

Emergency Adoptions

"If an agency finds that a rule is necessary as an emergency measure, the rule may be promulgated" if the Governor approves the rules after determining "that the rule is necessary as an emergency measure to do any of the following:

- a. protect public health, safety or welfare,
- b. comply with deadlines in amendments to an agency's governing law or federal programs,
- c. avoid violation of federal law or regulation or other state law,
- d. avoid imminent reduction to the agency's budget, or
- e. avoid serious prejudice to the public interest." [75 O.S., Section 253(A)]

An emergency rule is considered promulgated immediately upon approval by the Governor, and effective immediately upon the Governor's approval or a later date specified by the agency in the emergency rule document. An emergency rule expires on September 15 following the next regular legislative session after its promulgation, or on an earlier date specified by the agency, if not already superseded by a permanent rule or terminated through legislative action as described in 75 O.S., Section 253(H)(2).

Emergency rules are not published in the *Oklahoma Administrative Code*; however, a source note entry, which cites to the *Register* publication of the emergency action, is added to the *Code* upon promulgation of a superseding permanent rule or expiration/termination of the emergency action.

For additional information on the emergency rulemaking process, see 75 O.S., Section 253.

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

[OAR Docket #23-487]

RULEMAKING ACTION:

EMERGENCY final adoption

RULES:

Subchapter 13. Student Assessment and School Accountability

210:10-13-1.2. Emergency make-up opportunities for required student assessments [NEW]

AUTHORITY:

State Board of Education; Okla. Const. art. XIII, § 5; 70 O.S. § 3-104; 70 O.S. § 1210.508

ADOPTION:

May 25, 2023

EFFECTIVE:

Immediately upon the Governor's approval

APPROVED BY GOVERNOR:

June 8, 2023

EXPIRATION:

Effective through September 14, 2024

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

The agency anticipates passage of this emergency rule will protect the public health, safety, and environment as a result of implementation of the proposed rule at this time. This rule is proposed in order to ensure a limited subset of Oklahoma's senior students are not adversely impacted by limited testing opportunities or lack of school communication regarding testing requirements. The rule will allow local districts to comply with state law while ensuring impacted students are able to graduate in time to pursue a career or college degree.

GIST/ANALYSIS:

The purpose of this emergency rule is to comply with 70 O.S. § 1210.508(F), requiring all students be assessed via the statewide student assessment system to graduate, while also ensuring senior students are not otherwise prevented from graduating due to not taking required assessments. The rule will allow districts to administer make-up assessments to impacted senior students who had fewer opportunities to be assessed throughout high school or were otherwise unaware of the high school testing requirement due to a statewide assessments waiver that the previous Superintendent granted based on the COVID-19 pandemic.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(F):

SUBCHAPTER 13. STUDENT ASSESSMENT AND SCHOOL ACCOUNTABILITY

210:10-13-1.2. Emergency make-up opportunities for required student assessments

(a) **Purpose.** Any public school district or public charter school may determine if a senior student is eligible for make-up assessments due to an incomplete graduation requirement, provided, the senior student has met all other state and local graduation requirements and would have otherwise been eligible to graduate except for one or more missing College and Career Ready Assessments: US History, Science, Math, ELA (ACT/SAT include both math and ELA) as required under 70 O.S. § 1210.508.F.1.

(b) **Application.** Any of the four make up-assessments outlined in paragraph (a) of this section shall be part of the of the statewide student assessment system and shall be aligned to the Oklahoma Academic Standards as adopted by the State Board of Education. These assessments shall not be included in the state accountability system, nor are they intended to yield reportable data.

(c) **Procedure.** Upon administering any make-up assessment(s) to an impacted student a public school district or public charter school may issue a standard diploma to the impacted student. The transcripts of an impacted student shall denote the student as having participated in the assessment in lieu of reporting an assessment score. The make-up assessment(s) shall be retained at the local school district as a record of student participation in fulfillment of the graduation requirement.

(d) **Federal and state reporting.** Any impacted student who takes one or more of make-up assessments outlined in paragraph (a) of this section shall not be added to the public

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school district's or public charter school's participation rate in assessments mandated by state and federal law.

[OAR Docket #23-487; filed 6-8-23]
