

An Act

ENROLLED SENATE
BILL NO. 426

By: Ford of the Senate

and

Sears, Nelson, Wright and
Hulbert of the House

An Act relating to teacher evaluations; amending 70 O.S. 2011, Section 6-101.3, which relates to definitions; modifying certain definitions; amending 70 O.S. 2011, Section 6-101.10, as amended by Section 1 of Enrolled Senate Bill No. 207 of the 1st Session of the 54th Oklahoma Legislature, which relates to school district evaluation policies; deleting certain revision date; requiring certain revisions to be phased in based on certain schedule; establishing a schedule of evaluation policy revisions; clarifying deadlines for evaluations of probationary teachers; amending 70 O.S. 2011, Section 6-101.13, which relates to the dismissal or nonreemployment of administrators; making certain provisions contingent upon implementation of the Oklahoma Teacher and Leader Effectiveness Evaluation System; amending 70 O.S. 2011, Section 6-101.16, as amended by Section 2 of Enrolled Senate Bill No. 207 of the 1st Session of the 54th Oklahoma Legislature, which relates to Oklahoma Teacher and Leader Effectiveness Evaluation System; directing the State Board of Education to work cooperatively with school district for certain purposes; allowing the Board to adopt certain alternative percentages; directing the State Department of Education to keep certain records confidential; amending 70 O.S. 2011, Section 6-101.22, as amended in Section 2 of Enrolled Senate Bill No. 283 of the 1st Session of the 54th Oklahoma Legislature, 6-101.24 and 6-101.31, which relate to

the Teacher Due Process Act of 1990; making certain provisions contingent upon implementation of the Oklahoma Teacher and Leader Effectiveness Evaluation System; amending Section 17, Chapter 291, O.S.L. 2010, which relates to delayed implementation of certain provisions of law; updating language; and modifying certain implementation date;

SUBJECT: Teacher evaluations

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

SECTION 1. AMENDATORY 70 O.S. 2011, Section 6-101.3, is amended to read as follows:

Section 6-101.3. As used in Section 6-101 et seq. of this title:

1. "Administrator" means a duly certified person who devotes a majority of time to service as a superintendent, elementary superintendent, principal, supervisor, vice principal or in any other administrative or supervisory capacity in the school district;
2. "Dismissal" means the discontinuance of the teaching service of an administrator or teacher during the term of a written contract, as provided by law;
3. "Nonreemployment" means the nonrenewal of the contract of an administrator or teacher upon expiration of the contract;
4. "Career teacher" means a teacher who:
 - a. for teachers employed by a school district during the 2011-12 school year prior to full implementation of the Oklahoma Teacher and Leader Effectiveness Evaluation System (TLE) as set forth in Section 6-101.10 of this title, has completed three (3) or more consecutive complete school years as a teacher in one school district under a written continuing or temporary teaching contract, or

b. for teachers employed for the first time by a school district under a written continuing or temporary teaching contract ~~on or after July 1, 2012~~ full implementation of the Oklahoma Teacher and Leader Effectiveness Evaluation System (TLE) as set forth in Section 6-101.10 of this title:

- (1) has completed three (3) consecutive complete school years as a teacher in one school district under a written continuing or temporary teaching contract and has achieved a rating of "superior" as measured pursuant to the ~~Oklahoma Teacher and Leader Effectiveness Evaluation System (TLE)~~ TLE as set forth in Section ~~6~~ 6-101.16 of this ~~act~~ title for at least two (2) of the three (3) school years, with no rating below "effective",
- (2) has completed four (4) consecutive complete school years as a teacher in one school district under a written continuing or temporary teaching contract, has averaged a rating of at least "effective" as measured pursuant to the TLE for the four-year period, and has received a rating of at least "effective" for the last two (2) years of the four-year period, or
- (3) has completed four (4) or more consecutive complete school years in one school district under a written continuing or temporary teaching contract and has not met the requirements of subparagraph a or b of this paragraph, only if the principal of the school at which the teacher is employed submits a petition to the superintendent of the school district requesting that the teacher be granted career status, the superintendent agrees with the petition, and the school district board of education approves the petition. The principal shall specify in the petition the underlying facts supporting the granting of career status to the teacher;

5. "Teacher hearing" means the hearing before a school district board of education after a recommendation for dismissal or nonreemployment of a teacher has been made but before any final action is taken on the recommendation, held for the purpose of affording the teacher all rights guaranteed by the United States Constitution and the Constitution of Oklahoma under circumstances and for enabling the board to determine whether to approve or disapprove the recommendation;

6. "Probationary teacher" means a teacher who:

- a. for teachers employed by a school district ~~during the 2011-12 school year~~ prior to full implementation of the Oklahoma Teacher and Leader Effectiveness Evaluation System (TLE) as set forth in Section 6-101.10 of this title, has completed fewer than three (3) consecutive complete school years as a teacher in one school district under a written teaching contract, or
- b. for teachers employed for the first time by a school district under a written teaching contract ~~on or~~ after July 1, 2012 full implementation of the Oklahoma Teacher and Leader Effectiveness Evaluation System (TLE) as set forth in Section 6-101.10 of this title, has not met the requirements for career teacher as provided in paragraph 4 of this section;

7. "Suspension" or "suspended" means the temporary discontinuance of the services of an administrator or teacher, as provided by law; and

8. "Teacher" means a duly certified or licensed person who is employed to serve as a counselor, librarian or school nurse or in any instructional capacity; an administrator shall be considered a teacher only with regard to service in an instructional, nonadministrative capacity.

SECTION 2. AMENDATORY 70 O.S. 2011, Section 6-101.10, as amended by Section 1 of Enrolled Senate Bill No. 207 of the 1st Session of the 54th Oklahoma Legislature, is amended to read as follows:

Section 6-101.10. A. Each school district board of education shall maintain and annually review, following consultation with or involvement of representatives selected by local teachers, a written policy of evaluation for all teachers and administrators. In those school districts in which there exists a professional negotiations agreement made in accordance with ~~Sections~~ Section 509.1 et seq. of this title, the procedure for evaluating members of the negotiations unit and any standards of performance and conduct proposed for adoption beyond those established by the State Board of Education shall be negotiable items. Nothing in this section shall be construed to annul, modify or to preclude the renewal or continuing of any existing agreement heretofore entered into between any school district and any organizational representative of its employees. Every policy of evaluation adopted by a board of education shall:

1. Be based upon a set of minimum criteria developed by the State Board of Education, which ~~by no later than the 2013-14 school year,~~ shall be revised and based upon the Oklahoma Teacher and Leader Effectiveness Evaluation System (TLE) developed by the State Board of Education as provided in Section 6-101.16 of this title. The revisions to each policy of evaluation shall be phased in according to the following schedule:

- a. for evaluations of teachers and administrators conducted during the 2012-2013 school year, school districts shall for purposes of testing the TLE incorporate on a trial basis the qualitative components of the TLE as provided for in subparagraph b of paragraph 4 of subsection B of Section 6-101.16 of this title into the evaluations used in all or a representative sampling of school sites within the district and may at the option of the school district incorporate on a trial basis the other academic measurement quantitative components of the TLE as provided for in division (2) of subparagraph a of paragraph 4 of subsection B of Section 6-101.16 of this title into the evaluations used in all or a representative sampling of school sites within the district,

- b. for evaluations of teachers and administrators conducted during the 2013-2014 school year, school districts shall incorporate and put into operation the qualitative components of the TLE as provided for in subparagraph b of paragraph 4 of subsection B of Section 6-101.16 of this title into the evaluations used in all school sites within the district. For the 2013-2014 school year one hundred percent (100%) of the evaluation rating of teachers and administrators shall be based on the qualitative component of the TLE. In addition, for evaluations of teachers and administrators conducted during the 2013-2014 school year, school districts shall for purposes of testing the TLE incorporate on a trial basis the student academic growth and other academic measurement quantitative components of the TLE as provided for in subparagraph a of paragraph 4 of subsection B of Section 6-101.16 of this title into the evaluations used in all or a representative sampling of school sites within the district. However, nothing in this subparagraph shall preclude a school district with an average daily attendance of more than thirty-five thousand (35,000) from incorporating at its own expense the quantitative model of the TLE and basing up to fifty percent (50%) of the evaluation rating of teachers and administrators on the quantitative components of the TLE, as defined by the district's written policy, during the 2013-2014 school year,
- c. for evaluations of teachers and administrators conducted during the 2014-2015 school year, school districts shall for purposes of establishing baseline data incorporate the student academic growth and other academic measurement quantitative components of the TLE as provided for in subparagraph a of paragraph 4 of subsection B of Section 6-101.16 of this title into the evaluations used in all school sites within the district. For the 2014-2015 school year one hundred percent (100%) of the evaluation rating of teachers and administrators shall be based on the qualitative component of the TLE, and no portion of the evaluation rating shall be based on the quantitative components

of the TLE. However, nothing in this subparagraph shall preclude a school district with an average daily attendance of more than thirty-five thousand (35,000) from incorporating at its own expense the quantitative model of the TLE and basing up to fifty percent (50%) of the evaluation rating of teachers and administrators on the quantitative components of the TLE, as defined by the district's written policy, during the 2014-2015 school year, and

- d. for evaluations of teachers and administrators conducted during the 2015-2016 school year and each school year thereafter, school districts shall fully implement the TLE and incorporate and put into operation both the qualitative components of the TLE as provided for in subparagraph b of paragraph 4 of subsection B of Section 6-101.16 of this title and the student academic growth and other academic measurement quantitative components of the TLE as provided for in subparagraph a of paragraph 4 of subsection B of Section 6-101.16 of this title into the evaluations used in all school sites within the district. For the 2015-2016 school year and each school year thereafter, fifty percent (50%) of the evaluation rating of teachers and administrators shall be based on the qualitative component of the TLE and fifty percent (50%) shall be based on the quantitative component of the TLE;

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

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

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

5. Provide that every teacher be evaluated once every year, except for career teachers receiving a "superior" or "highly effective" rating under the TLE, who may be evaluated once every two (2) years; and

6. Provide that, except for superintendents of independent and elementary school districts and superintendents of area school districts who shall be evaluated by the school district board of education, all certified personnel shall be evaluated by a principal, assistant principal, or other trained certified individual designated by the school district board of education.

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

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

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

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

SECTION 3. AMENDATORY 70 O.S. 2011, Section 6-101.13, is amended to read as follows:

Section 6-101.13. A. Whenever the school district board of education or the administration of a school district shall determine that the dismissal or nonreemployment of a full-time certified administrator from the administrative position within the school district should be effected, the administrator shall be entitled to the following due process procedures:

1. A statement shall be submitted to the administrator in writing prior to the dismissal or nonreemployment which states the proposed action, lists the reasons for effecting the action, and notifies the administrator of his right to a hearing before the school district board of education prior to the action; and

2. A hearing before the school district board of education shall be granted upon the request of the administrator prior to the dismissal or nonreemployment. A request for a hearing shall be submitted to the board of education not later than ten (10) days after the administrator has been notified of the proposed action.

B. Failure of the administrator to request a hearing before the school district board of education within ten (10) days after receiving the written statement shall constitute a waiver of the right to a hearing. No decision of the board of education concerning the dismissal or nonreemployment of a full-time certified administrator shall be effective until the administrator has been afforded due process as specified in this section. The decision of the school district board of education concerning the dismissal or nonreemployment, following the hearing, shall be final.

C. A After full implementation of the Oklahoma Teacher and Leader Effectiveness Evaluation System (TLE) as set forth in Section 6-101.10 of this title, a principal who has received a rating of "ineffective" as measured pursuant to the Oklahoma Teacher and Leader Effectiveness Evaluation System (TLE) TLE as set forth in Section 6-101.16 of this act title for two (2) consecutive school years, shall not be reemployed by the school district, subject to the due process procedures of this section.

SECTION 4. AMENDATORY 70 O.S. 2011, Section 6-101.16, as amended by Section 2 of Enrolled Senate Bill No. 207 of the 1st Session of the 54th Oklahoma Legislature, is amended to read as follows:

Section 6-101.16 A. By December 15, 2011, the State Board of Education shall adopt a new statewide system of evaluation to be known as the Oklahoma Teacher and Leader Effectiveness Evaluation System (TLE). The Board shall work cooperatively with school districts to fully implement both the quantitative and qualitative components of the TLE in all school districts by the 2015-2016

school year as provided for in Section 6-101.10 of this title, including determining the final calculation of the student academic growth measurement as provided for in division (1) of subparagraph a of paragraph 4 of subsection B of this section and developing a teacher/student assignment verification system.

B. The TLE shall include the following components:

1. A five-tier rating system as follows:

- a. superior,
- b. highly effective,
- c. effective,
- d. needs improvement, and
- e. ineffective;

2. Annual evaluations that provide feedback to improve student learning and outcomes, except as provided for in subsection C of this section;

3. Comprehensive remediation plans and instructional coaching for all teachers rated as needs improvement or ineffective;

4. Quantitative and qualitative assessment components measured as follows:

- a. fifty percent (50%) of the ratings of teachers and leaders shall be based on quantitative components which shall be divided as follows:

- (1) thirty-five percentage points based on student academic growth using multiple years of standardized test data, as available, and

- (2) fifteen percentage points based on other academic measurements, and

- b. fifty percent (50%) of the rating of teachers and leaders shall be based on rigorous and fair qualitative assessment components;

5. An evidence-based qualitative assessment tool for the teacher qualitative portion of the TLE that will include observable and measurable characteristics of personnel and classroom practices that are correlated to student performance success, including, but not limited to:

- a. organizational and classroom management skills,
- b. ability to provide effective instruction,
- c. focus on continuous improvement and professional growth,
- d. interpersonal skills, and
- e. leadership skills;

6. An evidence-based qualitative assessment tool for the leader qualitative portion of the TLE that will include observable and measurable characteristics of personnel and site management practices that are correlated to student performance success, including, but not limited to:

- a. organizational and school management, including retention and development of effective teachers and dismissal of ineffective teachers,
- b. instructional leadership,
- c. professional growth and responsibility,
- d. interpersonal skills,
- e. leadership skills, and
- f. stakeholder perceptions; and

7. For those teachers in grades and subjects for which there is no state-mandated testing measure to create a quantitative assessment for the quantitative portion of the TLE, ~~an assessment using objective measures of teacher effectiveness including student performance on unit or end of year tests~~ the State Board of Education may adopt alternative percentages from those set forth in paragraph 4 of this subsection. Emphasis shall be placed on the observed qualitative assessment as well as contribution to the overall school academic growth; and

8. For first-year teachers, evaluations shall be based solely on qualitative components set forth in subparagraph b of paragraph 4 of this subsection and the State Board of Education shall adopt alternative percentages from those set forth in paragraph 4 of this subsection.

C. Career teachers receiving a "superior" or "highly effective" rating under the TLE may be evaluated once every two (2) years.

D. The Teacher and Leader Effectiveness Commission shall adopt the student academic growth and other academic measurement quantitative components of the TLE as provided for in subparagraph a of paragraph 4 of subsection B of Section 6-101.16 of this title by May 1, 2014. The Commission shall provide oversight and advise the State Board of Education on the development and implementation of the TLE.

E. A school district which has incorporated quantitative components of the TLE pursuant to subparagraphs b and c of paragraph 1 of subsection A of Section 2 of this act may continue using those quantitative components, as defined by the school districts' written policies, regardless of the State Board of Education's adoption of quantitative components pursuant to this section.

F. The State Department of Education shall provide to the Oklahoma State Regents for Higher Education and the Oklahoma Commission for Teacher Preparation timely electronic data linked to teachers and leaders derived from the TLE for purposes of providing a basis for the development of accountability and quality improvements of the teacher preparation system. The data shall be provided in a manner and at such times as agreed upon between the Department, the State Regents and the Commission.

~~F. G.~~ For purposes of this section, "leader" means a principal, assistant principal or any other school administrator who is responsible for supervising classroom teachers.

H. The State Department of Education shall keep records of annual evaluations received pursuant to this section confidential.

SECTION 5. AMENDATORY 70 O.S. 2011, Section 6-101.22, as amended in Section 2 of Enrolled Senate Bill No. 283 of the 1st Session of the 54th Oklahoma Legislature, is amended to read as follows:

Section 6-101.22. A. Subject to the provisions of the Teacher Due Process Act of 1990, a career teacher may be dismissed or not reemployed for:

1. Willful neglect of duty;
2. Repeated negligence in performance of duty;
3. Mental or physical abuse to a child;
4. Incompetency;
5. Instructional ineffectiveness;
6. Unsatisfactory teaching performance;
7. Commission of an act of moral turpitude; or
8. Abandonment of contract.

B. Subject to the provisions of the Teacher Due Process Act of 1990, a probationary teacher may be dismissed or not reemployed for cause.

C. Upon full implementation of the Oklahoma Teacher and Leader Effectiveness Evaluation System (TLE) as set forth in Section 6-101.10 of this title:

1. A career teacher who has been rated as "ineffective" as measured pursuant to the ~~Oklahoma Teacher and Leader Effectiveness Evaluation System (TLE)~~ TLE as set forth in Section 6-101.16 of this title for two (2) consecutive school years shall be dismissed or not reemployed on the grounds of instructional ineffectiveness by the school district, subject to the provisions of the Teacher Due Process Act of 1990-;

2. A career teacher who has been rated as "needs improvement" or lower pursuant to the TLE for three (3) consecutive school years shall be dismissed or not reemployed on the grounds of instructional ineffectiveness by the school district, subject to the provisions of the Teacher Due Process Act of 1990-; and

3. A career teacher who has not averaged a rating of at least "effective" as measured pursuant to the TLE over a five-year period shall be dismissed or not reemployed on the grounds of instructional ineffectiveness by the school district, subject to the provisions of the Teacher Due Process Act of 1990.

D. Upon full implementation of the Oklahoma Teacher and Leader Effectiveness Evaluation System (TLE) as set forth in Section 6-101.10 of this title:

1. A probationary teacher who has been rated as "ineffective" as measured pursuant to the TLE for two (2) consecutive school years shall be dismissed or not reemployed by the school district subject to the provisions of the Teacher Due Process Act of 1990-; and

2. A probationary teacher who has not attained career teacher status within a four-year period shall be dismissed or not reemployed by the school district, subject to the provisions of the Teacher Due Process Act of 1990.

E. A teacher shall be dismissed or not reemployed, unless a presidential or gubernatorial pardon has been issued, if during the term of employment the teacher is convicted in this state, the United States or another state of:

1. Any sex offense subject to the Sex Offenders Registration Act in this state or subject to another state's or the federal sex offender registration provisions; or

2. Any felony offense.

F. A teacher may be dismissed, refused employment or not reemployed after a finding that such person has engaged in criminal sexual activity or sexual misconduct that has impeded the effectiveness of the individual's performance of school duties. As used in this subsection:

1. "Criminal sexual activity" means the commission of an act as defined in Section 886 of Title 21 of the Oklahoma Statutes, which is the act of sodomy; and

2. "Sexual misconduct" means the soliciting or imposing of criminal sexual activity.

G. As used in this section, "abandonment of contract" means the failure of a teacher to report at the beginning of the contract term or otherwise perform the duties of a contract of employment when the teacher has accepted other employment or is performing work for another employer that prevents the teacher from fulfilling the obligations of the contract of employment.

H. A school district shall notify the State Board of Education within ten (10) days of the dismissal or nonreemployment of a probationary or career teacher for reasons outlined in subsection F of this section.

SECTION 6. AMENDATORY 70 O.S. 2011, Section 6-101.24, is amended to read as follows:

Section 6-101.24. A. ~~When~~ Upon full implementation of the Oklahoma Teacher and Leader Effectiveness Evaluation System (TLE) as set forth in Section 6-101.10 of this title, when a teacher receives a rating as measured pursuant to the Oklahoma Teacher and Leader Effectiveness Evaluation System (TLE) TLE as set forth in Section 6-101.16 of this ~~act~~ title that may lead to a recommendation for the dismissal or nonreemployment of the teacher or when an administrator identifies poor performance or conduct that the administrator believes may lead to a recommendation for the dismissal or nonreemployment of the teacher, the administrator shall:

1. Admonish the teacher, in writing, and make a reasonable effort to assist the teacher in correcting the poor performance or conduct; and

2. Establish a reasonable time for improvement, not to exceed two (2) months, taking into consideration the rating on the evaluation or the nature and gravity of the performance or conduct.

B. If the teacher does not correct the poor performance or conduct cited in the admonition within the time specified, the administrator shall make a recommendation to the superintendent of the school district for the dismissal or nonreemployment of the teacher.

C. Whenever a member of the board of education, superintendent, or other administrator identifies poor performance or conduct that may lead to a recommendation for dismissal or nonreemployment of a teacher within the district, the administrator who has responsibility for evaluation of the teacher shall be informed, and that administrator shall comply with the procedures set forth in this section. If the administrator fails or refuses to admonish the teacher within ten (10) days after being so informed by the board, superintendent, or other administrator, such board, superintendent or other administrator shall admonish the teacher pursuant to the provisions of this section.

D. Repeated negligence in performance of duty, willful neglect of duty, incompetency, instructional ineffectiveness or unsatisfactory teaching performance, for a career teacher, or any cause related to inadequate teaching performance for a probationary teacher, shall not be a basis for a recommendation to dismiss or not reemploy a teacher unless and until the provisions of this section have been complied with.

SECTION 7. AMENDATORY 70 O.S. 2011, Section 6-101.31, is amended to read as follows:

Section 6-101.31. The Upon full implementation of the Oklahoma Teacher and Leader Effectiveness Evaluation System (TLE) as set forth in Section 6-101.10 of this title, the primary basis used in determining the retention or reassignment of affected teachers and

administrators when a school district implements a reduction-in-force plan shall be the ratings of the teachers and administrators as measured pursuant to the ~~Oklahoma Teacher and Leader Effectiveness Evaluation System (TLE)~~ TLE as set forth in Section ~~6~~ 6-101.16 of this ~~act~~ title.

SECTION 8. AMENDATORY Section 17, Chapter 291, O.S.L. 2010, is amended to read as follows:

Section 17. The State Board of Education may delay implementation of Sections ~~8 through 14~~ 6-101.3, 6-101.13, 6-101.22, 6-101.24, 6-101.26, 6-101.27 and 6-101.31 of ~~this act~~ Title 70 of the Oklahoma Statutes for school districts which have not adopted a revised policy of evaluation as required pursuant to the provisions of Section 6-101.10 of Title 70 of the Oklahoma Statutes; provided, all school districts shall be required to implement the provisions of Sections ~~8 through 14~~ 6-101.3, 6-101.13, 6-101.22, 6-101.24, 6-101.26, 6-101.27 and 6-101.31 of ~~this act~~ Title 70 of the Oklahoma Statutes no later than July 1, ~~2013~~ 2016.

Passed the Senate the 21st day of May, 2013.

D.B. Williams
Presiding Officer of the Senate

Passed the House of Representatives the 24th day of May, 2013.

Justin C.
Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 24th
day of May, 20 13, at 10:18 o'clock P M.
By: A. Lecwell

Approved by the Governor of the State of Oklahoma this 29th
day of May, 20 13, at 4:08 o'clock P M.

Mary Fallin
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 29th
day of May, 20 13, at 5:25 o'clock P. M.
By: Chris Travis