vocational-technical certificate as recommended by the Oklahoma Department of Career and Technology Education;
2. Declares the intention to earn standard certification by means of an alternative placement program in not more than three (3) years. The State Board of Education shall determine the subject matter and the number of clock or semester hours required for the professional education component for each person making application for an alternative placement teaching certificate based on the criteria of paragraph 1 of this subsection.

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

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

3. Has passed the general education and subject area portions of the competency examination required in [Section 6-187](#) of this title in the area of specialization for which certification is sought; and
4. Either presents a document from an accredited public school district in this state offering employment in the area of specialization for which certification is sought on condition that the person enroll in an alternative placement program approved by the State Board of Education or declares the intention to seek employment as a teacher at an accredited public school district in this state. The certificate granted pursuant to this subsection shall be considered a "valid certificate of qualification" for the purposes

of [Sections 6-107](#) and [6-108](#) of this title, and the holder of the certificate shall be considered an inductee for the purposes of [Section 6-195](#) of this title.

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

C. Persons enrolled in an alternative placement program shall:

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

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

3. Participate in an induction program as required in [Section 6-195](#) of this title and have the same duties and responsibilities as other inductees.

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

E. The State Board of Education, in consultation with the Commission for Educational Quality and Accountability, may grant an exception to the requirement to complete a subject area examination for initial certification in a field which does not require an advanced degree pursuant to this section if the candidate has an advanced degree in a subject that is substantially comparable to the content assessed on a subject area examination. The degree shall be from an institution accredited by a national or regional accrediting agency which is recognized by the Secretary of the U.S. Department of Education. The Commission shall provide the Board with the necessary information to determine comparability.

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

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

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

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

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

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

alternative placement program shall be permitted to take necessary courses during regular semesters if offered.

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

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

SUBCHAPTER 1. GENERAL PROVISIONS

210:10-1-18. Transfers [AMENDED]

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

(1) **"Student of a Deployed Parent"** means a student who is the dependent child of a member of the active uniformed military services of the United States on full-time active duty status and for whom Oklahoma is the home of record or a student who is the dependent children of a member of the military reserve on active duty orders and for whom Oklahoma is the home of record.

(2) **"Open Transfer(s)"** means the transfer of a student from the district in which the student resides to another school district furnishing the grade the student is entitled to pursue.

(3) **"Parent"** means the parent, legal guardian, foster parent, or person having custody of the student seeking a transfer, whose residence is used to determine the residence of the student in accordance with the provisions of 70 O.S. § 1-113(A)(1). For purposes of the Individuals with Disabilities Education Act at 20 U.S.C. § 1400 et seq. (IDEA), the definition of Parent set forth in 34 C.F.R. § 300.30 shall supersede the definition of Parent set forth in this subsection.

(4) **"Receiving School District"** means the school district to which the student is seeking to be transferred.

(5) **"Resident School District"** means the school district in which the Parent, guardian, or person having custody of the student resides, as defined in 70 O.S. § 1-113(A)(1).

(ab) **Governing statutes.** All district transfers Open Transfers shall be governed by the Oklahoma Education Open Transfer Act, 70 O.S. § 8-101.1, et seq. In addition, the following types of transfers are governed by the following provisions of law:

(1) **Students with disabilities.** Transfers made for the purpose of providing a free appropriate public education (FAPE) to special education students shall be governed by 70 O.S. § 18-110 and 70 O.S. § 13-101, et seq. Such transfers shall not be considered open transfers Open Transfers subject to the provisions of (d) of this Section.

(2) **Gifted and talented students.** Transfers made for the purpose of providing gifted child educational programs shall be governed by 70 O.S. § 1210.307. Such transfers shall not be considered Open Transfers subject to the provisions of (d) of this Section.

(3) **Parents who are teachers.** Transfers for the purpose of allowing a student to attend school in a district in which the student's parentParent is employed as a teacher shall be governed by 70 O.S. § 8-113. Such transfers shall not be subject to the provisions of (d) of this Section.

(4) **Deployed parentsParents.** Transfers for the purpose of allowing a student of a deployed parentParent to attend school in a transfer districts in which a family member resides shall be governed by 70 O.S. § 8-103.1. Such transfers shall not be subject to the provisions of (d) of this Section.

(5) **Emergency transfers.** Transfers on the basis of an emergency shall be governed by 70 O.S. § 8-104.

(65) **Sibling transfers.** Transfers of siblings pursuant to the provisions of 70 O.S. § 8-101.2 shall be processed as ~~open transfers~~ Open Transfers in accordance with the requirements of 70 O.S. § 8-103 and (d) of this Section. Transfers of multiple birth siblings shall be processed as ~~open transfers~~ Open Transfers, provided that if multiple birth siblings are transferred to the same receiving district, a ~~parent~~ Parent or guardian may request placement at the same school and/or in the same classroom under the provisions of 70 O.S. § 254-154(A).

(bc) **District policies and procedures pertaining to student transfers.** ~~Local school districts shall adopt policies and procedures governing the transfer of students who do not reside in the school district. Such policies and procedures shall comply with all provisions of state law governing student transfers, including the statutes pertaining to transfers referenced in (a) of this Section. If permitted by statute and the provisions of this Section, the receiving school board of education may refuse the transfer request of a student who does not reside in the district in accordance with the provisions of the adopted policy, but may not accept or deny a request based on statutorily prohibited factors as set forth in 70 O.S. § 8-103.1.~~

(1) Each school district board of education shall adopt a policy to determine the number of transfer students the school district has the capacity to accept in each grade level for each school site within a school district pursuant to 70 O.S. § 8-101.2. The policy may include the acts and reasons outlined in 70 O.S. § 24-101.3 and a history of absences as bases for denial of a transfer. "History of absences" means ten or more absences in one semester that are not excused for the reasons provided for in 70 O.S. § 10-105(B) or due to illness. The school district's policy shall not include any other basis for denying a transfer request.

(2) The transfer of a student from the district in which the student resides to another school district furnishing instruction in the grade the student is entitled to pursue shall be granted at any time in the year unless:

(a) The number of transfers exceeds the capacity of a grade level for each school site within a school district; or

(b) The transfer would violate the school's adopted transfer policy with respect to acts and reasons outlined in 70 O.S. § 24-101.3 or a student's history of absences.

(3) A school may not accept or deny a request based on the statutorily prohibited factors as set forth in 70 O.S. § 8-103.1.

(4) If the grade a student is entitled to pursue is not offered in the district where the student resides, a transfer request shall be automatically approved by the Receiving School District. 70 O.S. § 8-101.

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

(1) **"Active duty orders"** means temporary transfer of a member of the active uniformed military services of the United States to a location that is outside of the service member's school district of residence in compliance with official orders in support of combat, contingency operation or a natural disaster that requires the use of orders for more than thirty (30) consecutive days.

(2) **"Deployed parent"** means a "parent" under the definition set forth in this subsection who is a member of the active uniformed military services of the United States, is on full-time active duty status or active duty orders, and for whom Oklahoma is the home of record.

(3) ~~"Emergency transfer"~~ means the transfer of a student from the district in which the student resides to another school district furnishing the grade the student is entitled to pursue which, for specific reasons, must be requested and approved outside of the statutory timeframe required for open transfers.

(4) ~~"IEP service agreement"~~ means an Individualized Education Program agreement between school districts to provide special education and related services to an eligible student with a disability solely for the purpose of providing the student a free appropriate public education (FAPE). An IEP Service Agreement is the resourcing of special education and related services (i.e., all services required to be provided to a student pursuant to the provisions of the IDEA) to a school district that provides special education and related services to an eligible student with a disability on behalf of the resident district.

(5) ~~"Open transfer"~~ means the transfer of a student from the district in which the student resides to another school district furnishing the grade the student is entitled to pursue. An open transfer may be requested and approved only during the statutory timeframe.

(6) ~~"Parent"~~ means the parent, legal guardian, or person having custody of the student seeking a transfer, whose residence is used to determine the residence of the student in accordance with the provisions of 70 O.S. § 1-113(A)(1). For purposes of the Individuals with Disabilities Act at 20 U.S.C. § 1400 et seq. (IDEA), the definition of parent set forth in 34 C.F.R. § 300.30 shall supersede the definition of parent set forth in this subsection.

(7) ~~"Receiving school district"~~ means the school district in which the student is seeking to be transferred.

(8) ~~"Resident school district"~~ means the school district in which the parent, guardian, or person having custody of the student resides, as defined in 70 O.S. § 1-113(A)(1).

(9) ~~"Teacher"~~ means any person employed in a position that meets the definition of a teacher set forth in 70 O.S. § 1-116.

(d) **Open Transfers.** Transfers to another district may be approved by the board of education of the receiving school district. If the grade a student is entitled to pursue is not offered in the district where the student resides, the transfer shall be automatically approved by the receiving school district. No student may be granted more than one (1) open transfer per school year, but may qualify for additional transfers pursuant to emergency provisions of the Education Open Transfers Act or a legal change in residence. All open transfers Open Transfers must be initiated and processed in accordance with the following procedures:

(1) The parent~~Parent~~ of the student must complete an application form specified by the State Board of Education. ~~The application must be filed with the receiving school district by May 31 of the school year preceding the school year for which the transfer is being requested.~~

(2) No later than May 31 of the same year in which the transfer is requested, the receiving school district shall notify the resident school district that an application for transfer has been filed by the student enrolled in the resident school district. The application shall be filed with the superintendent of the Receiving School District for transfers to school districts in this state and with the State Board of Education for transfers to school districts in another state.

(3) No later than July 15 of the same year in which the transfer is requested, the board of education of the receiving school district shall approve or deny the application and notify the parents of the student of the decision in writing. The Receiving School District shall

approve or deny the application and notify the Parent of the student of the decision in writing within 30 days of receiving an application. Applications shall be processed in the order in which they are received. If the number of student transfer applications exceeds the capacity of a Receiving School District, the district shall select transfer students in the order in which the district received the student transfer applications.

~~(4) No later than August 1 of the same year in which the transfer is requested~~ If the transfer application is accepted, the parents~~Parents~~ of the student shall provide the receiving school district with written notification that the student will be enrolling in the receiving school district Receiving School District within ten days of receiving notice that the transfer application was approved. Failure of the ~~parents~~Parents to notify may result in the loss of the student's right to enroll in the school district for that year only. If a ~~parent~~Parent fails to notify the ~~receiving school district~~ Receiving School District that a student will be enrolling, and the ~~receiving school district~~ Receiving School District chooses to cancel the transfer, the ~~receiving school district~~ Receiving School District shall provide a written notice of the cancellation to the ~~parent~~Parent and the resident district of the student immediately upon cancellation.

~~(5) Approval of the resident district is not required for an open transfer. If a transfer application is denied, the Parents of the student may appeal the Receiving School Districts decisions as set forth in 70 O.S. § 8-101.2(E) and Okla. Admin. Code § 210:10-1-18.1.~~

~~(6) Transfer requests submitted outside of the statutory time frame for open transfers will not be considered timely and must meet the statutory criteria of an emergency transfer to be approved. If the Receiving School District receives notice that the transferring student will be enrolling in the Receiving School District, the Receiving School District shall notify the Resident School District within ten (10) days.~~

~~(7) Notwithstanding the provisions of this subsection, a student shall be allowed to transfer to a school district in which a parent of the student is employed as a teacher upon the approval of the receiving district only, without regard to the deadlines or other limitations on number of transfers set forth in this subsection. Approval of the resident district is not required for an Open Transfer.~~

~~(e) **Emergency and mandatory transfers.** In addition to the open transfer process, students may be transferred on an emergency basis as prescribed by statute or on the basis of a transfer mandated by statute. Emergency transfers must be initiated and processed in accordance with the following procedures:~~

~~(1) The parents of the student may make an application for an emergency transfer. The application for emergency transfer must be filed with the superintendent of the receiving school district.~~

~~(2) The superintendent of the receiving school district or his/her designee responsible for approving transfers may approve the emergency transfer only upon an adequate showing of emergency, and subject to approval of the State Board of Education.~~

~~(3) Only the superintendent of the receiving school district or his/her designee responsible for approving transfers may submit an application for emergency transfer to the State Board of Education for approval. The superintendent or designee of the receiving school district shall collect documentation from the student desiring to be transferred, and may be required to submit such documentation to the State Board of Education through the State Department of Education's student information system. In submitting an application for an emergency transfer to the State Board of Education, the superintendent or designee~~

verifies that he/she has personally reviewed and approved the application and has a good faith belief that the student qualifies for an emergency transfer.

~~(A) If the superintendent has appointed a designee to review and approve emergency transfers, the school district shall notify the State Department of Education of the appointment.~~

~~(B) Resident district approval of an emergency transfer is only required if an emergency transfer is being requested on the basis of concurrence of both the resident district and the receiving school district pursuant to 70 O.S. § 8-104(5). Emergency transfer approval requests submitted to the State Board of Education on the basis of 70 O.S. § 8-104(5) shall be reviewed by the resident district within ten (10) business days of submission. Failure of the resident district to take action to approve or deny the emergency transfer request within ten (10) business days shall result in an automatic approval.~~

~~(4) Emergency transfers shall be approved only in the following circumstances:~~

~~(A) The destruction or partial destruction of a school building;~~

~~(B) Inability of the resident district to offer the subject a student desires to pursue, if the student becomes a legal resident of the school district after February 1 of the school year immediately prior to the school year for which the student is seeking to transfer.~~

~~(C) A catastrophic medical problem of a student, which for purposes of this section shall mean an acute or chronic serious illness, disease, disorder or injury which has a permanently detrimental effect on the body's system or renders the risk unusually hazardous;~~

~~(D) Total failure of transportation facilities;~~

~~(E) With the concurrence of both the resident and receiving school districts;~~

~~(F) The unavailability of remote or on-site Internet-based instruction by course title in the district of residence for a student identified as a result of the district's intake and screening procedures as in need of drop-out recovery or alternative education services, provided such student was enrolled at any time in a public school in this state during the previous three (3) school years;~~

~~(G) The unavailability of a specialized deaf education program for a student who is deaf or hearing impaired. This transfer may be processed and handled as an IEP Service Agreement. Such determination shall be made in coordination with the parents of the requesting student; or.~~

~~(H) When a student has been the victim of harassment, intimidation and bullying as defined in 70 O.S. § 24-100.3, and the receiving school district has verified that:~~

~~(i) The student has been the victim of harassment, intimidation or bullying; and~~

~~(ii) The resident school district was notified of the incident or incidents prior to the filing of the application for transfer;~~

~~(5) Obtaining an emergency transfer by submitting an application that includes false or inaccurate information, or obtaining an emergency transfer on behalf of a student who remains in the resident school district may result in a reduction of a district's funding allocation based on Average Daily Attendance (ADA) and/or Average Daily Membership (ADM).~~

~~(6) If a student to whom an emergency transfer has been granted fails to report and/or enroll in the receiving school district, the superintendent of the receiving school district shall notify the State Board of Education and the resident school district within ten (10) business days.~~

(fe) **Deployed parents**~~Parents.~~ Student transfers under the Deployed Parents School Act of 2012 at 70 O.S. § 8-103.1 shall be processed in accordance with the following provisions:

(1) ~~The parents of the student may make an application for a deployed parent transfer. The application for a deployed parent transfer must be filed with the superintendent of the receiving school district. If a transfer request is submitted on behalf of a Student of a Deployed Parent in accordance with 70 O.S. § 1-103.1 and this administrative rule, the application shall be approved regardless of the capacity of the Receiving School District.~~

(2) ~~The superintendent of the receiving school district or his/her designee responsible for approving transfers may approve deployed parent transfer only upon an adequate showing of the following: Local school district boards of education shall adopt a policy for transfer requests by Students of a Deployed Parent.~~

~~(A) The parent meets the definition of a deployed parent set forth in (c) of this Section;~~

~~(B) The parent has a current, valid identification card issued by the United States Department of Defense; and~~

~~(C) The student will be residing with a relative of the student who lives in the receiving school district or who will be living in the receiving school district within six (6) months of the date that the application for transfer is filed.~~

(3) ~~Transfers pursuant to the provisions of this subsection shall not be subject to the open transfer deadlines set forth in (d) of this Section. Transfer requests on behalf of Students of a Deployed Parent shall be processed in accordance with 70 O.S. § 8-103.1.~~

(gf) **Cancellation**~~Termination of t~~**Transfers.** ~~Transfers may only be cancelled in accordance with the following provisions: A transfer may not be terminated in the middle of a school year. At the end of each school year, a school district may deny continued transfer of the student for the reasons outlined in 70 O.S. § 8-101.2(B)(1)-(2). Written notice of a Receiving School District's intention to deny continued transfer of a student shall be given to the Parent of a student by no later than July 15 and shall comply with Okla. Admin. Code § 210:10-1-18.1(b)(3). A Receiving School District's denial of a continued transfer may be appealed in compliance with § 210:10-1-18.1.~~

~~(1) Open transfers may not be cancelled unless the receiving school district has notified the resident school district and parent of the students of its intent to cancel the transfer by July 15 prior to the school year for which the school district seeks to cancel the transfer.~~

~~(2) Emergency transfers may only be cancelled with the concurrence of the board of the receiving school district and the parent of the student. A school district must notify the parent in writing of the date and time for which the transfer will be considered for cancellation by the school board and the written notice must be received by the parent no less than five (5) business days prior to the date of a regularly scheduled meeting at which the proposed cancellation will be considered, or no less than forty-eight (48) hours prior to the meeting at which the proposed cancellation will be considered if it is a special meeting.~~

(hg) **Reporting transfers.**

~~(1) On or before September 1 of each school year January 1, April 1, July 1, and October 1, the Superintendent of each receiving school district Receiving School District shall file~~

a statement with the State Board of Education and each ~~resident school district~~ Resident School District showing the name and grade level of each student granted a transfer to the ~~receiving school district~~ Receiving School District and the Resident School District for each student.

(2) On or before January 1, April 1, July 1, and October 1, each school district board of education shall submit to the State Department of Education the number of student transfers approved and denied and whether each denial was based on capacity, acts and reasons outlined in Section 24-101.3 of this title or a history of absences as provided for in paragraph 2 of subsection B of this section. The State Department of Education shall publish the data on its website and make the data available to the Office of Educational Quality and Accountability.

PUBLIC COMMENT SUMMARY

210:10-1-18 Transfers [AMENDED]

Summary of Public Comment	Agency Response
<p>1. Commenter advises that the definition of “Student of a Deployed Parent” is different from that in statute. Specifically, the comments suggest that the inclusion of “for whom Oklahoma is the home of record” is beyond the authority of the Agency to require as related to a student of a deployed parent seeking a transfer.</p> <p>Further, comments advise that proposed language at (b)(1) regarding “such transfers shall not be considered open transfers...” be included within (b)(2)-(4).</p> <p>Comments also provided that the language in subsection (c) repeats state law such that they are unnecessary and violate the Administrative Procedures Act.</p> <p>With respect to subsection (d) of the proposed rule, comments request that school districts be afforded longer than a thirty day window to approve or deny</p>	<p>1. The Agency appreciates the comments provided. However, the phrase “for whom Oklahoma is the home is record” is within the latest version of the 2021 amendments to 70 O.S. § 8-103.1. <i>See</i> Senate Bill 68 (2021). As such, according to rules of statutory interpretation, the Agency believes the language in subsection (a)(1) is appropriate.</p> <p>The Agency agrees in part and disagrees in part with the comments relating to subsection (b) of the proposed rule. Specifically, the agency agrees that gifted and talented student transfers pursuant to 70 O.S. § 1210.307 are not governed by the Oklahoma Education Open Transfer Act, 70 O.S. § 8-101.1, <i>et seq.</i>. However, transfers of a student who’s parent is employed as a teacher (70 O.S. 8-113) and for a student of a deployed parent (70 O.S. § 8-103.1) are under the Open Transfer Act as it is titled in the Oklahoma statutes. All of that said, the Agency agrees that the aforementioned transfers are not subject to the provisions of subsection (d) of the rule such that a proposed modification to the rule is being made.</p> <p>OSDE is mindful of the commenter’s reference to 75 O.S. § 251(B). Respectfully, OSDE does not believe that the identification of the statutory language in the rule is <i>unnecessary</i>. The identification of the statutory language in the rule is in attempt to streamline a reader’s understanding of the entirety of the rule and so as to not cause a reader to reference back and forth between statute and rule.</p> <p>The Agency believes the thirty-day window is appropriate to timely afford students and parents with information regarding their school district for</p>

<p>transfers. Specifically, the request is to allow school districts more time to review applications for an ensuing school year as it would afford parents a more generous time to apply for transfers. Justification offered for this proposal includes that more parents and guardians will be filing applications for an ensuing school year than during the year such that this would be more convenient for parents and school administrators was extended to sixty days.</p> <p>Commenter further proposes eliminating subsection (e) as it is not applicable to transfers for students of deployed parents.</p> <p>Finally, comments propose eliminating language in subsection (f) relating to a deadline for cancellation of a transfer by July 15.</p> <p>2. Commenter suggests cleanup language regarding the proper title of the Individuals with Disabilities Education Act (IDEA). Further, comments propose a good cause exception for districts not meeting the requirement to notify a parent or legal guardian of a decision on an application for a transfer within the required thirty day period.</p>	<p>the ensuing school year. Further, with the implementation of the online system to date and time stamp applications, with the District posting capacity at a minimum of each quarter (may be more frequent), the Agency believes thirty days is appropriate at this time, but will monitor through this first year to determine if future amendment through rulemaking is appropriate.</p> <p>The Agency appreciates the comments relating to subsection (e). However, the Agency respectfully disagrees that the language in subsection (e) provides that the Open Transfer law is implicated by any language in the rule for a student of a deployed parent. In further support, please refer to the response to proposed modification to subsection (b)(4).</p> <p>The Agency respectfully disagrees with the suggestion relating to subsection (f). The language currently in subsection (f) is believed to provide students and families with reasonable advance notice of a school district's decision to terminate a student transfer and provides the school district with reasonable time by which it should make a decision to terminate a student transfer for the ensuing year.</p> <p>2. The Agency appreciates the comments provided regarding IDEA and is making the change in the Proposed Final Rule.</p> <p>Pursuant to 70 O.S. § 24-101.4, a district that receives a request for the education records of a student shall forward the records within three (3) business days of receipt of the request. These records are required to include any disciplinary records. Additionally, similar language is provided on the Agency's transfer form. The Agency believes the obligation on resident district is clear</p>
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	<p>in statute and the process is workable to provide records within the timeframe to be able for a district to render a decision within the thirty-day period. Further, existing statutes already provide for remedies available should the Resident District not comply. Finally, to the extent a Receiving District finds itself not meeting the thirty-day period for rendering a decision and that is directly due to the Resident District not providing the records and/or providing the appropriate representative for the meeting, the Agency states that it would not foresee imposing any consequence to the Resident District if it can show it was exercising its efforts and diligence to obtain the student records or garnering the participation of the representative for the meeting.</p>
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RULE IMPACT STATEMENT

210:10-1-18. Transfers [AMENDED]

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

The purpose of this rule is to implement the provisions of Senate Bill 783 (2021), amending the Education Open Transfer Act, which was signed into law and became effective on March 31, 2021, and is codified at 70 O.S. § 8-101.2, 8-103, 8-103.1, and 8-113.

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

The rule change will directly affect students and their parents who seek a student transfer to a non-resident school district, as well as teachers, administrators, and other employees of public school districts (i.e., traditional, charter, virtual charter) who will oversee or implement the revised transfer process.

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

The rule change will benefit students by ensuring that the any student may apply for a transfer to any public school district within the state, subject to the provisions of the Education Open Transfer Act.

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

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

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

The agency will incur expense to update data applications in order to implement new provisions of the Education Open Transfer Act. The agency may also need additional staff to receive and review transfer appeals depending on the quantity of appeals in the future.

f. What is the economic impact on any political subdivision to implement the proposed rule change?

The agency does not anticipate any economic impact on any political subdivision to implement the proposed rule change at this time.

- g. **Will implementing the rule change have an adverse effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act?**

The agency does not anticipate any adverse economic impact on small business as a result of the proposed rule change at this time.

- h. **Are there any other methods which are less costly, nonregulatory, or less intrusive to achieve the purpose of the proposed rule change?**

No.

- i. **Will the rule change impact the public health, safety, and environment, and is the change designed to reduce significant risks to the public health, safety, and environment? If so, explain nature of risk and to what extent the proposed rule change will reduce the risk.**

The agency does not anticipate passage of these rules will impact the public health, safety, and environment. These rules are proposed in order to clarify and allow for practical implementation of existing law.

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

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

- k. **Date Prepared**

February 15, 2022

STATUTORY AUTHORITY FOR 210:10-1-18

Oklahoma Statutes Citationized



Title 70. Schools



Chapter 1 - School Code of 1971



Article Article VIII - Transfer of Pupils



Section 8-101.2 - Selection - Approval - Policy - Capacity- Report - Appeal - Audit

Cite as: 70 O.S. § 8-101.2 (OSCN 2022)

A. Except as provided in subsection B of this section, on and after January 1, 2022, the transfer of a student from the district in which the student resides to another school district furnishing instruction in the grade the student is entitled to pursue shall be granted at any time in the year unless the number of transfers exceeds the capacity of a grade level for each school site within a school district. If the capacity of a grade level for each school site within a school district is insufficient to enroll all eligible students, the school district shall select transfer students in the order in which the district received the student transfer applications. The capacity of a school district shall be determined by the school district board of education based on its policy adopted pursuant to subsection B of this section. A student may be granted a one-year transfer and may continue to attend the school each school year to which the student transferred with the approval of the receiving district. At the end of each school year, a school district may deny continued transfer of the student for the reasons outlined in paragraphs 1 and 2 of subsection B of this section. Any brother or sister of a student who transfers may attend the school district to which the student transferred as long as the school district has capacity and the brother or sister of the transferred student does not meet a basis for denial as outlined in paragraphs 1 and 2 of subsection B of this section. Any child in the custody of the Department of Human Services in foster care who is living in the home of a student who transfers may attend the school district to which the student transferred. Except for a child in the custody of the Department of Human Services in foster care, a transfer student shall not transfer more than two (2) times per school year to one or more school districts in which the student does not reside, provided that the student may always reenroll at any time in his or her school district of residence.

If the grade a student is entitled to pursue is not offered in the district where the student resides, the transfer shall be automatically approved.

B. Each school district board of education shall adopt a policy to determine the number of transfer students the school district has the capacity to accept in each grade level for each school site within a school district no later than January 1, 2022. The policy may include:

1. The acts and reasons outlined in Section 24-101.3 of this title as a basis for denial of a transfer; and
2. A history of absences as a basis for denial of a transfer. For the purposes of this section, "history of absences" means ten or more absences in one semester that are not excused for the reasons provided for in subsection B of Section 10-105 of this title or due to illness.

The policy shall be publicly posted on the school district website.

C. By the first day of January, April, July and October, the school district board of education shall establish the number of transfer students the school district has the capacity to accept in each grade level for each school site within a school district.

D. After establishing the number of transfer students the school district has the capacity to accept in each grade level for each school site within a school district, the board of education shall:

1. Publish in a prominent place on the school district website the number of transfer students for each grade level for each school site within a school district which the school district has the capacity to accept; and

2. Report to the State Department of Education the number of transfer students for each grade level for each school site within a school district which the school district has the capacity to accept.

E. If a transfer request is denied by the school district, the parent of the student may appeal the denial within ten (10) days of notification of the denial to the receiving school district board of education. The receiving school district board of education shall consider the appeal at its next regularly scheduled board meeting. If the receiving school district board of education denies the appeal, the parent of the student may appeal the denial within ten (10) days of notification of the appeal denial to the State Board of Education. The parent shall submit to the State Board of Education and the superintendent of the receiving school a notice of appeal on a form prescribed by the State Board of Education. The appeal shall be considered by the State Board of Education at its next regularly scheduled meeting, where the parent and a representative from the receiving school district may address the Board. The State Board of Education shall promulgate rules to establish the appeals process authorized by this subsection.

F. Each school district board of education shall submit to the State Department of Education the number of student transfers approved and denied and whether each denial was based on capacity, acts and reasons outlined in Section 24-101.3 of this title or a history of absences as provided for in paragraph 2 of subsection B of this section. The State Department of Education shall publish the data on its website and make the data available to the Office of Educational Quality and Accountability.

G. Each year, the Office of Educational Quality and Accountability shall randomly select ten percent (10%) of the school districts in the state and conduct an audit of each district's approved and denied transfers based on the provisions of the policies adopted by the respective school district board of education. If the Office finds inaccurate reporting of capacity levels by a school district, the Office shall set the capacity for the school district.

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

SUBCHAPTER 1. GENERAL PROVISIONS

210:10-1-18.1. Right to Appeal Transfer Application Upon Denial [NEW]

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

(1) “Student” means a student who is requesting transfer from the district in which the student resides to another school district furnishing instruction in the grade the student is entitled to pursue.

(2) “Parent” means the parent, legal guardian, foster parent, or person having custody of the student seeking a transfer, whose residence is used to determine the residence of the student in accordance with the provisions of 70 O.S. § 1-113(A)(1). For purposes of the Individuals with Disabilities Education Act at 20 U.S.C. § 1400 et seq. (IDEA), the definition of Parent set forth in 34 C.F.R. § 300.30 shall supersede the definition of Parent set forth in this subsection.

(3) “Receiving School District” shall mean a school district to which a Student is seeking to be transferred.

(4) “Receiving Board of Education” shall mean the board of education for the Receiving School District.

(b) **Appeal to Receiving Board of Education.**

(1) If a transfer request made pursuant to 70 O.S. § 8-101.2 is denied by the Receiving School District, the Parent of the Student may appeal the denial to the Receiving Board of Education.

(2) The Receiving School District shall provide notification of denial in writing to the Parent of the Student by either hand-delivery, by U.S. Mail or electronic mail.

(3) The notification shall include:

(A) An explanation, including but not limited to any citation to the statute, regulation, or school district policy under which the denial was made;

(B) A copy of the policy adopted by the Receiving Board of Education for determining the number of transfer students the school district has capacity to accept;

(C) A copy of this administrative rule; and

(D) The date upon which the appeal will be due.

(4) A Parent of a Student shall have ten days to appeal a Receiving School District’s denial of a transfer request. If notification of denial is hand-delivered, the appeal period shall begin the day after the notification is delivered. If notification of denial is sent by U.S. Mail, the appeal period shall begin three days after the notification is mailed. If notification of denial is sent by electronic mail, the appeal period shall begin the day after the notification is sent. The Receiving Board of Education shall accept an otherwise untimely appeal if a Parent of a Student can establish that they did not receive actual notice of the notification denying the transfer request, and the appeal was submitted within ten days after the Parent of the Student received actual notice.

(c) **Submission of Appeal to Receiving Board of Education.** An appeal to a Receiving Board of Education shall be submitted to the office of the superintendent of the Receiving School District. The appeal shall include the following:

- (1) The name, address and telephone number of the Parent of the Student and the Student for whom the appeal is being taken;
- (2) The date the Receiving School District gave notice denying the transfer request;
- (3) The basis for appealing the decision of the Receiving School District; and
- (4) The name, address and telephone number of the appellant's legal representative, if applicable.

Any documentary evidence should be attached to the petition for appeal.

(d) **Timeframe for Hearing of Appeal to Receiving Board of Education.** The Receiving Board of Education shall consider the appeal at its next regularly scheduled board meeting.

(e) **Appeal to State Board of Education.**

(1) If the Receiving Board of Education denies an appeal of a request to transfer made pursuant to 70 O.S. § 8-101.2, the Parent of the Student may appeal the denial to the State Board of Education.

(2) The Receiving Board of Education shall provide notification of denial in writing to the Parent of the Student by either hand-delivery, by U.S. Mail or by electronic mail.

(3) The notification shall include:

(A) An explanation, including but not limited to any citation to the statute, regulation, or school district policy under which the denial was made;

(B) A copy of the policy adopted by the Receiving Board of Education for determining the number of transfer students the school district has capacity to accept;

(C) A copy of the State Board of Education's prescribed form for an appeal; and

(D) A copy of this administrative rule.

(4) A Parent of a Student shall have ten days to appeal a Receiving Board of Education's denial of a transfer request. If notification of denial is hand-delivered, the appeal period shall begin the day after the notification is delivered. If notification of denial is sent by U.S. Mail, the appeal period shall begin three days after the notification is mailed. If notification of denial is sent by electronic mail, the appeal period shall begin the day after the notification is sent. The State Board of Education shall accept an otherwise untimely appeal if a Parent of a Student can establish that they did not receive actual notice of the notification denying the transfer request, and the appeal was submitted within ten days after the Parent of the Student received actual notice.

(f) **Submission of an Appeal to the State Board.** An appeal to the State Board of Education shall be submitted to the Executive Secretary of the Board. The Parent of a Student appealing a transfer denial from a Receiving Board of Education shall use the form prescribed by the State Board of Education. At the time of submitting an appeal to the State Board, the appellant must concurrently submit a copy of the appeal to the superintendent of the Receiving School District that denied the transfer request. The superintendent shall immediately transmit the appeal to the Receiving Board of Education.

(g) **Form for Appeal.** At a minimum, the appeal form prescribed by the State Board of Education shall include the following information:

- (1) The name, address, and telephone number of the Parent of the Student and the Student for whom the appeal is being taken;

- (2) The name of the Receiving Board of Education against whom the appeal is filed;
- (3) The date on which the Parent of the Student received notification that the Receiving Board of Education denied the transfer request;
- (4) The basis for appealing the decision of Receiving School Board and statement that any documentary evidence should be attached to the petition for appeal;
- (5) The name, address and telephone number of the appellant's representative, if applicable;
- (6) Notice that the appeal will be considered by the State Board at the next regularly scheduled meeting, at which the appellant and school district may appear; and
- (7) A signature of the appellant, or authorized representative.

(h) **Response.** Upon receipt of notice of an appeal, but not later than five (5) days prior to the date at which the appeal is scheduled to be considered by the State Board of Education, the Receiving Board of Education may submit a written response to the appeal. Responses should not exceed five (5) pages. If not submitted by the appealing Parent, the Receiving Board of Education shall provide a copy of the policy adopted to determine the number of transfer students the school district has the capacity to accept in each grade level for each school site within a school district.

(i) **Timeframe for Hearing Appeal to State Board.** Appeals shall be considered by the State Board of Education at its next regularly scheduled meeting. No later than ten (10) days from the date of the consideration of the appeal request, the State Board of Education will provide the appellant and the denying school district with notice of the time and place of the State Board meeting at which the appeal will be considered. The appellant and school district will have an opportunity to appear in person or by authorized representative or by attorney to address the State Board at the meeting.

(j) **Consideration of Appeal to State Board of Education.** If a Receiving Board of Education has not adopted a policy to determine the number of transfer students the school district has the capacity to accept in each grade level for each school site within a school district, there shall be a presumption that the receiving school district has capacity to accept the student requesting transfer. If no policy has been adopted, the receiving school district board of education shall have the burden to present evidence demonstrating that capacity does not exist. If a Receiving Board of Education has not adopted a capacity policy, it may not reject a transfer request based on:

- (1) The acts and reasons outlined in Section 24-101.3; or
- (2) A history of absences.

PUBLIC COMMENT SUMMARY

210:10-1-18.1 Right to appeal transfer application upon denial [NEW]

Summary of Public Comment	Agency Response
1. Commenter suggests cleanup language regarding the proper title of the Individuals with Disabilities Education Act (IDEA).	1. The Agency appreciates the comments provided regarding IDEA and is making the change in the Proposed Final Rule.

RULE IMPACT STATEMENT

210:10-1-18.1 Right to Appeal Transfer Application Upon Denial [NEW]

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

The purpose of this rule is to implement the provisions of Senate Bill 783 (2021), amending the Education Open Transfer Act, which was signed into law and became effective on March 31, 2021, and is codified at 70 O.S. § 8-101.2, 8-103, 8-103.1, and 8-113.

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

The rule change will directly affect students and their parents who seek a student transfer to a non-resident school district, as well as teachers, administrators, and other employees of public school districts (i.e., traditional, charter, virtual charter) who will oversee or implement the revised transfer process.

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

The rule change will benefit individuals who have been denied a request for a transfer and who want to appeal those denials to the State Board of Education.

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

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

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

The agency will incur expense to update data applications in order to implement new provisions of the Education Open Transfer Act. The agency may also need additional staff to receive and review transfer appeals depending on the quantity of appeals in the future.

f. What is the economic impact on any political subdivision to implement the proposed rule change?

The agency does not anticipate any economic impact on any political subdivision to implement the proposed rule change at this time.

g. Will implementing the rule change have an adverse effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act?

The agency does not anticipate any adverse economic impact on small business as a result of the proposed rule change at this time.

- h. **Are there any other methods which are less costly, nonregulatory, or less intrusive to achieve the purpose of the proposed rule change?**

No.

- i. **Will the rule change impact the public health, safety, and environment, and is the change designed to reduce significant risks to the public health, safety, and environment? If so, explain nature of risk and to what extent the proposed rule change will reduce the risk.**

The agency does not anticipate passage of these rules will impact the public health, safety, and environment. These rules are proposed in order to clarify and allow for practical implementation of existing law.

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

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

- k. **Date Prepared**

February 15, 2022

STATUTORY AUTHORITY FOR 210:10-1-18.1

Oklahoma Statutes Citationized



Title 70. Schools



Chapter 1 - School Code of 1971



Article Article VIII - Transfer of Pupils



Section 8-101.2 - Selection - Approval - Policy - Capacity- Report - Appeal - Audit

Cite as: 70 O.S. § 8-101.2 (OSCN 2022)

A. Except as provided in subsection B of this section, on and after January 1, 2022, the transfer of a student from the district in which the student resides to another school district furnishing instruction in the grade the student is entitled to pursue shall be granted at any time in the year unless the number of transfers exceeds the capacity of a grade level for each school site within a school district. If the capacity of a grade level for each school site within a school district is insufficient to enroll all eligible students, the school district shall select transfer students in the order in which the district received the student transfer applications. The capacity of a school district shall be determined by the school district board of education based on its policy adopted pursuant to subsection B of this section. A student may be granted a one-year transfer and may continue to attend the school each school year to which the student transferred with the approval of the receiving district. At the end of each school year, a school district may deny continued transfer of the student for the reasons outlined in paragraphs 1 and 2 of subsection B of this section. Any brother or sister of a student who transfers may attend the school district to which the student transferred as long as the school district has capacity and the brother or sister of the transferred student does not meet a basis for denial as outlined in paragraphs 1 and 2 of subsection B of this section. Any child in the custody of the Department of Human Services in foster care who is living in the home of a student who transfers may attend the school district to which the student transferred. Except for a child in the custody of the Department of Human Services in foster care, a transfer student shall not transfer more than two (2) times per school year to one or more school districts in which the student does not reside, provided that the student may always reenroll at any time in his or her school district of residence.

If the grade a student is entitled to pursue is not offered in the district where the student resides, the transfer shall be automatically approved.

B. Each school district board of education shall adopt a policy to determine the number of transfer students the school district has the capacity to accept in each grade level for each school site within a school district no later than January 1, 2022. The policy may include:

1. The acts and reasons outlined in Section 24-101.3 of this title as a basis for denial of a transfer; and
2. A history of absences as a basis for denial of a transfer. For the purposes of this section, "history of absences" means ten or more absences in one semester that are not excused for the reasons provided for in subsection B of Section 10-105 of this title or due to illness.

The policy shall be publicly posted on the school district website.

C. By the first day of January, April, July and October, the school district board of education shall establish the number of transfer students the school district has the capacity to accept in each grade level for each school site within a school district.

D. After establishing the number of transfer students the school district has the capacity to accept in each grade level for each school site within a school district, the board of education shall:

1. Publish in a prominent place on the school district website the number of transfer students for each grade level for each school site within a school district which the school district has the capacity to accept; and

2. Report to the State Department of Education the number of transfer students for each grade level for each school site within a school district which the school district has the capacity to accept.

E. If a transfer request is denied by the school district, the parent of the student may appeal the denial within ten (10) days of notification of the denial to the receiving school district board of education. The receiving school district board of education shall consider the appeal at its next regularly scheduled board meeting. If the receiving school district board of education denies the appeal, the parent of the student may appeal the denial within ten (10) days of notification of the appeal denial to the State Board of Education. The parent shall submit to the State Board of Education and the superintendent of the receiving school a notice of appeal on a form prescribed by the State Board of Education. The appeal shall be considered by the State Board of Education at its next regularly scheduled meeting, where the parent and a representative from the receiving school district may address the Board. The State Board of Education shall promulgate rules to establish the appeals process authorized by this subsection.

F. Each school district board of education shall submit to the State Department of Education the number of student transfers approved and denied and whether each denial was based on capacity, acts and reasons outlined in Section 24-101.3 of this title or a history of absences as provided for in paragraph 2 of subsection B of this section. The State Department of Education shall publish the data on its website and make the data available to the Office of Educational Quality and Accountability.

G. Each year, the Office of Educational Quality and Accountability shall randomly select ten percent (10%) of the school districts in the state and conduct an audit of each district's approved and denied transfers based on the provisions of the policies adopted by the respective school district board of education. If the Office finds inaccurate reporting of capacity levels by a school district, the Office shall set the capacity for the school district.

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

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

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

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

- (1) A willful violation of a rule or regulation of the State Board of Education, or the United States Department of Education; or
- (2) A willful violation of any federal or state law, or
- (3) A conviction for any of the offenses or bases for revocation set forth in 70 O.S. §§ 3-104 or 3-104.1; or
- (4) For other proper cause, including but not limited to violation of the Standards of Performance and Conduct for Teachers at Chapter 20, Subchapter 29 of this Title.

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

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

- (1) **Filing of application to revoke a certificate.** An individual proceeding to revoke a certificate shall be initiated by filing an application to revoke a certificate. An application to revoke a certificate shall be filed with the Secretary of the State Board of Education by the State Department of Education. The application shall name the holder of the certificate to be revoked as the respondent in the action, and shall contain:
 - (A) A statement of the legal authority and jurisdiction under which the applicant seeks to initiate the proceeding and the hearing is to be held;
 - (B) A reference to each particular statute and/or rule involved;
 - (C) A short and plain statement of the allegations asserted; and
 - (D) A statement of the facts alleged to give rise to the revocation. The application shall also state a proposed effective date for the relief requested (e.g., revocation), which shall be set no earlier than forty-five (45) calendar days from the date the complaint is filed.
- (2) **Informal disposition.** Informal disposition of the application to revoke a certificate may be made by stipulation, agreed settlement, consent order, or default, unless otherwise

precluded by law. Written notice signed by each party or counsel representatives shall be delivered to the Secretary of the State Board of Education prior to the time of the scheduled hearing.

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

(A) A statement setting forth the proposed effective date of revocation of the certificate; and

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

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

(f) **Hearing procedures.**

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

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

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

(A) **Issuance of subpoenas.** Subpoenas for the attendance of witnesses, or for the production of books, records, papers, objects, or other evidence of any kind as may be necessary and proper for the purposes of a proceeding shall be issued by the Secretary of the Board at the direction of the Chairperson; upon order of the Board; or at the request

of any party to a proceeding before the Board. The signature of the Secretary shall be sufficient authentication for any subpoena.

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

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

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

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

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

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

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

affecting a hearing officer, the Board shall either assign a replacement hearing officer, or conduct the hearing itself. Upon the entry of an order of disqualification affecting a Board member, the Governor immediately shall appoint a member pro tempore to sit in place of the disqualified member in that proceeding.

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

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

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

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

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

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

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

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

(2) **Findings of fact and conclusions of law.** After the decision is announced, but before issuance of the final order, if the Board has not heard the case or read the record of the

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

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

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

(h) **Record of hearing.**

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

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

(2) The State Board Secretary shall electronically record the proceedings, with the exception of the executive sessions. The recording shall be made and maintained in accordance with the requirements of 75 O.S. § 309, and a copy shall be provided to any party

to the proceeding upon request. If the requesting party should desire the tape(s) to be transcribed by a court reporter, the requesting party shall bear the expense.

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

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

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

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

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

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

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

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

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

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

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

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

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

RULE IMPACT STATEMENT

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

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

The purpose of this rule is to clarify existing administrative rule provisions governing the suspension and/or revocation of an educator certificate.

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

The rule change will affect individuals who have an educator certificate issued by the Oklahoma State Board of Education and who may be the subject of an application to suspend or revoke the educator certificate.

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

Individuals who are subject to an action to suspend and/or revoke a certificate will benefit from the proposed rule change.

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

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

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

The agency does not anticipate a material cost to implement and enforce the proposed rule change.

f. What is the economic impact on any political subdivision to implement the proposed rule change?

The agency does not anticipate any economic impact on any political subdivision to implement the proposed rule change at this time.

g. Will implementing the rule change have an adverse effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act?

The agency does not anticipate any adverse economic impact on small business as a result of the proposed rule change at this time.

- h. **Are there any other methods which are less costly, nonregulatory, or less intrusive to achieve the purpose of the proposed rule change?**

No.

- i. **Will the rule change impact the public health, safety, and environment, and is the change designed to reduce significant risks to the public health, safety, and environment? If so, explain nature of risk and to what extent the proposed rule change will reduce the risk.**

The agency does not anticipate passage of these rules will impact the public health, safety, and environment. These rules are proposed in order to clarify and allow for practical implementation of existing law.

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

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

- k. **Date Prepared**

February 15, 2022

STATUTORY AUTHORITY FOR 210:1-5-6

Oklahoma Statutes Citationized



Title 70. Schools



Chapter 1 - School Code of 1971



Article Article III - State Department of Education



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

Cite as: 70 O.S. § 3-104 (OSCN 2022)

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

1. Adopt policies and make rules for the operation of the public school system of the state;
2. Appoint, prescribe the duties and fix the compensation of a secretary, an attorney and all other personnel necessary for the proper performance of the functions of the State Board of Education. The secretary shall not be a member of the Board;
3. Submit to the Governor a departmental budget based upon major functions of the Department as prepared by the State Superintendent of Public Instruction and supported by detailed data on needs and proposed operations as partially determined by the budgetary needs of local school districts filed with the State Board of Education for the ensuing fiscal year. Appropriations therefor shall be made in lump-sum form for each major item in the budget as follows:
 - a. State Aid to schools,
 - b. the supervision of all other functions of general and special education including general control, free textbooks, school lunch, Indian education and all other functions of the Board and an amount sufficient to adequately staff and administer these services, and
 - c. the Board shall determine the details by which the budget and the appropriations are administered. Annually, the Board shall make preparations to consolidate all of the functions of the Department in such a way that the budget can be based on two items, administration and aid to schools. A maximum amount for administration shall be designated as a part of the total appropriation;
4. On the first day of December preceding each regular session of the Legislature, prepare and deliver to the Governor and the Legislature a report for the year ending June 30 immediately preceding the regular session of the Legislature. The report shall contain:
 - a. detailed statistics and other information concerning enrollment, attendance, expenditures including State Aid, and other pertinent data for all public schools in this state,
 - b. reports from each and every division within the State Department of Education as submitted by the State Superintendent of Public Instruction and any other division, department, institution or other agency under the supervision of the Board,
 - c. recommendations for the improvement of the public school system of the state,
 - d. a statement of the receipts and expenditures of the State Board of Education for the past year, and
 - e. a statement of plans and recommendations for the management and improvement of public schools and such other information relating to the educational interests of the state as may be deemed necessary and desirable;
5. Provide for the formulation and adoption of curricula, courses of study and other instructional aids necessary for the adequate instruction of pupils in the public schools;

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

a. the State Department of Education shall not issue a certificate to and shall revoke the certificate of any person who has been convicted, whether upon a verdict or plea of guilty or upon a plea of nolo contendere, or received a suspended sentence or any probationary term for a crime or an attempt to commit a crime provided for in [Section 843.5 of Title 21](#) of the Oklahoma Statutes if the offense involved sexual abuse or sexual exploitation as those terms are defined in [Section 1-1-105 of Title 10A](#) of the Oklahoma Statutes, [Section 741](#), [843.1](#), if the offense included sexual abuse or sexual exploitation, [865](#) et

seq., [885](#), [888](#), [891](#), [1021](#), [1021.2](#), [1021.3](#), [1040.13a](#), [1087](#), [1088](#), [1111.1](#), [1114](#) or [1123 of Title 21](#) of the Oklahoma Statutes or who enters this state and who has been convicted, received a suspended sentence or received a deferred judgment for a crime or attempted crime which, if committed or attempted in this state, would be a crime or an attempt to commit a crime provided for in any of said laws,

b. all funds collected by the State Department of Education for the issuance of certificates to instructional, supervisory and administrative personnel in the public schools of the state shall be deposited in the "Teachers' Certificate Fund" in the State Treasury and may be expended by the State Board of Education to finance the activities of the State Department of Education necessary to administer the program, for consultative services, publication costs, actual and necessary travel expenses as provided in the State Travel Reimbursement Act incurred by persons performing research work, and other expenses found necessary by the State Board of Education for the improvement of the preparation and certification of teachers in Oklahoma. Provided, any unobligated balance in the Teachers' Certificate Fund in excess of Ten Thousand Dollars (\$10,000.00) on June 30 of any fiscal year shall be transferred to the General Revenue Fund of the State of Oklahoma. Until July 1, 1997, the State Board of Education shall have authority for approval of teacher education programs. The State Board of Education shall also have authority for the administration of teacher residency and professional development, subject to the provisions of the Oklahoma Teacher Preparation Act;

7. Promulgate rules governing the classification, inspection, supervision and accrediting of all public nursery, kindergarten, elementary and secondary schools and on-site educational services provided by public school districts or state-accredited private schools in partial hospitalization programs, day treatment programs, and day hospital programs as defined in this act for persons between the ages of three (3) and twenty-one (21) years of age in the state. However, no school shall be denied accreditation solely on the basis of average daily attendance.

Any school district which maintains an elementary school and faces the necessity of relocating its school facilities because of construction of a lake, either by state or federal authority, which will inundate the school facilities, shall be entitled to receive probationary accreditation from the State Board of Education for a period of five (5) years after the effective date of this act and any school district, otherwise qualified, shall be entitled to receive probationary accreditation from the State Board of Education for a period of two (2) consecutive years to attain the minimum average daily attendance. The Head Start and public nurseries or kindergartens operated from Community Action Program funds shall not be subjected to the accrediting rules of the State Board of Education. Neither will the State Board of Education make rules affecting the operation of the public nurseries and kindergartens operated from federal funds secured through Community Action Programs even though they may be operating in the public schools of the state. However, any of the Head Start or public nurseries or kindergartens operated under federal regulations may make application for accrediting from the State Board of Education but will be accredited only if application for the approval of the programs is made. The status of no school district shall be changed which will reduce it to a lower classification until due notice has been given to the proper

authorities thereof and an opportunity given to correct the conditions which otherwise would be the cause of such reduction.

Private and parochial schools may be accredited and classified in like manner as public schools or, if an accrediting association is approved by the State Board of Education, by procedures established by the State Board of Education to accept accreditation by such accrediting association, if application is made to the State Board of Education for such accrediting;

8. Be the legal agent of the State of Oklahoma to accept, in its discretion, the provisions of any Act of Congress appropriating or apportioning funds which are now, or may hereafter be, provided for use in connection with any phase of the system of public education in Oklahoma. It shall prescribe such rules as it finds necessary to provide for the proper distribution of such funds in accordance with the state and federal laws;

9. Be and is specifically hereby designated as the agency of this state to cooperate and deal with any officer, board or authority of the United States Government under any law of the United States which may require or recommend cooperation with any state board having charge of the administration of public schools unless otherwise provided by law;

10. Be and is hereby designated as the "State Educational Agency" referred to in Public Law 396 of the 79th Congress of the United States, which law states that said act may be cited as the "National School Lunch Act", and said State Board of Education is hereby authorized and directed to accept the terms and provisions of said act and to enter into such agreements, not in conflict with the Constitution of Oklahoma or the Constitution and Statutes of the United States, as may be necessary or appropriate to secure for the State of Oklahoma the benefits of the school lunch program established and referred to in said act;

11. Have authority to secure and administer the benefits of the National School Lunch Act, Public Law 396 of the 79th Congress of the United States, in the State of Oklahoma and is hereby authorized to employ or appoint and fix the compensation of such additional officers or employees and to incur such expenses as may be necessary for the accomplishment of the above purpose, administer the distribution of any state funds appropriated by the Legislature required as federal matching to reimburse on children's meals;

12. Accept and provide for the administration of any land, money, buildings, gifts, donation or other things of value which may be offered or bequeathed to the schools under the supervision or control of said Board;

13. Have authority to require persons having administrative control of all school districts in Oklahoma to make such regular and special reports regarding the activities of the schools in said districts as the Board may deem needful for the proper exercise of its duties and functions. Such authority shall include the right of the State Board of Education to withhold all state funds under its control, to withhold official recognition, including accrediting, until such required reports have been filed and accepted in the office of said Board and to revoke the certificates of persons failing or refusing to make such reports;

14. Have general supervision of the school lunch program. The State Board of Education may sponsor workshops for personnel and participants in the school lunch program and may develop, print and distribute free of charge or sell any materials, books and bulletins to be used in such school lunch programs. There is hereby created in the State Treasury a revolving fund for the Board, to be designated the School Lunch Workshop Revolving Fund. The fund shall consist of all fees derived from or on behalf of any participant in any such workshop sponsored by the State Board of Education, or from the sale of any materials, books and bulletins, and such funds shall be disbursed for expenses of such workshops and for developing, printing and distributing of such materials, books and bulletins relating to the school lunch program. The fund shall be administered in accordance with [Section 155 of Title 62](#) of the Oklahoma Statutes;

15. Prescribe all forms for school district and county officers to report to the State Board of Education where required. The State Board of Education shall also prescribe a list of appropriation accounts by which the funds of school districts shall be budgeted, accounted for and expended; and it shall be the

duty of the State Auditor and Inspector in prescribing all budgeting, accounting and reporting forms for school funds to conform to such lists;

16. Provide for the establishment of a uniform system of pupil and personnel accounting, records and reports;

17. Have authority to provide for the health and safety of school children and school personnel while under the jurisdiction of school authorities;

18. Provide for the supervision of the transportation of pupils;

19. Have authority, upon request of the local school board, to act in behalf of the public schools of the state in the purchase of transportation equipment;

20. Have authority and is hereby required to perform all duties necessary to the administration of the public school system in Oklahoma as specified in the Oklahoma School Code; and, in addition thereto, those duties not specifically mentioned herein if not delegated by law to any other agency or official;

21. Administer the State Public Common School Building Equalization Fund established by [Section 32 of Article X](#) of the Oklahoma Constitution. Any monies as may be appropriated or designated by the Legislature, other than ad valorem taxes, any other funds identified by the State Department of Education, which may include, but not be limited to, grants-in-aid from the federal government for building purposes, the proceeds of all property that shall fall to the state by escheat, penalties for unlawful holding of real estate by corporations, and capital gains on assets of the permanent school funds, shall be deposited in the State Public Common School Building Equalization Fund. The fund shall be used to aid school districts and charter schools in acquiring buildings, subject to the limitations fixed by Section 32 of Article X of the Oklahoma Constitution. It is hereby declared that the term "acquiring buildings" as used in Section 32 of Article X of the Oklahoma Constitution shall mean acquiring or improving school sites, constructing, repairing, remodeling or equipping buildings, or acquiring school furniture, fixtures, or equipment. It is hereby declared that the term "school districts" as used in Section 32 of Article X of the Oklahoma Constitution shall mean school districts and eligible charter schools as defined in subsection B of this section. The State Board of Education shall disburse redbud school grants annually from the State Public Common School Building Equalization Fund to public schools and eligible charter schools pursuant to subsection B of this section. The Board shall promulgate rules for the implementation of disbursing redbud school grants pursuant to this section. The State Board of Education shall prescribe rules for making grants of aid from, and for otherwise administering, the fund pursuant to the provisions of this paragraph, and may employ and fix the duties and compensation of technicians, aides, clerks, stenographers, attorneys and other personnel deemed necessary to carry out the provisions of this paragraph. The cost of administering the fund shall be paid from monies appropriated to the State Board of Education for the operation of the State Department of Education. From monies apportioned to the fund, the State Department of Education may reserve not more than one-half of one percent (1/2 of 1%) for purposes of administering the fund;

22. Recognize that the Director of the Oklahoma Department of Corrections shall be the administrative authority for the schools which are maintained in the state reformatories and shall appoint the principals and teachers in such schools. Provided, that rules of the State Board of Education for the classification, inspection and accreditation of public schools shall be applicable to such schools; and such schools shall comply with standards set by the State Board of Education; and

23. Have authority to administer a revolving fund which is hereby created in the State Treasury, to be designated the Statistical Services Revolving Fund. The fund shall consist of all monies received from the various school districts of the state, the United States Government, and other sources for the purpose of furnishing or financing statistical services and for any other purpose as designated by the Legislature. The State Board of Education is hereby authorized to enter into agreements with school districts, municipalities, the United States Government, foundations and other agencies or individuals for services, programs or research projects. The Statistical Services Revolving Fund shall be administered in accordance with [Section 155 of Title 62](#) of the Oklahoma Statutes.

B. 1. The redbud school grants shall be determined by the State Department of Education as follows:

- a. divide the county four-mill levy revenue by four to determine the nonchargeable county four-mill revenue for each school district,
- b. determine the amount of new revenue generated by the five-mill building fund levy as authorized by [Section 10 of Article X](#) of the Oklahoma Constitution for each school district as reported in the Oklahoma Cost Accounting System for the preceding fiscal year,
- c. add the amounts calculated in subparagraphs a and b of this paragraph to determine the nonchargeable millage for each school district,
- d. add the nonchargeable millage in each district statewide as calculated in subparagraph c of this paragraph and divide the total by the average daily membership in public schools statewide based on the preceding school year's average daily membership, according to the provisions of [Section 18-107](#) of this title. This amount is the statewide nonchargeable millage per student, known as the baseline local funding per student,
- e. all eligible charter schools shall be included in these calculations as unique school districts, separate from the school district that may sponsor the eligible charter school, and the total number of districts shall be used to determine the statewide average baseline local funding per student,
- f. for each school district or eligible charter school which is below the baseline local funding per student, the Department shall subtract the baseline local funding per student from the average nonchargeable millage per student of the school district or eligible charter school to determine the nonchargeable millage per student shortfall for each district, and
- g. the nonchargeable millage per student shortfall for a school district or eligible charter school shall be multiplied by the average daily membership of the preceding school year of the eligible school district or eligible charter school. This amount shall be the redbud school grant amount for the school district or eligible charter school.

2. For fiscal year 2022, monies for the redbud school grants shall be expended from the funds apportioned pursuant to Section 2 of this act. For fiscal year 2023 and each subsequent fiscal year, monies for the redbud school grants shall be appropriated pursuant to Section 2 of this act, not to exceed three-fourths (3/4) of the tax collected in the preceding fiscal year pursuant to [Section 426 of Title 63](#) of the Oklahoma Statutes as determined by the Oklahoma Tax Commission. For fiscal year 2023 and each subsequent fiscal year, if such appropriated funds are insufficient to fund the redbud school grants, then an additional apportionment of funds shall be made from sales tax collections as provided by subsection D of Section 3 of this act. If both funds are insufficient, the Department shall promulgate rules to permit a decrease to the baseline local funding per student to the highest amount allowed with the funding available.

3. As used in this section, "eligible charter school" shall mean a charter school which is sponsored pursuant to the provisions of the Oklahoma Charter School Act. Provided, however, "eligible charter school" shall not include a charter school sponsored by the Statewide Virtual Charter School Board but shall only include those which provide in-person or blended instruction, as provided by [Section 1-111](#) of this title, to not less than two-thirds (2/3) of students as the primary means of instructional service delivery.

4. The Department shall develop a program to acknowledge the redbud school grant recipients and shall include elected members of the Oklahoma House of Representatives and Oklahoma State Senate who represent the school districts and eligible charter schools.

5. The Department shall create a dedicated page on its website listing annual redbud school grant recipients, amount awarded to each recipient and other pertinent information about the Redbud School Funding Act.

6. The Department shall provide the Chair of the House Appropriations and Budget Committee and the Chair of the Senate Appropriations Committee no later than February 1 of each year with an estimate of the upcoming year's redbud school grant allocation as prescribed by this section.

Oklahoma Statutes Citationized

Title 75. Statutes and Reports

Chapter 8 - Administrative Procedures Act

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

Cite as: O.S. §, __ __

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

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

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

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

Oklahoma Statutes Citationized

Title 75. Statutes and Reports

Chapter 8 - Administrative Procedures Act

Section 314.1 - Emergency Actions

Cite as: O.S. §, ____

As authorized by or pursuant to law, if an agency finds that the public health, safety, or welfare imperatively requires emergency action, has promulgated administrative rules which provide for such action and incorporates a finding regarding the emergency in its order, emergency actions may be ordered pending the final outcome of proceedings instituted pursuant to this article.