

SUSPENSION, DISMISSAL AND NONREEMPLOYMENT OF TEACHERS

Procedures for dismissal of certified employees are governed by state law, and all actions of the school district and the board are clearly identified in the statutes. However, nothing in this policy shall be construed to prevent layoffs due to lack of funds or work. For those certified employees entitled to due process by law, no action regarding dismissal or nonrenewal shall be taken until the employee has received due process.

The board may vote to offer employment or to not offer employment for the subsequent school year in advance of the statutory deadline.

1. Definitions and Scope

- A. "Teacher" means a duly certified or licensed person who is employed to serve as a counselor, librarian, school nurse, or any instructional capacity. An administrator shall be considered a "teacher" only with regard to service in an instructional, nonadministrative capacity.
- B. "Dismissal" means the discontinuance of the teaching service of a teacher during the term of a written contract.
- C. "Nonreemployment" means the nonrenewal of a teacher's contract upon expiration of the contract.
- D. "Suspension" means the temporary discontinuance of a teacher's services during the term of a contract pending dismissal or nonreemployment.
- E. "Career teacher" means a teacher who:
 - i. was employed by the school district prior to the current school year and has completed three (3) or more consecutive complete school years in such capacity in the school district under a written continuing or temporary teaching contract; or
 - ii. is employed for the first time by the school district under a written continuing or temporary teacher contract during the current school year and has:
 - completed three (3) consecutive, complete school years in the district under a written continuing or temporary teacher contract with a rating of "superior" for at least two (2) of those years; or
 - completed four (4) consecutive, complete school years in the district under a written continuing or temporary teacher contract with a rating of "effective" or higher for the four (4) year period with a rating of at least "effective" for the last two (2) of the four (4) years – as measured pursuant to the district's TLE; or
 - completed four (4) consecutive, complete school years in the district under a written continuing or temporary teacher contract and was granted career status by the board of education after the applicable principal and superintendent petitioned the board to grant career status. (The principal must specify in the petition the underlying facts supporting the granting of career status.)

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- F. "Probationary teacher" means a teacher who:
- i. is employed by the district prior to the current school year and has completed fewer than three (3) consecutive, complete school years in such capacity in the school district under a written teaching contract; or
 - ii. is employed for the first time by the district under a written teaching contract during the current school year and thereafter and has not met the requirements to be a career teacher as described above.
- G. "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. "Mental or physical abuse" to a child would also include, but is not limited to finding that a teacher has, either in the presence of a minor in a manner that such person has participated in making available to a minor online, engaged in sexual acts, acts that appeal to the prurient interest in sex as found by the average person applying contemporary community standards, or acts that excessively promote sexuality in light of the educational value of the material and in light of the youngest age of any student with access to said material.
- I.. This policy does not apply to:
- i. substitute teachers,
 - ii. adult education teachers or instructors,
 - iii. nonrenewal of teachers employed on temporary contracts for a complete year;
 - iv. nonrenewal and dismissal of teachers employed on temporary contracts for less than a complete school year.
 - v. administrators, except with regard to service in an instructional, non-administrative position.
 - vi. adjunct teachers
- J. This policy does apply to teachers employed in positions *fully funded* by federal or private categorical grants in regard to dismissals or suspensions during the term of employment under the grant, but not in regard to "nonreemployment" at the expiration of the grant.

2. Grounds for Dismissal or Nonreemployment

- A. A career teacher may be dismissed or not reemployed for:
- i. willful neglect of duty,
 - ii. repeated negligence in performance of duty,

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- iii. incompetency,
- iv. unsatisfactory teaching performance,
- v. instructional ineffectiveness,
- vi. mental or physical abuse to a child,
- vii. commission of an act of moral turpitude,
- viii. knowing and willful failure to report suspected child abuse or neglect.
- ix. abandonment of contract,
- x. criminal sexual activity or sexual misconduct (as those terms are defined by law), which has impeded the effectiveness of the teacher's performance of school duties,
- xi. failure to meet local school board staff development requirements (non-reemployment only),
- xii. engaging in acts which could form the basis of criminal charges sufficient to result in denial/revocation of a teaching certificate, and
- xiii. any other grounds hereafter allowed by law.

B. A career teacher shall be dismissed or not reemployed for

- i. conviction of a felony,
- ii. conviction of any sex offense subject to Oklahoma's Sex Offenders Registration Act or another state's or the Federal Sex Offender Registration Provisions,
- iii. an "ineffective" rating, as measured pursuant to the district's TLE, for two (2) consecutive school years, after full implementation of TLE,
- iv. a "needs improvement" rating or lower, as measured pursuant to the district's TLE, for three (3) consecutive school years, after full implementation of TLE
- v. a rating below "effective," as measured pursuant to the district's TLE, for a five (5) year average, after full implementation of TLE.

C. A probationary teacher may be dismissed or not reemployed for cause including but not limited to engaging in acts which could form the basis of criminal charges sufficient to result in denial/revocation of a teaching certificate.

D. A probationary teacher shall be dismissed or not reemployed for

- i. conviction of a felony,

- ii. conviction of any sex offense subject to Oklahoma's Sex Offenders Registration Act or another state's or the Federal Sex Offender Registration Provisions,

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- ii. an "ineffective" rating, as measured pursuant to the district's TLE, for two (2) consecutive school years, after full implementation of TLE.
- iv. failure to attain career teacher status within a four-year period, after full implementation of TLE.

E. A cause listed 2A(i) - (v) 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 corrective action procedures involving admonishment / plan for improvement have been followed. Dismissal or nonreemployment for any cause not listed in 2A(i) - (v) for a career teacher, or not related to inadequate teaching performance for a probationary teacher, shall not require corrective action procedures (i.e. admonishment) to be followed.

F. Corrective Action – Admonishment / Plan for Improvement

When the evaluating administrator, or the superintendent, acting through the principal, identifies poor performance or conduct that the administrator believes may lead to a recommendation for the teacher's dismissal or nonreemployment. The administrator will admonish the teacher in writing, make reasonable effort to assist the teacher in correcting the poor performance or conduct, and establish a reasonable time for improvement, not to exceed two months, taking into consideration the rating on the evaluation or the nature and gravity of the teacher's performance or conduct.

A copy of the admonishment shall be provided to the superintendent.

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 for the dismissal or nonreemployment of the teacher. The superintendent shall furnish a copy of the recommendation to the board of education.

A teacher shall not be prohibited from or disciplined for:

1. Disclosing public information to correct what the teacher reasonably believes evidences violation of the Oklahoma constitution, or law, or a rule promulgated pursuant to law;
2. Reporting a violation of the Oklahoma constitution, or state or federal law; or
3. Taking any of the above actions without giving prior notice to the teacher's supervisor or anyone else in the teacher's chain of command.

"Reporting" means providing a spoken or written account to a supervising teacher, administrator, school board member, representative from the State Department of Education, law enforcement official, district attorney, or parent or legal guardian of a student directly impacted by the actions.

The school district may discipline any teacher who violates students' or parents' rights to confidentiality and protection under the Family Educational Rights and Privacy Act (FERPA) and any other state or federal law which requires confidentiality of information concerning students.

3. Procedures for Dismissal or Nonreemployment

A. Commencement of Action

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Whenever the superintendent determines that cause exists for the dismissal or nonreemployment of a teacher employed within the school district, the superintendent shall submit a recommendation in writing to the board of education. The recommendation shall state the one or more specific grounds (statutory grounds, in the case of a career teacher) and specify the underlying facts on which the recommended dismissal or nonreemployment is based.

The school district shall provide a copy of the recommendation letter to the State Board of Education if the recommendation includes grounds that could form the basis of criminal charges sufficient to result in the denial or revocation of certification for the following reasons:

1. Abuse, Neglect, Exploitation, or Sexual Abuse of Child as defined by 21 O.S. Section 843.5;
2. Knowingly and willfully failing to report suspected child abuse or neglect of a child in violation of 10A O.S. Section 1-2-101.

If the board of education chooses not to accept the superintendent's recommendation as to reemployment of a teacher, the board may initiate dismissal or nonreemployment action without a recommendation provided that it adheres to the other provisions of this policy and that the corrective action procedures, if applicable, have been followed.

B. Suspension

If a district that has received notice under Oklahoma Accreditation Standard 210:35-3-86, section (g) that an investigation or certification review of a certified employee has been commenced by the State Department of Education, the employee may be placed on administrative leave. The determination as to whether the employee will be placed on leave is a decision of local control. If the district does not place such certified employee on administrative leave during the time that such employee is under investigation for certificate revocation, and that employee's certificate is revoked at the conclusion of that investigation, the district shall be given a health and safety deficiency.

Whenever the superintendent has reason to believe that cause exists for the dismissal of a teacher and is of the opinion that the immediate suspension of the teacher would be in the best interests of the children in the district, the superintendent, or the board of education on the recommendation of the superintendent, may suspend the teacher without notice or hearing. The suspension shall not deprive the teacher of any teaching compensation or other benefits to which he/she would otherwise be entitled under the teaching contract or pursuant to law. Within ten (10) days after the suspension becomes effective, the board of education shall initiate a hearing for dismissal pursuant to this policy. However, in a case involving a criminal charge or indictment, such suspension may extend to such time as the teacher's case is finally adjudicated, except such extension shall not include any appeal process.

Whenever the local board of education or the administration of a school district has reason to believe that cause exists for the dismissal of an administrator, and when they are of the opinion that the immediate suspension of an administrator would be in the best interests of the children in the district, the local board of education or the superintendent of the school district may suspend the administrator without notice or hearing. However, the suspension of the administrator shall not deprive the administrator of any compensation or other benefits to which he or she would otherwise be entitled

under his or her contract or pursuant to law. Within ten (10) days' time after such suspension becomes effective, the local board of education shall initiate proceedings pursuant to Section 6-102.4 of this title to have the administrator dismissed. However, in a case involving a criminal charge or indictment, such suspension may extend to such time as the administrator's case is finally adjudicated at a trial. Provided, however, such extension shall not include any appeal process.

C. Notice and Hearing

- i. Prior to the time that the board of education takes any action to dismiss or nonreemploy a teacher, the clerk of the board or other individual designated by the board shall deliver to the

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teacher a copy of the and a notice that the teacher has a right to a hearing before the board stating the date, time and place set by the board for the teacher hearing. Delivery of the recommendation shall be by any of the following: (1) certified mail, restricted delivery, return receipt requested; (2) personal delivery to the teacher with a signed acknowledgment of receipt; or (3) process server. In the same manner the board or individual designated by the board shall notify the teacher of the right to a hearing before the board and the date, time and place for the hearing. The hearing shall be held no fewer than 20 days and no more than 60 days after the receipt of the notice by the teacher, or after the date on the personal receipt by hand-delivery to the teacher, or after the date of delivery by process server. Notice of a recommendation of nonreemployment or possible nonreemployment shall be given to the teacher prior to the first Monday in June.

- ii. The teacher hearing before the board of education shall be conducted pursuant to procedures established by the State Department of Education. In the absence of or to the extent not inconsistent with those procedures, the hearing shall be conducted as prescribed in the paragraphs below.
- iii. The hearing shall commence with a statement to the teacher of the teacher's rights at the hearing. Following this statement, the school administration shall present facts showing the cause for the teacher's dismissal or nonreemployment. The teacher shall then have the right to present the teacher's side of the matter. After both the school administration and the teacher have fully presented their respective positions, the board of education shall deliberate on the evidence regarding the teacher's dismissal or nonreemployment in executive session
- v. At the hearing, the teacher shall be entitled to be represented by counsel, to cross-examine witnesses presented by the school administration, to present witnesses on the teacher's behalf and to present any relevant evidence or statement which the teacher desires to offer. The burden of proof for any dismissal or nonreemployment shall be on the superintendent (or designee), and the standard of proof shall be a preponderance of the evidence.
- v. After due consideration of the evidence and testimony presented at the teacher's hearing, the board shall vote, in open session, on the following: (1) findings of fact based on the evidence submitted and (2) whether to dismiss or nonreemploy the teacher. The decision shall be made by a majority of the board of education members present at the meeting and shall be final and nonappealable.

The motion to dismiss or nonreemploy the teacher should state the specific cause for dismissal or nonreemployment, although such cause need not be a statutory cause for a probationary teacher.

- vi. The teacher shall be sent notice of the board's decision by certified mail, restricted delivery, return receipt requested, or substitute process. The notice shall state the basis for the board's decision.
- vii. The teacher shall receive any compensation or benefits to which the teacher is entitled until such time as the board's decision is final. If the teacher's hearing is for nonreemployment,

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and not for dismissal, the teacher's compensation and benefits may continue only until the end of the teacher's current contract.

D. Criminal Matters

Whenever the superintendent (or board) makes a recommendation for a teacher's termination based on conduct which could form the basis of criminal charges sufficient to warrant revocation of the teacher's certificate, the superintendent shall forward a copy of the recommendation to the Oklahoma State Department of Education and the teacher at the conclusion of any due process provided to the teacher or upon acceptance of the teacher's resignation.

E. Teachers with a Suspended Certificate

A teacher whose certificate has been suspended by the State Board of Education pursuant to OKLA. STAT. tit. 70, Section 3-104 and OKLA. STAT. tit. 75, Sections 314 and 314.1 shall be placed on paid suspension while proceedings for revocation or other action are pending before the State Board of Education. During the time the teacher's certificate is suspended, the district may initiate due process procedures in accordance with OKLA. STAT. tit. 70, Section 6-101.20 *et seq.*

**Reference: 70 O.S. §6-101, OAC 210-1-5-8
70 O.S. §6-101.6b Whistleblower Protection for Teachers**