

# **Adoption of Permanent Rules**

Oklahoma State Board of Education

February 22, 2022



**TITLE 210. STATE DEPARTMENT OF EDUCATION**

**CHAPTER 35. STANDARDS FOR ACCREDITATION OF ELEMENTARY, MIDDLE LEVEL, SECONDARY, AND CAREER AND TECHNOLOGY SCHOOLS**

**SUBCHAPTER 3. STANDARDS FOR ELEMENTARY, MIDDLE LEVEL, SECONDARY, AND CAREER AND TECHNOLOGY SCHOOLS**

**PART 22. STANDARD XII: ACADEMIC PERFORMANCE**

**210:35-3-210. Purpose.**

The State Board of Education shall in accordance with 70 O.S. § 3-104.4 maintain accreditation standards that equal or exceed nationally recognized accreditation standards to the extent that the standards are consistent with an academic results-oriented approach.

**210:35-3-211. Applicability of the standard**

Provision of the standard (Standard XII) pertain to all school districts and through each district all school sites.

**210:35-3-212. Metrics for academic deficiencies**

**(a) Academic deficiency**

Beginning with the 2023-2024 school year state assessment data, if a school district has fewer than 50% of all students testing at the basic performance level or above in the state assessments for either English Language Arts or Mathematics for the combined grades of third through eighth, and eleventh, it shall receive an academic deficiency

**(b) Academic deficiency; accredited with warning**

Beginning with the 2024-2025 school year assessment data, if in the previous year a district had an academic deficiency and the district failed to show a 5% year over year absolute increase in district level total assessment scores in the respective subject or subjects that are less than 50% basic or above for the combined grades of third through eighth, and eleventh, it shall receive an academic deficiency, and its accreditation status will be downgraded to accredited with warning.

**(c) Academic deficiency: accredited with probation**

Beginning with the 2025-2026 school year assessment data. if in the previous year a district had an academic deficiency with warning and the district failed to show a 5% year over year absolute increase in district level total assessment scores in the respective subject or subjects that are less than 50% basic or above for the combined grades of third through eighth, and eleventh, it shall receive an academic deficiency, and its accreditation status will be downgraded to accredited with probation.

**(d) Academic performance growth and removal of academic deficiency**

When the district shows a 5% year over year absolute increase in assessment scores in the subject or subjects that are less than 50% basic or above, the district's accreditation status shall not be altered based solely on an academic deficiency. If the district had an academic deficiency in the prior year, but now has 50% or more of its tested students testing at the basic performance level or above in the state assessment for both English Language Arts and Mathematics for grades third through eighth, and eleventh, that district will no longer have an academic deficiency.

**(e) Discretionary exemptions**

(1) If a school district receives an academic deficiency, it shall have the opportunity to provide written evidence to the State Board of Education showing that substantial changes have been made to improve academic performances to allow alteration of its accreditation status.

(2) The Board may, at its option, request in-person presentation from a school district that has submitted written evidence.

**TITLE 210. STATE DEPARTMENT OF EDUCATION  
CHAPTER 35. STANDARDS FOR ACCREDITATION OF ELEMENTARY, MIDDLE  
LEVEL, SECONDARY, AND CAREER AND TECHNOLOGY SCHOOLS**

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 3. Standards for Elementary, Middle Level, Secondary, and Career and  
Technology Schools

Part 22. Standard XII: Academic Performance

210:35-3-210. Purpose. [NEW]

210:35-3-211. Applicability of the Standard. [NEW]

210:35-3-212. Metrics for Academic Deficiencies. [NEW]

**SUMMARY:**

These rules would comply with the Legislature's requirement that accreditation standards be consistent with an academic results-oriented approach. The rules propose requiring that a school district must provide enough instruction that at least half its students reach the basic performance level or above in state assessments for English Language Arts and Math. When a school district fails to meet that measurement, it receives an academic deficiency and may face additional scrutiny for repeated academic failure.

**AUTHORITY:**

State Board of Education; Okla. Const. art. XIII, § 5; 70 O.S. §§ 3-104, 3-104.3, 3-104.4

**COMMENT PERIOD:**

Written comments on the proposed rule(s) will be accepted from January 16, 2024, until 4:30 p.m. on February 15, 2024. Written comments in electronic form will be accepted during the open public comment period via email at [rules@sde.ok.gov](mailto:rules@sde.ok.gov). During the open public comment period, written comments may also be hand delivered to the agency during regular business hours or via regular mail to the individual at the address shown below under "Contact Person." Oral comments may be submitted for the record at the public hearing at the time, date, and place shown below.

**PUBLIC HEARING:**

A public hearing is scheduled for 10:00 a.m. on Thursday, February 15, 2024, at the Hodge Education Building, State Board Room, Room 120, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Persons wishing to speak must sign in at the door of the State Board Room prior to the start of the hearing. Time limitations may be imposed on oral presentations to ensure that all persons who desire to make oral comments will have an opportunity to do so.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

N/A

**COPIES OF PROPOSED RULES:**

Copies of the proposed rule(s) may be obtained for review by the public from the Office of Legal Services, State Department of Education, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Electronic copies of proposed rules are also available for review thirty (30) days prior to the hearing on the State Department of Education Legal Services website at: <http://ok.gov/sde/administrative-rules>

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303(D), a Rule Impact Statement will be prepared and available for review at the Office of Legal Services, State Department of Education, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma on and after the date of publication of this Notice of Rulemaking Intent. A copy of the RIS will also be available on the State Department of Education Legal Services website at: <http://ok.gov/sde/administrative-rules>.

**CONTACT PERSON:**

Bryan Cleveland, General Counsel, Office of Legal Services, State Department of Education, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599. Telephone number: (405) 522-6295.

**Public Comment Summary**  
**State Department of Education Proposed Permanent Rule Changes**

**Chapter 35. Standards for Accreditation of Elementary, Middle Level, Secondary, and Career and Technology Schools**

**Subchapter 3. Standards for Elementary, Middle Level, Secondary, and Career and Technology Schools**

**Part 22. Standard XII: Academic Performance**

**210:35-3-210. Purpose. [NEW]**

**210:35-3-211. Applicability of the Standard. [NEW]**

**210:35-3-212. Metrics for Academic Deficiencies. [NEW]**

Summary of Public Comment	Agency Response
Several commenters opposed tying accreditation to performance on one test, asserting that one test is not a good metric of performance.	<ul style="list-style-type: none"> <li>• The agency respectfully disagrees. The agency believes that having at least half of the students in a school district achieve basic performance in English Language Arts and Mathematics is a requirement that competent school districts should be able to meet.</li> </ul>
Several commenters opposed the rule on the grounds that academic performance is affected by matters outside a school district’s control, such as poverty, absenteeism, or student mobility.	<ul style="list-style-type: none"> <li>• The agency believes that the provision for discretionary exemptions adequately accounts for this issue. School districts doing their best and being hampered by matters outside their control have an opportunity for reprieve, while school districts that are at least partially at fault for academic performance issues cannot escape accountability.</li> <li>• The agency also rejects the implied assertion that poverty necessitates that a school fails at teaching basic reading and math. Public schools exist in part to ensure that all students receive education, and requiring a school teach basic reading and math to at least half of the students served is not an unreasonable standard.</li> </ul>
Several commenters generally opposed tying accreditation to academic performance.	<ul style="list-style-type: none"> <li>• The agency respectfully disagrees for the reasons stated.</li> </ul>
Several commenters expressed concern that the rule punishes school districts for the teacher shortage because unqualified teachers can cause poor academic performance.	<ul style="list-style-type: none"> <li>• The agency believes that the provision for discretionary exemptions adequately accounts for this issue. A school district that is truly hampered by inadequate teachers can demonstrate that issue.</li> </ul>

<p>One commenter opposed changing a district’s accreditation status based on a site’s poor academic performance.</p>	<ul style="list-style-type: none"> <li>• Because the rule only measures district-wide performance, not site-level performance, the agency respectfully rejects the comment.</li> </ul>
<p>Two commenters asserted that the Board lacks statutory authority to enact the proposed rule.</p>	<ul style="list-style-type: none"> <li>• State law requires that the State Board of Education use “an academic results oriented approach to accreditation.” 70 O.S. § 3-104.4.</li> </ul>
<p>One commenter asserted that the Board lacks statutory authority to apply the new rules to districts, as opposed to sites.</p>	<ul style="list-style-type: none"> <li>• 70 O.S. § 3-104.4 expressly contemplates that deficiencies apply to school districts. For example, its provisions regarding prohibiting financial penalties to school districts with deficiencies in certain circumstances would be rendered meaningless if no school districts received deficiencies.</li> <li>• The State Board has also accredited school districts and sites separately for many years.</li> </ul>
<p>One commenter expressed concern that the rule lacks assistance for struggling schools.</p>	<ul style="list-style-type: none"> <li>• The rule does not replace and is not intended to replace existing school supports available from the Department. The Department will continue providing such support to struggling schools.</li> </ul>
<p>Two commenters expressed concern that the academic achievement should not be across cohorts in the same grade because of the variance in students from year to year.</p>	<ul style="list-style-type: none"> <li>• While the commenters suggested approach might be ideal, the agency is using that approach to the extent feasible with existing information. Accordingly, the agency respectfully rejects the suggestion to the extent it seeks further reporting that is unavailable due to lack of feasibility.</li> </ul>
<p>One commenter expressed concern that the bell curve nature of tests means that some students are always below basic, undermining the value of the metric used.</p>	<ul style="list-style-type: none"> <li>• The agency respectfully disagrees that a pre-determined number of students receive below basic (or any other rating) in state testing.</li> </ul>
<p>One commenter suggested that the Oklahoma Technical Advisory Committee needs to review any new use of OSTP results and that the use needs to be part of the OSTP Technical Manual.</p>	<ul style="list-style-type: none"> <li>• The agency respectfully disagrees. The commenter points to no statute, and the agency is aware of none, that would require accreditation standards be addressed through the advisory committee or any OSTP documentation.</li> <li>• The specific state law requirement that the State Board use an academic results-oriented approach to accreditation would also take precedence over any general statute regarding the OSTP.</li> </ul>

<p>One commenter asked what student data was used to determine that the goal of 5% of year-over-year improvement is an attainable or achievable goal.</p>	<ul style="list-style-type: none"> <li>• The agency reviewed OSTP data when deciding to use OSTP scores.</li> </ul>
<p>The same commenter that raised the two prior issues requested further commenting time to consider them.</p>	<ul style="list-style-type: none"> <li>• The agency respectfully disagrees that further comment is necessary. The OSTP advisory committee is not relevant to the rule, second-guessing the calculation for the 5% safety valve would not materially assist review of the rule. If 5% is not feasible for a particular district, the rule already accounts for that issue because it allows the State Board to revise any rating under the rule.</li> <li>• The agency also notes that no other commenter thought that information was needed to comment on the rule and the uses of the OSTP and that the sole commenter that raised those questions waited until months after the rules were disclosed to ask for the information.</li> </ul>
<p>One commenter asked what assessment tool would be used.</p>	<ul style="list-style-type: none"> <li>• The OSTP assessments would be used.</li> </ul>





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**SUBCHAPTER 3. STANDARDS FOR ELEMENTARY, MIDDLE LEVEL, SECONDARY, AND CAREER AND TECHNOLOGY SCHOOLS**

**PART 9. STANDARD V: THE SCHOOL STAFF**

**210:35-3-86. Qualifications; personnel records; health and safety**

(a) **General requirements for staff.** All professional personnel, with the exception of some instructors in Career Technology programs, shall hold a baccalaureate degree from an accredited institution, provide evidence of adequate professional education preparation, meet the certification standards of Oklahoma, and be assigned to teach in areas for which they are certified.

(b) **Requirements for superintendent.** The superintendent who is the administrative head of the school system shall hold a valid Oklahoma superintendent's certificate. The Technology Center superintendent who is the administrative head of the school system shall also hold the technology center superintendent endorsement issued by the State Board of Education. In addition, the technology center superintendent shall have a Standard Area School Administrator Credential which is issued by the Oklahoma Department of Career and Technology Education.

(c) **Requirements for deputy or assistant superintendent.** A deputy or assistant superintendent shall hold the same certification/credentials as the superintendent.

(d) **Requirements for administrative assistants.** Administrative assistants shall have education training or experience appropriate to their responsibilities. Any administrative assistant whose responsibilities include the supervision of certificated personnel and/or educational program shall hold a valid administrative certificate appropriate to the grade level(s) that he/she supervises.

(e) **Requirements for other staff.** Other professional staff shall hold the appropriate certification for their job assignment.

(f) **Required records.** Official up-to-date transcripts showing the work of all school teachers and nurses in all districts shall be kept on file during the year in the office of the superintendent with copies at school sites. All districts shall also keep up-to-date transcripts on file during the year, in the office of the site principal and the superintendent. Districts may accept official transcripts from educational institutions in either hard copy or electronic form. Acceptance of an official transcript in electronic form may require direct submission

(g) **Notification of investigation.** The State Department of Education may notify in writing the superintendent of a school district if an investigation or certification review has commenced into a current employee of the district.

(hg) Health and safety regarding certified employees. If a district that has received notice under section (g) of this rule does not place such certified employee on administrative leave during the time that such employee is maintains the active employment or contract of, or renews a contract of, a certified employee currently 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.

(ih) Health and safety regarding non-certified employees. If a district that has received notice of felony investigation by a law enforcement agency does not place a non-certified employee on administrative leave during the time such employee is maintains the active employment or contract, or renews a contract, of a non-certified employee currently under investigation by law enforcement for a felony; and that employee is convicted of a felony, pleads guilty to a felony, or pleads nolo contendere to a felony at the conclusion of that investigation; the district shall be given a health and safety deficiency.

~~(e) Any administrative assistant whose responsibilities include the supervision of certificated personnel and/or educational program shall hold a valid administrative certificate appropriate to the grade level(s) that he/she supervises.~~

~~(f) Other professional staff shall hold the appropriate certification for their job assignment.~~

~~(g) Official up-to-date transcripts showing the work of all school teachers and nurses in all districts shall be kept on file during the year in the office of the superintendent with copies at school sites. All districts shall also keep on file during the year, in the office of the site principal and the superintendent. Districts may accept official transcripts from educational institutions in either hard copy or electronic form. Acceptance of an official transcript in electronic form may require direct submission to the State Department of Education by the educational institution.~~

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**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 3. Standards for Elementary, Middle Level, Secondary, and Career and  
Technology Schools

Part 9. Standard V: The School Staff

210:35-3-86. Qualifications; personnel records; health and safety. [AMENDED]

**SUMMARY:**

These amendments propose applying an accreditation deficiency to school districts that maintain the active employment of a certified employee during an investigation that results in certificate revocation. These amendments also propose applying an accreditation deficiency to school districts that maintain the active employment of a non-certified employee during an investigation that finds they committed a felony.

**AUTHORITY:**

State Board of Education; Okla. Const. art. XIII, § 5; 70 O.S. §§ 3-104, 3-104.1, 3-104.3, 3-104.4

**COMMENT PERIOD:**

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**Public Comment Summary**  
**State Department of Education Proposed Permanent Rule Changes**

**Chapter 35. Standards for Accreditation of Elementary, Middle Level, Secondary, and Career and Technology Schools**

**Subchapter 3. Standards for Elementary, Middle Level, Secondary, and Career and Technology Schools**

**Part 9. Standard V: The School Staff**

**210:35-3-86. Qualifications; personnel records; health and safety. [AMENDED]**

<b>Summary of Public Comment</b>	<b>Agency Response</b>
<p>Several commenters expressed concern that the rule does not account for whether local administration is on notice of an investigation. Two commenters suggested modifying the proposed rule to add a notice provision.</p>	<ul style="list-style-type: none"> <li>• The agency agrees that a notice provision is proper and has added one.</li> </ul>
<p>One commenter expressed concern that an uncooperative employee or a lack of evidence during the limited ten-day suspension for investigations can lead to reinstatement and opposes deficiencies applying in those situations.</p>	<ul style="list-style-type: none"> <li>• The agency recognizes that both administrative leave and reinstatement are possible in that situation, and the agency respectfully disagrees that reinstatement is appropriate when a staff member poses a potential danger to the school.</li> </ul>
<p>One commenter expressed concern that district may be forced to choose between risk of deficiency or risk of wrongful termination claims in unclear cases.</p>	<ul style="list-style-type: none"> <li>• The rule only requires suspension or administrative leave. No school needs to terminate anyone in order to comply.</li> </ul>
<p>Some commenters expressed concern that the rule may cause terminations before an investigation is complete, denying due process remedies available during investigations.</p>	<ul style="list-style-type: none"> <li>• The rule only requires suspension or administrative leave. No school needs to terminate anyone in order to comply.</li> <li>• The rule also contains language that a deficiency only attaches if the allegations are proven, preventing any risk of deficiency before the allegations are resolved.</li> </ul>
<p>One commenter expressed concern that the rule contains no provisions addressing felons at a school who are not under active investigation.</p>	<ul style="list-style-type: none"> <li>• The agency believes that schools can only act if they are on notice of misconduct and that investigations are the primary basis for such notice. Accordingly, the agency believes that the focus on investigations is the appropriate limit.</li> </ul>

<p>Some commenters expressed concern that the requirement to keep up-to-date transcripts at the site level is unnecessary.</p>	<ul style="list-style-type: none"> <li>• The agency has not proposed modifying that part of the existing rule. The existing language was merely moved as part of inserting the other language at issue.</li> </ul>
<p>One commenter suggested modifying the language to suggest that suspension during a pending criminal case, in line with existing statutes, counts as compliance.</p>	<ul style="list-style-type: none"> <li>• The agency agrees and has added clarifying language.</li> </ul>



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**SUBCHAPTER 3. STANDARDS FOR ELEMENTARY, MIDDLE LEVEL, SECONDARY, AND CAREER AND TECHNOLOGY SCHOOLS**

**PART 21. STANDARD XI: ACCREDITATION STATUS**

**210:35-3-201. Statement of the standard**

(a) Each public school site, including charter school sites, must submit an Application for Accreditation to the Accreditation Standards Section of the State Department of Education by the due date specified on the Application. School sites are accredited for one year. An accredited school site shall meet all applicable regulations and statutory requirements at the beginning of and throughout the school year.

(b) Accreditation status of school sites and school districts shall be classified according to the following categories:

(1) Accredited With Distinction: A school district and all of its sites were accredited with no deficiencies in the previous academic year, and the school applied for and received the distinction audit with the highest-level recommendation.

(2) Accredited With No Deficiencies: All standards are being met.

(3) Accredited With Deficiencies: A school site or district fails to meet one or more of the standards but the deficiency does not seriously detract from the quality of the school's educational program.

(4) Accredited With Warning: A school site or district fails to meet one or more of the standards and the deficiency seriously detracts from the quality of the school's educational program.

(5) Accredited With Probation: A school site or district:

(A) consistently fails to remove or make substantial progress towards removing all deficiencies noted the previous year; and/or,

(B) consistently violates regulations; and/or,

(C) deliberately and unnecessarily violates one or more of the regulations.

(6) Nonaccredited: The school site or district is no longer recognized by the State Board of Education.

~~(1) Accredited With No Deficiencies—All standards are being met.~~



~~(2) Accredited With Deficiencies—A school site fails to meet one or more of the standards but the deficiency does not seriously detract from the quality of the school's educational program.~~

~~(3) Accredited With Warning—A school site fails to meet one or more of the standards and the deficiency seriously detracts from the quality of the school's educational program.~~

~~(4) Accredited With Probation—A school site:~~

~~(A) consistently fails to remove or make substantial progress towards removing all deficiencies noted the previous year; and/or,~~

~~(B) consistently violates regulations; and/or,~~

~~(C) deliberately and unnecessarily violates one or more of the regulations.~~

~~(5) Nonaccredited—The school site is no longer recognized by the State Board of Education.~~

(c) If a school site is placed on warning or probation, the school board and administration will meet with one or more representatives from the Accreditation Section to review their accreditation status. After the review from the representative(s), a determination will be made concerning warning, probation or nonaccredited status. The Accreditation Section will then present a recommendation to the State Board of Education.

(d) The State Department of Education shall develop and publish on its website the audit rubric for use in reviewing any school district seeking accreditation with distinction. A school district shall be reviewed under the rubric published on the Department's website as of July 1 preceding the relevant academic year.

(e) A school district that is Accredited with Distinction for one year will maintain that rating for every subsequent year in which it has zero deficiencies, up to a maximum of four years in a row, without needing subsequent audits for accreditation with distinction. Any district that is Accredited with Distinction shall be recognized at a meeting of the State Board of Education.

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**PROPOSED RULES:**

Subchapter 3. Standards for Elementary, Middle Level, Secondary, and Career and  
Technology Schools

Part 21. Standard XI: Accreditation Status

210:35-3-201. Statement of the standard. [AMENDED]

**SUMMARY:**

These amendments propose adding a new accreditation status of accredited with distinction, recognizing the best schools in the state. The rules also require the Department to maintain a public rubric used for school districts that seek to be accredited with distinction.

**AUTHORITY:**

State Board of Education; Okla. Const. art. XIII, § 5; 70 O.S. §§ 3-104, 3-104.3, 3-104.4

**COMMENT PERIOD:**

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**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

N/A

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**CONTACT PERSON:**

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**Subchapter 3. Standards for Elementary, Middle Level, Secondary, and Career and Technology Schools**

**Part 21. Standard XI: Accreditation Status**

**210:35-3-201. Statement of the standard. [AMENDED]**

<b>Summary of Public Comment</b>	<b>Agency Response</b>
Two commenters asserted that accreditation should only assess compliance and is not the proper place for recognition.	<ul style="list-style-type: none"> <li>• The agency respectfully disagrees. The accreditation process can recognize success.</li> </ul>
One commenter expressed concern that accreditation with distinction would reward higher socioeconomic areas and be unavailable to schools in high-poverty or urban areas because of the requirements.	<ul style="list-style-type: none"> <li>• The agency respectfully disagrees. The presence or absence of deficiencies does not correlate with socioeconomic status.</li> </ul>
Two commenters observed that the rule does not provide a significant benefit for the distinction status.	<ul style="list-style-type: none"> <li>• The agency respectfully disagrees. Recognition of good performance is a credit to the superintendent operating a district that receives that recognition.</li> </ul>
Two commenters asserted that state law does not permit a new accreditation status.	<ul style="list-style-type: none"> <li>• The agency respectfully disagrees. State law requires that the warning and probation categories exist at minimum, but it does not prohibit other levels.</li> </ul>
One commenter requested adding requirements for written notice of accreditation decisions to school districts prior to a final decision, with an opportunity to appeal or contest ratings.	<ul style="list-style-type: none"> <li>• The existing rule already requires notice and a meeting for warning or probation, and the accreditation office already communicates with all districts. The agency respectfully disagrees that further notice is required.</li> </ul>



## TITLE 210. STATE DEPARTMENT OF EDUCATION

### CHAPTER 25. FINANCE

#### SUBCHAPTER 1. GENERAL PROVISIONS

##### **210:25-1-2. Equal Protection [NEW]**

(a) Governor's Executive Order 2023-31 directs all state executive agencies to place certain limits on the use of state funds, property, or resources to comply with the U.S. Constitution and the Oklahoma Constitution.

(b) Because the Supreme Executive power is vested in the Governor, Okla. Const. art. 6, § 2, the State Board of Education complies with the Governor's directives on the use of state funds, property, or resources.

(c) In order to comply with the Executive Order, the Oklahoma State Department of Education may not use state funds, property, or resources, or knowingly distribute state funds, property, or resources to:

(1) Grant or support diversity, equity, and inclusion positions, departments, activities, procedures, or programs to the extent they grant preferential treatment based on one person's particular race, color, ethnicity, or national origin over another's;

(2) mandate any person to participate in, listen to, or receive any education, training, activities, procedures, or programming to the extent such education, training, activity, or procedure grants preferences based on one person's particular race, color, sex, ethnicity, or national origin over another's;

(3) mandate any person swear, certify, or agree to any loyalty oath that favors or prefers one particular race, color, sex, ethnicity, or national origin over another's;

(4) mandate any person to certify or declare agreement with, recognition of, or adherence to, any particular political, philosophical, religious, or other ideological viewpoint;

(5) mandate any applicant for employment provide a diversity, equity, and inclusion statement or give any applicant for employment preferential consideration based on the provision of such a diversity, equity, and inclusion statement; or

(6) mandate any person to disclose their pronouns.

(d) The Department and any recipient of funds from the Department shall initiate a review of diversity, equity, and inclusion positions, departments, activities, procedures, and programs and, if deemed necessary, restructure and/or eliminate functions that are not necessary for compliance, accreditation, or student and employee support services intended to support success broadly.

(e) Nothing in this rule prohibits the Department or any recipient of funds from the Department from applying for a grant or complying with the accreditation requirements by an accrediting or licensing agency, including, but not limited to, submitting to the grantor or accreditation agency a statement that:

(1) highlights work in supporting:

(a) first-generation college students, or

(b) students from low-income families, or

(c) students with unique abilities, or

(d) underserved student populations; or

(2) certifies compliance with applicable anti-discrimination laws, rules, and regulations.

(f) This rule shall not be construed to apply to the Department or any recipient of funds from the Department with respect to the following:

1. a policy, practice, procedure, program, class, or activity required for compliance with state or federal laws, rules, or regulations for obtaining or retaining institutional, academic, or discipline-specific accreditation or licensure;

2. an activity of a student organization registered with or recognized by a school;

3. guest speakers or performances on short-term engagements;

4. academic support, tutoring, and career services and student success centers, so long as the programming is designed and implemented without regard to race, sex, color, national origin, or ethnicity;

5. data collection; or

6. access programs for military, veterans, students from low-income families, students with unique abilities, or underserved student populations.

(g) The Department and any recipients of funds from the Department shall, within ninety days of the effective date of this rule, submit a report to the State Board of Education that includes a description of the diversity, equity, and inclusion positions, departments, activities, procedures, and programs in existence as of the date of issuance of the Governor's Executive Order 2023-31 and identify what functions, if any, were restructured and/or eliminated after the issuance of that Executive Order or this rule.

(h) Nothing in this rule should be construed to prohibit the promotion of civil discourse and debate or speech that is protected by the First Amendment to the U.S. Constitution.

**TITLE 210. STATE DEPARTMENT OF EDUCATION  
CHAPTER 25. FINANCE**

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 1. General Provisions  
210:25-1-2. Equal Protection [NEW]

**SUMMARY:**

This amendment complies with Executive Order 2023-31 and acts to comply with the U.S. Constitution and the Oklahoma Constitution on equal protection by restricting the use of state funds, property, or resources for purposes of diversity, equity, and inclusion (DEI).

**AUTHORITY:**

State Board of Education; Okla. Const. art. XIII, § 5; Okla. Const. art. II, § 36A; Okla. Const. art. VI, § 2; Executive Order 2023-31; 70 O.S. §§ 3-104, 3-104.3, 3-103.4; 18-117

**COMMENT PERIOD:**

Written comments on the proposed rule(s) will be accepted from January 16, 2024, until 4:30 p.m. on February 16, 2024. Written comments in electronic form will be accepted during the open public comment period via email at [rules@sde.ok.gov](mailto:rules@sde.ok.gov). During the open public comment period, written comments may also be hand delivered to the agency during regular business hours or via regular mail to the individual at the address shown below under "Contact Person." Oral comments may be submitted for the record at the public hearing at the time, date, and place shown below.

**PUBLIC HEARING:**

A public hearing is scheduled for 10:00 a.m. on Friday, February 16, 2024, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Persons wishing to speak must sign in at the door of the State Board Room prior to the start of the hearing. Time limitations may be imposed on oral presentations to ensure that all persons who desire to make oral comments will have an opportunity to do so.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

N/A

**COPIES OF PROPOSED RULES:**

Copies of the proposed rule(s) may be obtained for review by the public from the Office of Legal Services, State Department of Education, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Electronic copies of proposed rules are also available for review thirty (30) days prior to the hearing on the State Department of Education Legal Services website at: <http://ok.gov/sde/administrative-rules>

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303(D), a Rule Impact Statement will be prepared and available for review at the Office of Legal Services, State Department of Education, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma on and after the date of publication of this Notice of Rulemaking Intent. A copy of the RIS will also be available on the State Department of Education Legal Services website at: <http://ok.gov/sde/administrative-rules>

**CONTACT PERSON:**

Bryan Cleveland, General Counsel, Office of Legal Services, State Department of Education, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599. Telephone number: (405) 522-6295.

**Public Comment Summary**  
**State Department of Education Proposed Permanent Rule Changes**

**Chapter 25. Finance**  
**Subchapter 1. General Provisions**

**210:25-1-2. Equal Protection [NEW]**

Summary of Public Comment	Agency Response
One commenter expressed concern that the rules will waste resources because schools do not engage in any of the prohibited conduct.	<ul style="list-style-type: none"> <li>• The agency respectfully disagrees. While some districts do not engage in any of the prohibited conduct, some do.</li> </ul>
One commenter expressed concern that the rule will limit vendor access and educational services in situations where the services at issue do not involve the DEI views of the vendor.	<ul style="list-style-type: none"> <li>• The agency respectfully disagrees. The commenter does not identify the rule text that would create that issue, and the agency sees none that would create that problem.</li> </ul>
One commenter observed that HB 1775 has already eliminated much of the activity prohibited by the proposed rule.	<ul style="list-style-type: none"> <li>• The agency respectfully disagrees with the suggestion that the rule is unnecessary in light of HB 1775.</li> </ul>
One commenter expressed concern that the exceptions for accreditation requirements and for grant requirements will permit a large amount of DEI activity that should be curtailed.	<ul style="list-style-type: none"> <li>• The exceptions mirror those required by the executive order. The agency does not believe the rule can exceed the executive order.</li> </ul>
Two commenters asserted that the rule lacks statutory support.	<ul style="list-style-type: none"> <li>• The commenters fail to engage with the statutes cited in the NRI. Accordingly, the agency respectfully rejects their comments as inadequately developed.</li> <li>• The NRI cites four statutes. The State Board of Education is obligated to enforce state law, including the state constitution. <i>See</i> 70 O.S. §§ 3-104, 3-104.3, 3-103.4. The Department is also directed that it “shall not knowingly make any apportionment or disbursement of State Aid funds which is not authorized by law.” 70 O.S. § 18-117. Those statutes place obligations on the State Board and the Department that may need to be enforced even without a rule. The rule merely provides transparency about how the State Board and the Department will comply.</li> </ul>



<p>One commenter expressed concern that the rule allows individual agencies to define DEI beyond statutes and in a way that could be inconsistent with each other.</p>	<ul style="list-style-type: none"><li>• The Governor, as the chief executive, has defined what constitutes an illegal expense by the executive branch. There is no risk of inconsistent definitions from agencies applying the Governor's definitions.</li></ul>
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**TITLE 210. STATE DEPARTMENT OF EDUCATION  
CHAPTER 20. STAFF**

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 29. Standards of Performance and Conduct for Teachers  
210:20-29-25. Principle III [AMENDED]

**SUMMARY:**

This amendment allows for dismissal of a certified teacher for sexual acts, acts that appeal to the prurient interest in sex, or acts that excessively promote sexuality either in the presence of a minor or in a manner available to a minor online.

**AUTHORITY:**

State Board of Education; Okla. Const. art. XIII, § 5; 70 O.S. §§ 3-104, 6-101.21

**COMMENT PERIOD:**

Written comments on the proposed rule(s) will be accepted from January 16, 2024, until 4:30 p.m. on February 16, 2024. Written comments in electronic form will be accepted during the open public comment period via email at [rules@sde.ok.gov](mailto:rules@sde.ok.gov). During the open public comment period, written comments may also be hand delivered to the agency during regular business hours or via regular mail to the individual at the address shown below under "Contact Person." Oral comments may be submitted for the record at the public hearing at the time, date, and place shown below.

**PUBLIC HEARING:**

A public hearing is scheduled for 2:00 p.m. on Friday, February 16, 2024, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Persons wishing to speak must sign in at the door of the State Board Room prior to the start of the hearing. Time limitations may be imposed on oral presentations to ensure that all persons who desire to make oral comments will have an opportunity to do so.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

N/A

**COPIES OF PROPOSED RULES:**

Copies of the proposed rule(s) may be obtained for review by the public from the Office of Legal Services, State Department of Education, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Electronic copies of proposed rules are also available for review thirty (30) days prior to the hearing on the State Department of Education Legal Services website at: <http://ok.gov/sde/administrative-rules>

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303(D), a Rule Impact Statement will be prepared and available for review at the Office of Legal Services, State Department of Education, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma on and after the date of publication of this Notice of Rulemaking Intent. A copy of the RIS will also be available on the State Department of Education Legal Services website at: <http://ok.gov/sde/administrative-rules>

**CONTACT PERSON:**

Bryan Cleveland, General Counsel, Office of Legal Services, State Department of Education, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599. Telephone number: (405) 522-6295.

**TITLE 210. STATE DEPARTMENT OF EDUCATION  
CHAPTER 20. STAFF  
SUBCHAPTER 29 STANDARDS OF PERFORMANCE AND CONDUCT FOR  
TEACHERS**

**210:20-29-5. Principle III [AMENDED]**

(a) 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) Any reason involving moral turpitude; or
- (8) Abandonment of contract.

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

(c) 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 any state or federal court of any felony offense, or any sex offense subject to the Oklahoma Sex Offenders Registration Act or any other state or federal sex offender registration provisions.

(d) A teacher may be dismissed, refused employment, or not reemployed after a finding that such person has engaged in acts that could form the basis of criminal charges sufficient to result in the denial or revocation of a certificate for a reason set forth in subparagraph a of paragraph 6 of 70 O.S. § 3-104.

(e) A teacher may be dismissed, refused employment, or not reemployed after a finding that such person has, either in the presence of a minor or 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.

**Public Comment Summary**  
**State Department of Education Proposed Permanent Rule Changes**

**Subchapter 29. Standards of Performance and Conduct for Teachers**

**210:20-29-5. Principle III [AMENDED]**

Summary of Public Comment	Agency Response
Several commenters expressed concern that the new standard is too vague to be enforceable. The particular concerns focused on who the average person is and what the community standards are.	<ul style="list-style-type: none"> <li>• The agency respectfully disagrees with the commenters. The language used is common language from case law differentiating between acceptable and unacceptable conduct.</li> </ul>
Some commenters expressed concern that liability for posting inappropriate content online be attributed to the poster and not to anyone in the content who was not part of posting.	<ul style="list-style-type: none"> <li>• The agency agrees with the comment and has updated the rule accordingly.</li> </ul>
Some commenters expressed concern that the rule would discriminate based on sexual orientation or gender identity.	<ul style="list-style-type: none"> <li>• The agency respectfully disagrees. The rule as written prohibits sexual acts and other problematic conduct of any orientation.</li> </ul>
Some commenters expressed the view that existing law already covers this conduct.	<ul style="list-style-type: none"> <li>• The agency believes that existing law is unclear on whether it reaches this conduct and that greater clarity is needed to resolve the issue.</li> </ul>
Some commenters expressed the view that the teacher standards are restricted to the criteria listed in statute.	<ul style="list-style-type: none"> <li>• The agency respectfully disagrees. 70 O.S. § 6-101.21(A) grants the State Board broad authority to promulgate standards of performance and conduct for teachers. 70 O.S. § 6-101.21(B) then requires that any promulgated standards include the statutory standards. Subsection B sets a minimum requirement, but it does not set a limitation.</li> <li>• A reading of 70 O.S. § 6-101.21 that made subsection B the controlling subsection on the scope of standards would be problematic for a couple of reasons. First, the statutory canons prohibit a reading that renders subpart A meaningless, but reading subpart B as a limitation would accomplish that outcome. Second, reading subpart B as a limitation would render the entire rulemaking process of setting standards meaningless because it would interpret the statute as requesting the</li> </ul>

	<p>Board copy and paste statutory text into rule. Simply copying statutory text into rules would be a pointless exercise that wastes state resources, and statutory interpretation must presume that the Legislature had a meaningful purpose in its direction.</p> <ul style="list-style-type: none"> <li>• To the extent commenters were expressing the concern not that 70 O.S. § 6-101.21 has that warped meaning but rather that one or more teachers unions will sue using a warped reading, the agency regrettably cannot prevent teachers unions from misreading plain text. The agency acknowledges the risk but believes that it can assist school districts in resisting warped readings.</li> </ul>
<p>One commenter expressed concern that the language would permit too much sexually inappropriate conduct to continue, citing particular concern about the permission for educational value.</p>	<ul style="list-style-type: none"> <li>• Because the language used is common language from case law differentiating between acceptable and unacceptable conduct, the agency does not currently believe it can expand the provisions in the manner sought by the commenter.</li> </ul>



**TITLE 210. STATE DEPARTMENT OF EDUCATION  
CHAPTER 35. STANDARDS FOR ACCREDITATION OF ELEMENTARY, MIDDLE  
LEVEL, SECONDARY, AND CAREER AND TECHNICAL SCHOOLS**

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 3. Standards for Elementary, Middle Level, Secondary, and Career and Technology Schools

Part 25. Standard XIV: Freedom of Religion [NEW]

210:35-3-251. Voluntary prayer [NEW]

210:35-3-252. Minute of silence in public schools [NEW]

**SUMMARY:**

These new rules enforce compliance with existing law regarding school districts permitting voluntary prayer and offering a minute of silence. These rules also ensure that verifying compliance with the existing statutes is part of the accreditation process.

**AUTHORITY:**

State Board of Education; Okla. Const. art. XIII, § 5; 70 O.S. §§ 3-104, 3-104.3, 3-103.4.

**COMMENT PERIOD:**

Written comments on the proposed rule(s) will be accepted from January 16, 2024, until 4:30 p.m. on February 20, 2024. Written comments in electronic form will be accepted during the open public comment period via email at [rules@sde.ok.gov](mailto:rules@sde.ok.gov). During the open public comment period, written comments may also be hand delivered to the agency during regular business hours or via regular mail to the individual at the address shown below under "Contact Person." Oral comments may be submitted for the record at the public hearing at the time, date, and place shown below.

**PUBLIC HEARING:**

A public hearing is scheduled for 2:00 p.m. on Tuesday, February 20, 2024, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Persons wishing to speak must sign in at the door of the State Board Room prior to the start of the hearing. Time limitations may be imposed on oral presentations to ensure that all persons who desire to make oral comments will have an opportunity to do so.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

N/A

**COPIES OF PROPOSED RULES:**

Copies of the proposed rule(s) may be obtained for review by the public from the Office of Legal Services, State Department of Education, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Electronic copies of proposed rules are also available for review thirty (30) days prior to the hearing on the State Department of Education Legal Services website at: <http://ok.gov/sde/administrative-rules>

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303(D), a Rule Impact Statement will be prepared and available for review at the Office of Legal Services, State Department of Education, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma on and after the date of publication of this Notice of Rulemaking Intent. A copy of the RIS will also be available on the State Department of Education Legal Services website at: <http://ok.gov/sde/administrative-rules>

**CONTACT PERSON:**

Bryan Cleveland, General Counsel, Office of Legal Services, State Department of Education, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599. Telephone number: (405) 522-6295.



**TITLE 210. STATE DEPARTMENT OF EDUCATION  
CHAPTER 35. STANDARDS FOR ACCREDITATION OF ELEMENTARY, MIDDLE  
LEVEL, SECONDARY, AND CAREER AND TECHNICAL SCHOOLS**

**SUBCHAPTER 3. STANDARDS FOR ELEMENTARY, MIDDLE LEVEL,  
SECONDARY, AND CAREER AND TECHNOLOGY SCHOOLS**

**Part 25. STANDARD XIV: FREEDOM OF RELIGION [NEW]**

**210:35-3-251. Voluntary prayer [NEW]**

- (a) Every public school district shall adopt a policy that permits those students and teachers who wish to do so to participate in voluntary prayer.
- (b) Such policy shall ~~include~~:
  - (1) include provisions authorizing voluntary prayer at sporting events and graduation ceremonies in accordance with the U.S. Supreme Court's decision in *Kennedy v. Bremerton School Dist.*, 142 S. Ct. 2407 (2022); and
  - (2) include provisions for addressing complaints regarding violations of 70 O.S. § 11-101.1.
- (c) The State Department of Education shall annually verify that districts have adopted policies that comply with this rule and shall recommend an accreditation deficiency to the State Board of Education for any school district that fails to comply.

**210:35-3-252. Minute of silence in public schools [NEW]**

- (a) Every public school district shall adopt a policy enforcing the minute of silence provided for in 70 O.S. § 11-101.2.
- (b) Such policy shall:
  - (1) require that the daily minute of silence last for approximately one minute;
  - (2) require that the daily minute of silence begin with an announcement, ~~either in each classroom, in a schoolwide assembly, or~~ over the public address system, that substantially mirrors the statutory language, such as the following announcement: “We now pause for a minute of silence in which students ~~and teachers~~ may reflect, meditate, pray, or engage in any other silent activity that does not interfere with, distract, or impede other students in the exercise of their individual choices”; and
  - (3) include provisions for addressing complaints regarding violations of 70 O.S. § 11-101.2.
- (c) The State Department of Education shall annually verify that districts have adopted policies that comply with this rule and shall recommend an accreditation deficiency to the State Board of Education for any school district that fails to comply.

**Public Comment Summary**  
**State Department of Education Proposed Permanent Rule Changes**

**Chapter 35. Standards for Accreditation of Elementary, Middle Level, Secondary, and Career and Technology Schools**

**Subchapter 3. Standards for Elementary, Middle Level, Secondary, and Career and Technology Schools**

**210:35-3-251. Voluntary prayer [NEW]**  
**210:35-3-252. Minute of silence in public schools [NEW]**

<b>Summary of Public Comment</b>	<b>Agency Response</b>
Some commenters opposed the rules as unconstitutional.	<ul style="list-style-type: none"> <li>• The agency respectfully disagrees. The state statutes are valid, and the rules merely enforce existing law.</li> </ul>
One commenter expressed the view that the underlying statute on the minute of silence is unconstitutional.	<ul style="list-style-type: none"> <li>• The agency is not proposing the statute, which is already state law, and no response is necessary.</li> </ul>
Some commenters expressed the view that schools already comply with the statutes and that the rule is unnecessary.	<ul style="list-style-type: none"> <li>• The agency acknowledges that there are many schools that do comply, but the agency respectfully disagrees that it can fulfill its obligation to measure compliance with state law in all schools without this rule.</li> </ul>
Some commenters opposed the rule on the ground that the statute does not require a policy.	<ul style="list-style-type: none"> <li>• The statute requires compliance, and the accreditation statutes require the agency to assess compliance with state law. The agency is concerned that schools without a policy on this particular matter are not in compliance with state law and that a policy is needed for proper assessment of compliance in this situation.</li> </ul>
Some commenters expressed concern that the rule would eliminate the practice in some districts of the minute of silence being observed in each classroom or in an assembly instead of over the PA system.	<ul style="list-style-type: none"> <li>• The agency has modified the rule to prevent that potential impact.</li> </ul>



**TITLE 210. STATE DEPARTMENT OF EDUCATION  
CHAPTER 20. STAFF  
SUBCHAPTER 23. SCHOOL BOARD MEMBERS**

**210:20-23-3. Requirements for new and incumbent school board member training  
[AMENDED]**

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

(1) "Approved instruction" means instruction provided through workshops for the purpose of meeting the school board member instruction and continuing education requirements set forth in 70 O.S. §§5-110 and 5-110.1. Workshops providing instruction to qualify for credit pursuant to this Section and 210:20-23-4 shall include all in-state workshops, seminars, conferences, and/or conventions that are conducted by the State Department of Education, the Oklahoma Department of Career and Technology Education, ~~the Oklahoma State School Boards Association~~, and all approved local professional development programs of the board member's district. Other programs must have prior approval in writing by the State Department of Education. Requests for such approval must be in writing.

(2) "Incumbent school board member" means an individual who currently serves as a member of a district school board by either election or appointment and who also served as a school board member through either election or appointment to the term immediately prior to the current term of office, but does not include individuals who served a short-term appointment of fifteen (15) months or less during the previous term.

(3) "New school board member" means an individual who has been elected or appointed to serve as a member of a district school board and who has not been previously appointed or elected to serve as a school board member to the term immediately prior to the current term for which the member has been elected or appointed. For purposes of training requirements, an individual who has served a short-term appointment of fifteen (15) months or less during the previous term is considered a new school board member.

(b) **Training for new school board members.** Within fifteen (15) months of the date of election or appointment, each new school board member shall complete at least twelve (12) hours of approved instruction on education issues that meet all of the following requirements:

(1) At least one (1) hour on public school finance and/or, if appropriate, Career Technology finance;

(2) At least one (1) hour on the Oklahoma Open Records Act and Oklahoma Open Meeting Act;

(3) At least one (1) hour on ethics; and

(4) At least nine (9) hours of approved instruction in other educational issues authorized by 70 O.S. § 5-110, including the following areas:

(A) Legal issues impacting local school districts;

(B) School employment and due process law;

(C) New laws;

(D) Special education law; or

(E) Additional hours of instruction in issues related to topics set forth in (1) through (3) of this subsection, provided that no hour of instruction shall be counted more than once to meet the required twelve (12) hours of new board member instruction.

**(c) Training for incumbent school board members.** Within fifteen (15) months of the date of election or appointment, each incumbent school board member shall complete at least six (6) hours of approved instruction that meets all of the following requirements:

- (1) At least one (1) hour of instruction in public school finance and/or, if appropriate, Career Technology finance;
- (2) At least one (1) hour of instruction on the Oklahoma Open Records Act and the Oklahoma Open Meeting Act;
- (3) At least one (1) hour of instruction on ethics; and
- (4) At least three (3) hours of approved instruction in other educational issues in the topics referenced in this subsection and/or in (b)(1) through (b) (4) of this Section, provided that no hour of instruction shall be counted more than once to meet the required six (6) hours of training required by this subsection.

**(d) Short-term appointments.** School board members who hold their seats by appointment for less than fifteen (15) months prior to the date of the next election shall be excused from the training requirements in (b) and (c) of this Section. While training is not required for short-term appointees, in the event a short-term appointee is elected to serve on the board for the subsequent term, any hours of approved instruction earned during the short-term appointment may carry forward to apply toward the training requirements of 70 O.S. § 5-110 or 70 O.S. § 5-110.1.

**(e) Excess approved instruction credits.** Any hours of approved instruction in excess of the requirements of this Section that have been earned during a school board member's current term of office may be applied toward the continuing education requirements of 70 O.S. §5-110.1, provided that:

- (1) With the exception of approved training hours earned during short-term appointments, no excess hours of approved instruction shall be permitted to carry over into a subsequent term of office; and
- (2) No hour of instruction shall be counted more than once to meet any of the training requirements set forth in this Section or in 210:20-23-4.

**210:20-23-4. Requirements for continuing education; certificates; costs [AMENDED]**

(a) **Continuing education requirements.** In addition to the training requirements set forth in 210:20-23-3, every new and incumbent school board member elected to a full term of office of three (3) years or more shall meet the continuing education requirements set forth in 70 O.S. 5-110.1(A) as follows:

- (1) Members elected to a full term of three (3) years or more shall be required to attend a minimum of nine (9) hours of continuing education;
- (2) Members elected to a full term of four (4) years or more shall be required to attend a minimum of twelve (12) hours of continuing education; and
- (3) Members elected to a full term of five (5) years or more shall be required to attend at least fifteen (15) hours of continuing education.

(b) **Approved instruction.** Workshops which qualify for credit shall include all in-state workshops, seminars, conferences, and/or conventions that are conducted by the State Department of Education, the Oklahoma Department of Career and Technology Education, ~~the Oklahoma State School Boards Association~~ and all approved local professional development programs of the board member's district. Other programs must have joint prior approval in writing by the State Department of Education and the Oklahoma Department of Career and Technology Education. Requests for such approval must be in writing.

(c) **Certificates of completion.** School board members who complete any approved workshop shall receive a certificate of completion at the end of the workshop. Copies of the certificate shall be forwarded to the State Department of Education by the director of the workshop. Upon completion of local professional development workshops, copies of the certificate, signed by the professional development coordinator, shall be forwarded by the board president or designee to the State Department of Education.

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

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 23. School Board Members

210:20-23-3. Requirements for new and incumbent school board member training

[AMENDED]

210:20-23-4. Requirements for continuing education; certificates; costs [AMENDED]

**SUMMARY:**

This amendment removes the automatic approval of the Oklahoma State School Boards Association as a provider of approved instruction for board member training. The organization remains eligible for written approval of the Department like all other providers.

**AUTHORITY:**

State Board of Education; Okla. Const. art. XIII, § 5; 70 O.S. §§ 3-104, 5-110, 5-110.1

**COMMENT PERIOD:**

Written comments on the proposed rule(s) will be accepted from January 16, 2024, until 4:30 p.m. on February 20, 2024. Written comments in electronic form will be accepted during the open public comment period via email at [rules@sde.ok.gov](mailto:rules@sde.ok.gov). During the open public comment period, written comments may also be hand delivered to the agency during regular business hours or via regular mail to the individual at the address shown below under "Contact Person." Oral comments may be submitted for the record at the public hearing at the time, date, and place shown below.

**PUBLIC HEARING:**

A public hearing is scheduled for 10:00 a.m. on Tuesday, February 20, 2024, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Persons wishing to speak must sign in at the door of the State Board Room prior to the start of the hearing. Time limitations may be imposed on oral presentations to ensure that all persons who desire to make oral comments will have an opportunity to do so.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

N/A

**COPIES OF PROPOSED RULES:**

Copies of the proposed rule(s) may be obtained for review by the public from the Office of Legal Services, State Department of Education, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Electronic copies of proposed rules are also available for review thirty (30) days prior to the hearing on the State Department of Education Legal Services website at: <http://ok.gov/sde/administrative-rules>

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303(D), a Rule Impact Statement will be prepared and available for review at the Office of Legal Services, State Department of Education, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma on and after the date of publication of this Notice of Rulemaking Intent. A copy of the RIS will also be available on the State Department of Education Legal Services website at: <http://ok.gov/sde/administrative-rules>

**CONTACT PERSON:**

Bryan Cleveland, General Counsel, Office of Legal Services, State Department of Education, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599. Telephone number: (405) 522-6295.

**Public Comment Summary**  
**State Department of Education Proposed Permanent Rule Changes**

**Chapter 20. Staff**

**Subchapter 23. School Board Members**

**210:20-23-3. Requirements for new and incumbent school board member training  
[AMENDED]**

**210:20-23-3. Requirements for continuing education; certificates; costs [AMENDED]**

<b>Summary of Public Comment</b>	<b>Agency Response</b>
Many commenters opposed the rule because they value OSSBA training.	<ul style="list-style-type: none"> <li>• The agency believes the commenters are mistaking removal of automatic approval for removal of all approval. OSSBA is the only third-party provider that has automatic approval under the existing rule, and the proposed change would just place all third-party providers on a level playing field of using the same approval process.</li> </ul>
Some commenters supported the rule because they want other options besides OSSBA.	<ul style="list-style-type: none"> <li>• The agency appreciates the support.</li> </ul>
Some commenters supported the rule because they believe OSSBA’s training sessions need review.	<ul style="list-style-type: none"> <li>• The agency appreciates the support.</li> </ul>
Two commenters asked the agency to update the rule with a more detailed approval process.	<ul style="list-style-type: none"> <li>• The agency believes the requested changes is not within the scope of the notice. The agency otherwise has no position on making such a change in an appropriately noticed proceeding.</li> </ul>
One commenter requests that the agency delegate review of training to local boards.	<ul style="list-style-type: none"> <li>• The agency does not believe the requested amendment is lawful because the statute directs the process to the state level. Accordingly, the agency respectfully declines the requested amendment.</li> </ul>





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

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 1. General Provisions

210:1-1-1. ~~Purpose~~ Declaration of Foundational Values [AMENDED]

210:1-1-7. Purpose [NEW]

**SUMMARY:**

These proposed rules would define the foundational values and principles of public education in the state of Oklahoma for use by the State Department of Education.

**AUTHORITY:**

State Board of Education; Okla. Const. art. XIII, § 5; 70 O.S. §§ 1-105, 3-104

**COMMENT PERIOD:**

Written comments on the proposed rule(s) will be accepted from January 16, 2024, until 4:30 p.m. on February 20, 2024. Written comments in electronic form will be accepted during the open public comment period via email at [rules@sde.ok.gov](mailto:rules@sde.ok.gov). During the open public comment period, written comments may also be hand delivered to the agency during regular business hours or via regular mail to the individual at the address shown below under "Contact Person." Oral comments may be submitted for the record at the public hearing at the time, date, and place shown below.

**PUBLIC HEARING:**

A public hearing is scheduled for 10:00 a.m. on Tuesday, February 20, 2024 at the Hodge Education Building, State Board Room, Room 120, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Persons wishing to speak must sign in at the door of the State Board Room prior to the start of the hearing. Time limitations may be imposed on oral presentations to ensure that all persons who desire to make oral comments will have an opportunity to do so.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

N/A

**COPIES OF PROPOSED RULES:**

Copies of the proposed rule(s) may be obtained for review by the public from the Office of Legal Services, State Department of Education, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Electronic copies of proposed rules are also available for review thirty (30) days prior to the hearing on the State Department of Education Legal Services website at: <http://ok.gov/sde/administrative-rules>

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303(D), a Rule Impact Statement will be prepared and available for review at the Office of Legal Services, State Department of Education, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma on and after the date of publication of this Notice of Rulemaking Intent. A copy of the RIS will also be available on the State Department of Education Legal Services website at: <http://ok.gov/sde/administrative-rules>

**CONTACT PERSON:**

Bryan Cleveland, General Counsel, Office of Legal Services, State Department of Education, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599. Telephone number: (405) 522-6295.

## TITLE 210. STATE DEPARTMENT OF EDUCATION

### CHAPTER 1. STATE BOARD OF EDUCATION

#### SUBCHAPTER 1. GENERAL PROVISIONS

##### **210:1-1-1. Purpose-Declaration of Foundational Values [AMENDED]**

~~(a) This chapter outlines the context of the agency responsible for public education by describing the State Board of Education, their powers and duties, rules of practice, due process policies and procedures, the general principles by which the State Department of Education operates and the structural organization of the Department.~~

~~(b) The contents of this Chapter shall in no way be construed as the basis of, or as instituting any contractual rights between the State Board of Education and any person or employee. Of necessity, it cannot be complete in all detail and cannot, through error or omission, restrict the lawful powers of the State Board of Education. If it in any way conflicts with State Statutes, the law will take precedence and prevail. Any previous policies of the Board inconsistent with policies included here are hereby rescinded.~~

(a) This declaration of foundational values and principles of public education in this state should guide the interpretation of rules adopted by the State Board of Education.

(b) Education is the teaching and instruction of individuals by means of equipping them with the tools of learning that will best orient their whole lives toward the pursuit of truth, goodness, and beauty; the rights of life, liberty, and the pursuit of happiness; and the competence, confidence, and courage to pursue virtue.

(c) Truth, goodness, and beauty are objective moral virtues that can be discovered, known, attained, and never exhausted in our limits as finite creatures. It is mankind's duty to pursue such virtues, and the goal of education is to train a student's desires toward an ever-growing love, appreciation, and capacity for these universal and self-evident truths, whose ultimate author is our Creator, having created all men equal, as echoed in our Declaration of Independence.

(d) Good and evil are real and universal rather than relativistic concepts, and it is incumbent upon every person to strive toward the former and to face the latter.

(e) Academics is the primary purpose of public schools, teachers, and public instruction. It cannot be said that a school is functioning as a school unless its students are made literate, meaning they are able to read; able to write; able to perform arithmetic and fundamental mathematics; able to comprehend literature; able to compose legible and coherent texts; able to politely and specifically discuss thoughts on complex ideas; able to seek out knowledge of a subject independently; able to think critically for themselves; and ultimately able to honestly navigate the world adeptly and independently as educated individuals.

(f) The ultimate responsibility of children's education rests firmly upon the shoulders of their parents, to whom their children were given by their Creator, or upon the shoulders of those guardians who, due to the unforeseen course of life, have taken upon themselves the solemn and sacred task of providing for and protecting the wards in their care. All responsibilities of an

educator and servant of public education are responsibilities delegated from these parents and guardians, and such responsibilities are to be taken with full sobriety and respect as is befitting the care and training of all children.

(g) The founding documents of our nation—the Declaration of Independence, the United States Constitution, and the Bill of Rights—and the founding document of our state—the Oklahoma Constitution—confirm these values. The preamble of the founding document of the State of Oklahoma reads: “Invoking the guidance of Almighty God, in order to secure and perpetuate the blessing of liberty; to secure just and rightful government; to promote our mutual welfare and happiness, we, the people of the State of Oklahoma, do ordain and establish this Constitution.”

(h) Instruction in the public schools must elevate, protect, and celebrate those values and ideals that are commonly expressed by the people of Oklahoma and bind us together so as to preserve and nurture a society of peace, prosperity, and shared community; founded upon our cultural ~~principles~~ ~~principals~~ of life, liberty, and the pursuit of happiness; and the political conviction and knowledge that hard work conquers all, as enshrined in the Great Seal of the state of Oklahoma.

(i) The State Department of Education is hereby directed to use its full authority to ~~propose rules,~~ maintain standards, and ensure accountability and transparency in such a way that most fully upholds and protects the values of education as stated herein.

(j) All newly appointed members of the State Board of Education shall be required to read this rule and attest in writing to their having read and understood this rule on or before the day of their first Board meeting.

**210:1-1-7. Purpose [NEW]**

(a) This chapter outlines the context of the agency responsible for public education by describing the State Board of Education, their powers and duties, rules of practice, due process policies and procedures, the general principles by which the State Department of Education operates and the structural organization of the Department.

(b) The contents of this Chapter shall in no way be construed as the basis of, or as instituting any contractual rights between the State Board of Education and any person or employee. Of necessity, it cannot be complete in all detail and cannot, through error or omission, restrict the lawful powers of the State Board of Education. If it in any way conflicts with State Statutes, the law will take precedence and prevail.

**Public Comment Summary**  
**State Department of Education Proposed Permanent Rule Changes**

**Chapter 1. State Board of Education**

**Subchapter 1. General Provisions**

**210:1-1-1. Purpose Declaration of Foundational Values [AMENDED]**

**210:1-1-7. Purpose [NEW]**

Summary of Public Comment	Agency Response
Several commentors expressed support of the language contained in the rule with one commentor highlighting support for foundational documents.	<ul style="list-style-type: none"> <li>• The agency appreciates the support.</li> </ul>
Support for parental rights was given by multiple commentors. Some used the concept to support the rule as a whole and others used the concept to oppose the rule as a whole, mainly along religious lines.	<ul style="list-style-type: none"> <li>• The agency appreciates the supporting comments and respectfully disagrees with the commenters that suggest the rule negatively affects parental rights. The rule is a purpose statement for the Department and does not issue any particular directive that would alter parents' rights.</li> </ul>
Several commentors opposed the language of Foundational Values as being overtly religious and demonstrating a preference for Christian faith. One commentor invoked common assertions of “separation of Church and State” and stated this rule promoted Christian Nationalism. Another commentor took issue with the capitalization of the work Creator. Yet another commentor stated the Rule permits the Board to declare a school religion.	<ul style="list-style-type: none"> <li>• The agency respectfully disagrees with the commenters. The Department should be grounded in historical understandings of education when performing its work.</li> </ul>
One commenter felt the rule was poorly written and created an impossible standard and created a controversy where none previously existed.	<ul style="list-style-type: none"> <li>• The agency respectfully disagrees with the commenter.</li> </ul>
Multiple commentors disagreed with the concept of objective goodness, and beauty and disagreed in the concept of universal good and evil.	<ul style="list-style-type: none"> <li>• The agency respectfully disagrees with the commenters. The Department should focus its efforts on conveying objective concepts, and truth, goodness, and beauty are objective concepts.</li> </ul>
One commenter opposed the rule on the ground that it may mandate adherence to a viewpoint.	<ul style="list-style-type: none"> <li>• The agency respectfully disagrees that the rule governs anyone other than the agency.</li> </ul>



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

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 5. Due Process

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

**SUMMARY:**

This amendment updates the administrative rule addressing the procedure for responding to the Department's application to revoke or suspend a certificate. The added content requires respondents who intend to contest an application to provide notification of such intent to the Secretary of the Board of Education within a timely period. Alternatively, if the respondent is represented by counsel, then such counsel must file a responsive pleading that conforms to the Oklahoma Rules of Civil Procedure.

**AUTHORITY:**

State Board of Education; Okla. Const. art. XIII, § 5; 70 O.S. §§ 1-105, 3-104

**COMMENT PERIOD:**

Written comments on the proposed rule(s) will be accepted from January 16, 2024, until 4:30 p.m. on February 20, 2024. Written comments in electronic form will be accepted during the open public comment period via email at [rules@sde.ok.gov](mailto:rules@sde.ok.gov). During the open public comment period, written comments may also be hand delivered to the agency during regular business hours or via regular mail to the individual at the address shown below under "Contact Person." Oral comments may be submitted for the record at the public hearing at the time, date, and place shown below.

**PUBLIC HEARING:**

A public hearing is scheduled for 10:00 a.m. on Tuesday, February 20, 2024, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Persons wishing to speak must sign in at the door of the State Board Room prior to the start of the hearing. Time limitations may be imposed on oral presentations to ensure that all persons who desire to make oral comments will have an opportunity to do so.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

N/A

**COPIES OF PROPOSED RULES:**

Copies of the proposed rule(s) may be obtained for review by the public from the Office of Legal Services, State Department of Education, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Electronic copies of proposed rules are also available for review thirty (30) days prior to the hearing on the State Department of Education Legal Services website at: <http://ok.gov/sde/administrative-rules>

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303(D), a Rule Impact Statement will be prepared and available for review at the Office of Legal Services, State Department of Education, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma on and after the date of publication of this Notice of Rulemaking Intent. A copy of the RIS will also be available on the State Department of Education Legal Services website at: <http://ok.gov/sde/administrative-rules>

**CONTACT PERSON:**

Bryan Cleveland, General Counsel, Office of Legal Services, State Department of Education, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599. Telephone number: (405) 522-6295.



## 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 [AMENDED]**

(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.

**(4) Response to application.** Any respondent intending to contest an application must notify the Secretary of the State Board of Education of their intent to contest the application within twenty-one days of service of the application. The respondent must file a responsive pleading that states whether the respondent agrees, disagrees, or is without sufficient information to agree or disagree with each numbered paragraph containing a factual allegation. If the respondent is represented by counsel, such counsel must file a responsive pleading that substantially complies with the Oklahoma rules of civil procedure regarding an answer. Failure to timely respond will be deemed confession of the allegations in the application unless the State Board of Education excuses the delay.

(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 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.

(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. 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 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 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 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.

**Public Comment Summary**  
**State Department of Education Proposed Permanent Rule Changes**

**Chapter 1. State Board of Education**

**Subchapter 5. Due Process**

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

<b>Summary of Public Comment</b>	<b>Agency Response</b>
Some commenters requested the additional change of requiring notice to the school district at issue, as applicable, as well as the affected certified employee.	<ul style="list-style-type: none"><li>• The agency believes that the requested additional change is beyond the scope of the noticed rulemaking. The agency does not otherwise disagree with the proposed suggestion, though.</li></ul>
One commenter expressed opposition that the default judgment process would allow revocations to proceed without evidence.	<ul style="list-style-type: none"><li>• The commenter appears uninformed on existing procedure. If the certified employee fails to appear at a hearing, the allegations are deemed confessed. The revised rule merely removes the cost of paying for a hearing officer for a hearing that the respondent does not intend to attend.</li><li>• All revocations also have evidence associated with them. The State Board has access to the Department's evidence when deciding final judgment based on a default, whether under the existing process or the revised process.</li></ul>





**TITLE 210. STATE DEPARTMENT OF EDUCATION**  
**CHAPTER 10. SCHOOL ADMINISTRATION AND INSTRUCTIONAL SERVICES**  
**SUBCHAPTER 1 - GENERAL PROVISIONS**

**210:10-1-16 Oklahoma Academic Scholar and other student recognitions. [AMENDED]**

(a) **Purpose.** The rules of this subchapter have been adopted for the purpose of providing requirements for recognition as an Oklahoma Academic Scholar and other recognitions of student achievement. The purpose of the program is to recognize those secondary students within the State of Oklahoma who exceed the basic graduation requirements and who, through diligence, achieve academic ratings above those of their peers.

(b) **Requirements for recognition as an Oklahoma Academic Scholar.** Students who meet all the requirements listed below shall be recognized by the local school district and the State Board of Education as an Oklahoma Academic Scholar.

- (1) Accumulate over grades 9, 10, 11 and the first semester of grade 12, a minimum grade point average of 3.7 on a 4.0 scale or be in the top 10% of their graduation class.
- (2) Complete (or will complete) the curricular requirements for a standard diploma.
- (3) Score at least a composite of 27 on the American College Test (ACT) ~~or~~ a 1220 combined score on the Scholastic Assessment Test (SAT), or the equivalent score on the Classical Learning Test (CLT). The ACT or SAT must have been taken on a national test date or state-administered test date before the date of graduation. For students with documented disabilities requiring testing accommodations not available on a national or state administration date, a qualifying score on the ACT ~~or~~ SAT, or CLT may be demonstrated using alternate administration dates.

(c) **Requirements for the Seal of Biliteracy.** Students who meet the requirements listed below for both English and another language shall be recognized by the local school district and the State Board of Education with a Seal of Biliteracy in English and another language, which shall be noted on the student's transcript upon completion of the eligibility requirements and noted on the student's diploma upon graduation. The Seal of Biliteracy shall be available in two levels of distinction, Gold and Platinum, based on the following eligibility requirements:

(1) **Proficiency in English.** The student must score at least the level indicated on one or more of the assessments below:

- (A) **ACT.** A score on the English Language Arts section of at least 18 for Gold level recognition or at least 21 for Platinum level recognition.
- (B) **SAT.** A score on the Evidence-Based Reading and Writing (formerly verbal) section of at least 570 for Gold level recognition or at least 650 for Platinum level recognition.
- (C) **PSAT**

- (i) **10<sup>th</sup> grade.** For a PSAT taken when the student is in 10<sup>th</sup> grade, a score on the Evidence-Based Reading and Writing section of at least 470 for Gold level recognition or at least 600 for Platinum level recognition.
- (ii) **11<sup>th</sup> grade.** For a PSAT taken when the student is in 11<sup>th</sup> grade, a score on the Evidence-Based Reading and Writing section of at least 570 for Gold level recognition or at least 620 for Platinum level recognition.

(D) **International Baccalaureate (IB).** A score of at least a 3 for Gold level recognition or at least a 4 for Platinum level recognition on the International Baccalaureate Test of English.

(E) **Advanced Placement (AP).** A score of at least a 3 for Gold level recognition on the Advanced Placement Test of English Language or Advanced Placement Test of English Literature, or a score of at least a 4 for Platinum level recognition on the Advanced Placement Test of English Language or Advanced Placement Test of English Literature.

(F) **WIDA ACCESS.** A score of at least 4.5 through 5.7 on the WIDA ACCESS test for Gold level recognition, or a score of at least 5.8 on the WIDA ACCESS test for Platinum level recognition.

(G) **Classic Learning Test (CLT).** A score on the English Art section of at least the equivalent of a score of 18 on the ACT for Gold level recognition or at least the equivalent to a score of 21 on the ACT for Platinum recognition.

(2) **Proficiency in a language other than English.** In addition to achieving a qualifying score in English on one of the assessments listed in (c)(1) above, the student must score at least the level indicated in a language other than English on one or more of the proficiency measures listed below:

(A) **AAPPL or ALIRA.** A score of at least Intermediate-Mid (I-4) on the Assessment of Performance of Progress toward Proficiency in Languages (AAPPL) or ACTFL Latin Interpretive Reading Assessment (ALIRA) for Gold level recognition, or a score of at least Advanced-Low (A-1) on the AAPPL or ALIRA for Platinum level recognition.

(B) **STAMP.** A score of at least 5 on the Standards Based Measurement of Proficiency (STAMP) for Gold level recognition, or a score of at least 7 on the STAMP for Platinum level recognition.

(C) **OPI, OPIc, or WPT.** A score of at least Intermediate-Mid for Gold level recognition, or at least Advanced-Low for Platinum level recognition, on the Oral Proficiency Interview (OPI), the Oral Proficiency Interview - Computer (OPIc), or the Written Proficiency Test (WPT).

(D) **Advanced Placement (AP).** A score of at least a 3 for Gold level recognition, or at least a 4 for Platinum level recognition, on the Language and Culture Advanced Placement (AP) test for the target language.

(E) **SLPI.** A score of at least Intermediate for Gold level recognition, or at least Advanced for Platinum level recognition, on the Sign Language Proficiency Interview (SLPI).

(F) **Native American languages.** The State Department of Education (OSDE) will consult with each tribal nation as appropriate to identify an appropriate measure of proficiency.

(G) **Languages for which there is no standard assessment.** If a request for a Seal of Biliteracy is received regarding a language for which there is no standard assessment but which is not a Native American language, the OSDE will work

with relevant linguistic and/or cultural entities to identify an appropriate measure of proficiency.

**(d) Requirements for the Civics Seal.** Students who meet all the requirements listed below shall be recognized by the local school district and the State Board of Education with a Civics Seal. The Seal shall be noted on the student's transcript upon completion of eligibility requirements, and noted on the student's diploma upon graduation. The seal will be provided by the Oklahoma State Department of Education.

(1) Accumulate a 3.0 GPA in all social studies classes.

(2) Score 80% or higher on the United States Naturalization test.

(3) Score proficient or advanced on the College and Career Readiness Test for U.S. History/Government.

(4) Complete 75 hours of community service including a written reflection of experiences, as determined by district and subsequently school site policy.

(5) Complete 3 Civics Engagement Programs belonging to a curated list that is approved by the state board.

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

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 1. General Provisions

210:10-1-16. Oklahoma Academic Scholar and other student recognitions [AMENDED]

**SUMMARY:**

These proposed amendments add the Classical Learning Test to the list of tests eligible for use for the Oklahoma Academic Scholar recognition or the Seal of Biliteracy. These amendments also add a graduation seal in civics to the types of recognitions available from the Department.

**AUTHORITY:**

State Board of Education; Okla. Const. art. XIII, § 5; 70 O.S. §§ 3-104, 11-103.2

**COMMENT PERIOD:**

Written comments on the proposed rule(s) will be accepted from January 16, 2024, until 4:30 p.m. on February 20, 2024. Written comments in electronic form will be accepted during the open public comment period via email at [rules@sde.ok.gov](mailto:rules@sde.ok.gov). During the open public comment period, written comments may also be hand delivered to the agency during regular business hours or via regular mail to the individual at the address shown below under "Contact Person." Oral comments may be submitted for the record at the public hearing at the time, date, and place shown below.

**PUBLIC HEARING:**

A public hearing is scheduled for 10:00 a.m. on Tuesday, February 20, 2024, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Persons wishing to speak must sign in at the door of the State Board Room prior to the start of the hearing. Time limitations may be imposed on oral presentations to ensure that all persons who desire to make oral comments will have an opportunity to do so.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

N/A

**COPIES OF PROPOSED RULES:**

Copies of the proposed rule(s) may be obtained for review by the public from the Office of Legal Services, State Department of Education, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Electronic copies of proposed rules are also available for review thirty (30) days prior to the hearing on the State Department of Education Legal Services website at: <http://ok.gov/sde/administrative-rules>

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303(D), a Rule Impact Statement will be prepared and available for review at the Office of Legal Services, State Department of Education, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma on and after the date of publication of this Notice of Rulemaking Intent. A copy of the RIS will also be available on the State Department of Education Legal Services website at: <http://ok.gov/sde/administrative-rules>

**CONTACT PERSON:**

Bryan Cleveland, General Counsel, Office of Legal Services, State Department of Education, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599. Telephone number: (405) 522-6295.

**Public Comment Summary**  
**State Department of Education Proposed Permanent Rule Changes**

**Chapter 10. School Administration and Instructional Services**

**Subchapter 1. General Provisions**

**210:10-1-16. Oklahoma Academic Scholar and other student recognitions [AMENDED]**

<b>Summary of Public Comment</b>	<b>Agency Response</b>
One commenter supported the addition of the Classical Learning Test.	<ul style="list-style-type: none"><li>• The agency appreciates the support.</li></ul>
One commenter opposed the addition of the Classical Learning Test as part of opposition to additional mandatory testing.	<ul style="list-style-type: none"><li>• The proposed rule does not require additional testing. Instead, it expands options for existing testing.</li></ul>



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

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 2. Parental Rights

210:10-2-2. Definitions [AMENDED]

210:10-2-3. Requirements [AMENDED]

210:10-2-4. Noncompliance [AMENDED]

**SUMMARY:**

The amendment adds provisions regarding school district liability for independent contractor actions within their school district that violate the Parents' Bill of Rights.

**AUTHORITY:**

State Board of Education; Okla. Const. art. XIII, § 5; 70 O.S. § 3-104; 70 O.S. § 11-105.1; 25 O.S. §§ 2001-2005

**COMMENT PERIOD:**

Written comments on the proposed rule(s) will be accepted from January 16, 2024, until 4:30 p.m. on February 20, 2024. Written comments in electronic form will be accepted during the open public comment period via email at [rules@sde.ok.gov](mailto:rules@sde.ok.gov). During the open public comment period, written comments may also be hand delivered to the agency during regular business hours or via regular mail to the individual at the address shown below under "Contact Person." Oral comments may be submitted for the record at the public hearing at the time, date, and place shown below.

**PUBLIC HEARING:**

A public hearing is scheduled for 10:00 a.m. on Tuesday, February 20, 2024, at the Hodge Education Building, State Board Room, Room 120, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Persons wishing to speak must sign in at the door of the State Board Room prior to the start of the hearing. Time limitations may be imposed on oral presentations to ensure that all persons who desire to make oral comments will have an opportunity to do so.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

N/A

**COPIES OF PROPOSED RULES:**

Copies of the proposed rule(s) may be obtained for review by the public from the Office of Legal Services, State Department of Education, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Electronic copies of proposed rules are also available for review thirty (30) days prior to the hearing on the State Department of Education Legal Services website at: <http://ok.gov/sde/administrative-rules>

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303(D), a Rule Impact Statement will be prepared and available for review at the Office of Legal Services, State Department of Education, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma on and after the date of publication of this Notice of Rulemaking Intent. A copy of the RIS will also be available on the State Department of Education Legal Services website at: <http://ok.gov/sde/administrative-rules>

**CONTACT PERSON:**

Bryan Cleveland, General Counsel, Office of Legal Services, State Department of Education, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599. Telephone number: (405) 522-6295.



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

**SUBCHAPTER 2. PARENTAL RIGHTS**

**210:10-2-2. Definitions [AMENDED]**

The following words and terms, when used in this Subchapter (2), shall have the following meaning, unless the context clearly indicates otherwise:

**"Course"** means any program or activity where instruction or activities tied to the instruction are provided by or within a School district.

**"Identity information"** means information including but not limited to:

(A) any names or pronouns used by a student at school.

(B) any social transition or other transition to a gender that differs from the student's sex.

**"Independent Contractor"** means an individual, organization, or entity that is engaged by and/or contracted by a school district to provide services or instruction, whether directly or indirectly, to students or within a school district on a temporary or contractual basis and is not an employee of the school district.

**"Information"** means any form of information including but not limited to, Identity information.

**"Parent"** means the natural or adoptive parent or legal guardian of a minor child.

**"School district" or "School"** means any public school district and public charter school district that serves students in prekindergarten through twelfth grades in this state.

**"Sex"** means the physical condition of being male or female based on genetics and physiology, as identified on the individual's original birth certificate.

**"Sex or Sexuality education"** means any class, program, curriculum, instruction, test, survey, questionnaire, Course, or other instructional material that relates to sexual behavior, sexual attitudes, or sexuality, including but not limited to gender identity or sexual orientation.

**210:10-2-3. Requirements [AMENDED]**

**(a) Parental rights include Sex or Sexuality education and their children.**

(1) Advance written notice materially similar to the one described in 25 O.S. § 2003 shall be required for any Sex or Sexuality education material as defined in this Subchapter.

(2) The right to inspect classroom materials shall extend to any Sex or Sexuality education material as defined in this Subchapter.

(3) A written objection from a Parent pursuant to 25 O.S. § 2003, or this section may object to Sex or Sexuality education or any other instruction questioning beliefs or practices in Sex, morality, or religion.

(4) Each School district shall ensure that it honors any requests within the meaning of paragraph (a)(2) of this section in a manner that is easily accessible to parents upon request and that makes all parts of the material available for inspection.

**(b) Parental rights include information concerning their children.**

(1) No School district, ~~and~~ no employee of the district or its schools, and no Independent Contractor, shall encourage, coerce, or attempt to encourage or coerce a minor child to withhold information from the child's Parent(s) or guardian(s).

(2) A School district shall disclose to a child's Parent(s) or guardian(s) any information known to the School district, its employees, or an Independent Contractor regarding

material changes reasonably expected to be important to Parent(s) regarding their child's health, social, or psychological development, including Identity information. Such disclosures shall occur within 30 days of learning the information and may include referrals to for appropriate counseling services that the Parent(s) or guardian(s) may use at their discretion.

(3) A School district that is informed or otherwise aware of a violation of 25 O.S. § 2002(C) or of this section within its district and fails to initiate disciplinary action within 30 days of learning of the violation, or fails to administer appropriate disciplinary action, shall be found to be in noncompliance with this section.

(4) Any violation by an Independent Contractor that the School district knew or should have known about shall be attributed to the School district responsible for the contract.

**Public Comment Summary**  
**State Department of Education Proposed Permanent Rule Changes**

**Chapter 10. School Administration and Instructional Services**

**Subchapter 2. Parental Rights**

**210:10-2-2. Definitions [AMENDED]**  
**210:10-2-3. Requirements [AMENDED]**

<b>Summary of Public Comment</b>	<b>Agency Response</b>
Several commenters opposed the rule changes primarily on the ground that they also opposed the underlying rule.	<ul style="list-style-type: none"><li>• The agency respectfully rejects these comments.</li></ul>
Some commenters expressed concern that the rule could hold school districts liable for vendor action without their knowledge.	<ul style="list-style-type: none"><li>• The proposed changes do not reach 210:10-2-4, which still assesses the mens rea of the school district. If a violation was not caused by the school district's negligence, recklessness, or willfulness, they would not be held liable.</li></ul>



**TITLE 210. STATE DEPARTMENT OF EDUCATION**

**CHAPTER 10. SCHOOL ADMINISTRATION AND INSTRUCTIONAL SERVICES**

**SUBCHAPTER 13. STUDENT ASSESSMENT AND SCHOOL ACCOUNTABILITY**

**210:10-13-2. Oklahoma School Testing Program (OSTP) scope and general administration [AMENDED]**

(a) **Definitions.** In this Section, the words and terms shall have the following meaning:

**"Proficient/Satisfactory"** means achieving at least the minimum score for demonstrating mastery as defined by the State Board of Education on an academic achievement test of the Oklahoma School Testing Program (OSTP).

(b) All public school districts shall administer the state mandated academic achievement tests of the OSTP to all students enrolled in the designated grades. The series of tests shall be field-tested/implemented by the amended schedule in 70 O.S. § 1210.508, or federal law.

(1) Students with Individualized Education Programs (IEPs) shall have an appropriate statement on the IEP with regard to the type of assessment in which the student will participate (e.g., Oklahoma Core Curriculum Test (OCCT) with or without accommodations, or the Oklahoma Alternate Assessment Program (OAAP) Portfolio). The OCCT and OAAP Portfolio are all a part of the Oklahoma School Testing Program (OSTP). Any state approved accommodations must be documented in the student's current IEP. Current documentation for each student shall be on file in the local school prior to test administration.

(2) All students who have been determined to be limited English proficient (LEP) as the term is defined at 20 U.S.C. § 7801, also known as English language learners (ELL), shall be included in all of the state-mandated academic achievement tests of the OSTP. ELL students are those who have been appropriately identified, through English proficiency screening by the local school districts, as requiring specialized instructional services designed to increase their English proficiency and academic performance. For every student identified as ELL, the local district shall have on file verification that the student is receiving special instruction designed for the specific purpose of improving the ELL student's English proficiency. Any State Department of Education approved and adopted English proficiency assessment shall be considered an official assessment of the OSTP, and will be subject to the same security, privacy, and administration measures accorded to all other OSTP assessments.

(A) Students identified as ELL shall be assessed in a valid and reliable manner with the state academic assessments with acceptable accommodations as necessary and, to the extent practicable, with alternate assessments aligned to the state assessment provided by the local school district in the language and form most likely to yield accurate data on what such students know and can do in these content areas; these alternate assessments will continue until such students have

achieved English language proficiency with the exception noted in paragraph (2)(B) of this subsection.

(B) If ELL students are administered the state-mandated reading and language arts achievement tests in a language other than English, this will be allowed only during their first three consecutive years of school attendance in the United States (not including Puerto Rico). After these first three years these tests must be administered in English, except that if the local school district determines on a case-by-case basis, that a student has not yet reached a level of English language proficiency that will allow valid and reliable information to be obtained, even with testing accommodations, in which case individual waivers will be allowed by the local district for up to two additional consecutive years, according to federal law.

(c) On an annual basis, school superintendents or their designees shall provide a copy of the State Board of Education Rules, OAC 210:10-13, for all school personnel responsible for receipt, inventory, distribution, or return of tests documents, and/or for administration of tests within the Oklahoma School Testing Program.

(d) Districts may request special reports beyond those provided by state contract with the testing company at their own cost (i.e., individual student records on CD or disk, District Title I Report, District Alpha Order Report, etc.).

~~(e) Test results of all students not enrolled in a district for a full academic year shall be disaggregated and shall not be used to determine the progress of the district, according to federal law. Test results of all students not enrolled in a school site for a full academic year shall be disaggregated and shall not be used to determine the progress of the school site, according to federal law. For purposes of the OSTP, a student shall be considered a "Full Academic Year" (FAY) student if the student is enrolled within the first twenty (20) instructional days of the school's instructional year through and including the date of administration of the exam, without an enrollment lapse of ten (10) or more consecutive instructional days.~~

(e) Each public school student who does not score at least at the satisfactory level on state criterion-referenced tests in reading and mathematics by the end of the student's seventh grade year shall be provided remediation for the purpose of assisting the student in performing at least at the satisfactory level on the eighth-grade criterion-referenced tests in reading and mathematics, subject to the availability of funding.

(1) Districts and/or schools may provide remediation through extended instructional time during the school day, a summer academy, tutoring, online coursework, or other supplementary services. Remediation is not limited to these practices.

(2) Remediation provided shall be under the supervision of a teacher certified in the appropriate content area.

(3) The State Department of Education shall provide information about best practices for remediation and interventions on the State Department of Education website.

(4) Each district shall submit an annual remediation plan to its local board of education at a regularly scheduled meeting prior to November 15 of each school year. The remediation plan shall be for those students who do not attain at least a satisfactory or proficient score on the tests listed in this section. The plan should include how remediation funds will be spent, when and where remediation will be provided, what content will be addressed, how instruction will be delivered, and who will provide the instruction, including the highly qualified status of the instructor.

(5) Funds for remediation shall be utilized to provide intervention and remediation for qualifying students as described in this section. Allowable expenditures include salaries and stipends for highly qualified teachers and tutors under the supervision of highly qualified teachers; instructional materials such as textbooks, workbooks, teacher-made materials, computer assisted instructional software, manipulatives, and classroom instructional tools necessary to provide remediation; assessments designed to monitor the progress of students in remediation programs; transportation to and from tutoring sessions held outside of the school day; and training in best practices for providing remediation. Funds for remediation may not be used for salaries, materials, or administrative services not directly related to remediation or for students who do not qualify for remediation as described in this section.

(6) School districts shall report the use of remediation funds and the results of the remediation, as measured by periodic progress assessments and district student performance on state assessments. Districts shall submit an online report annually to the State Department of Education through the Oklahoma School District Reporting Site (SDRS). The district shall also submit the annual report to its local board of education at a regularly scheduled meeting. Remediation results shall be presented by a designated public school principal for each site.

~~(f) For purposes of the annual reports of the OSTP, test results of all students who have been placed in a state juvenile facility by state law or court order, or students placed in a full time residential facility providing educational services to students by joint agreement with one or more school districts shall not be used to determine the progress of the site or the district of residence of the students. Instead their scores will be used in accountability calculations in one statewide "quasi-district".~~

~~(g) Each public school student who does not score at least at the satisfactory level on state criterion referenced tests in reading and mathematics by the end of the student's seventh grade year shall be provided remediation for the purpose of assisting the student in performing at least at the satisfactory level on the eighth grade criterion referenced tests in reading and mathematics, subject to the availability of funding.~~

~~(1) Districts and/or schools may provide remediation through extended instructional time during the school day, a summer academy, tutoring, online coursework, or other supplementary services. Remediation is not limited to these practices.~~

- ~~(2) Remediation provided shall be under the supervision of a teacher certified in the appropriate content area.~~
- ~~(3) The State Department of Education shall provide information about best practices for remediation and interventions on the State Department of Education website.~~
- ~~(4) Each district shall submit an annual remediation plan to its local board of education at a regularly scheduled meeting prior to November 15 of each school year. The remediation plan shall be for those students who do not attain at least a satisfactory or proficient score on the tests listed in this section. The plan should include how remediation funds will be spent, when and where remediation will be provided, what content will be addressed, how instruction will be delivered, and who will provide the instruction, including the highly qualified status of the instructor.~~
- ~~(5) Funds for remediation shall be utilized to provide intervention and remediation for qualifying students as described in this section. Allowable expenditures include salaries and stipends for highly qualified teachers and tutors under the supervision of highly qualified teachers; instructional materials such as textbooks, workbooks, teacher-made materials, computer assisted instructional software, manipulatives, and classroom instructional tools necessary to provide remediation; assessments designed to monitor the progress of students in remediation programs; transportation to and from tutoring sessions held outside of the school day; and training in best practices for providing remediation. Funds for remediation may not be used for salaries, materials, or administrative services not directly related to remediation or for students who do not qualify for remediation as described in this section.~~
- ~~(6) School districts shall report the use of remediation funds and the results of the remediation, as measured by periodic progress assessments and district student performance on state assessments. Districts shall submit an online report annually to the State Department of Education through the Oklahoma School District Reporting Site (SDRS). The district shall also submit the annual report to its local board of education at a regularly scheduled meeting. Remediation results shall be presented by a designated public school principal for each site.~~



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

(a) **Academic performance targets.** The Oklahoma School Accountability System shall be based on a multimeasures approach to accountability in accordance with the *Elementary and Secondary Education Act of 1965* (ESEA) as reauthorized by P.L. No. 114-95, also known as the *Every Student Succeeds Act* (ESSA), and shall include the indicators set forth in 70 O.S. § 1210.545. All public elementary and secondary schools and local educational agencies (LEAs) shall be accountable for student achievement and for reaching academic performance targets in accordance with the Oklahoma School Accountability System required by 70 O.S. § 1210.541.

### **(b) Consequences of testing irregularities or misconduct on test scores and academic performance targets.**

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

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

(3) If a student becomes ill during testing and is not able to complete the test, the test shall not be scored and not counted in the summary scores. The student shall be counted as absent. If a breach form of the test is available through the Oklahoma School Testing Program (OSTP), the student may be given an opportunity to retake the same form within the same testing window.

(4) If any violation of security provisions occurs, such violations shall be reported in writing to the State Department of Education Office of Assessments and may result in a student's, a school site's, and/or a school district's test scores being declared as invalid in accordance with the provisions of 210:10-13-4.

(A) In the case of invalidation resulting from a violation of the provisions of 210:10-13-4, each invalidated score shall be equivalent to non-participation in the assessment and shall be aggregated with the remaining student scores at the school, district, and state levels in determining participation rates.

(B) If the violation is not the fault of the students involved, and if a breach form of the test is available through the OSTP, students may be given the breach form within the same testing window. In the case that a breach equivalent form is administered, the individual student score report shall reflect the scores from the equivalent test (in place of the previous invalidated scores) and shall be aggregated at the school, district, and state levels.

(C) Breach test forms of the OSTP shall only be made available through the OSDE Office of Assessments if determined practicable by the State Department of Education.

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

(6) Statewide student response patterns shall be analyzed for aberrant responses for each school and district through data forensics methodologies. The results shall be triangulated with observational and other accountability data to be included in the Academic Assessment Monitoring Program (AAMP).

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

(A) **Step One.** When the State Department of Education receives credible evidence of a testing irregularity or misconduct, the State Department of Education Office of Assessments shall promptly notify the school site and/or school district involved.

(i) The school district shall have at least thirty (30) calendar days to conduct an investigation of the alleged testing irregularity and provide the State Department of Education with a written response.

(ii) In the event that the testing irregularity occurred as a result of testing misconduct or test security violations, the school site and/or school district shall be required to include an explanation in its written response of how the testing misconduct/irregularity occurred and a description of the measures taken to prevent the misconduct from occurring again.

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

(C) **Step Three.** At the end of each testing period, a testing irregularity report shall be prepared by the State Department of Education Office of Assessments for review by the State Superintendent and possible further action.

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

~~(1) To assure the validity of accountability decisions prior to the release of the list of schools identified for school support and improvement as required by federal law, the State Department of Education will forward to schools the preliminary data reports~~

containing component pieces from the school district, testing vendor, and the State Department of Education. Each school district must review these component pieces for accuracy and report any inaccuracies to the entity supplying the information within the applicable timelines. If the school district does not report inaccuracies within the timeline the State Department of Education will rely on the data in the preliminary data report.

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

(3) Subsequent to the review of the preliminary data report, if a principal of a school believes that the accountability designation contained in the data report is in error the principal shall provide supporting evidence to the district. The district must consider the evidence and if warranted, request an appeal in writing to the State Department of Education. The State Department of Education must receive the appeal request within ten working days of the electronic release of the data reports.

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

(5) At the end of the State Department of Education Appeals process, the State Department of Education shall report to the State Board of Education the statewide list of schools identified for comprehensive and targeted support and improvement.

~~(6) School sites shall be provided an opportunity to review all data used to calculate the school performance grade and the calculation of the school performance grade.~~

~~(A) Initial data verification of the data used to calculate school performance grades shall occur throughout the school year as data becomes available to the State Department of Education. School district accountability staff shall have the opportunity to perform data verification and confirm that data being used to calculate school performance grades are accurate prior to the review period required by (c)(6)(B) of this section. The school district shall have at least fifteen (15) calendar days to review and request corrections to each new data component as it becomes available. No requests for changes to data shall be made after the expiration of the review period. For purposes of this paragraph only, a "new data component" means a data component that has not been previously submitted to the State Department of Education in accordance with other state or federal reporting requirements.~~

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

~~(C) To ensure timely issuance of the school report cards in accordance with the requirements of 70 O.S. § 1210.545, any data component verification or calculation verification for which a district fails to timely review and certify as accurate in accordance with the provisions of (A) or (B) of this subsection shall be deemed certified as accurate by the school district and districts shall not be permitted to request further corrections to the data.~~

(1) School sites shall be provided an opportunity to review all data and calculations used in the school accountability system.

(A) Initial data verification of the data used to calculate school accountability shall occur throughout the school year as data becomes available to the State Department of Education. School district accountability staff shall have the opportunity to perform data verification and confirm that data being used to calculate school performance grades are accurate prior to the review period required by (c)(1)(B) of this section. The school district shall have at least fifteen

(15) calendar days to review and request corrections to each new data component as it becomes available. No requests for changes to data shall be made after the expiration of the review period. For purposes of this paragraph only, a "new data component" means a data component that has not been previously submitted to the State Department of Education in accordance with other state or federal reporting requirements.

(B) Prior to the final release of school accountability results or designations, a school district shall have at least ten (10) calendar days to certify the calculation of accountability indicators. If the school district determines that a different accountability score should be assigned because of the omission of certified student data, a data miscalculation, or business rule misapplication, school districts may submit a request in writing for a review of the data calculation to the State Department of Education using the process established by the Department. All evidence supporting the district's claim of a calculation error and documentation of all elements to be reviewed by the Department must be submitted within the time limits specified in this subsection. No request for review of the calculation shall be accepted after the expiration of the review period. Changes to the criteria, data, or process shall not be considered as part of this review.

(C) To ensure timely issuance of the school report cards in accordance with the requirements of 70 O.S. § 1210.545, any data component verification or calculation verification for which a district fails to timely review and certify as accurate in accordance with the provisions of (A) or (B) of this subsection shall be deemed certified as accurate by the school district and districts shall not be permitted to request further corrections to the data.

(2) At the end of the State Department of Education review process, the State Department of Education shall report to the State Board of Education the statewide list of accountability results and schools identified for comprehensive and targeted support and improvement.

~~(d) **Schools identified for support and improvement.** Schools that earn an F on the Oklahoma School Report Card and any high school with a graduation rate of 67% or lower will be identified for comprehensive support and improvement. Those identified for comprehensive support and improvement must include the lowest performing 5% of Title I schools as required under federal law. Schools that do not meet exit criteria as defined in Oklahoma's ESSA State Plan within three (3) years will be required to implement more rigorous interventions.~~

**(d) Limits on data used in accountability.**

(1) Data from all students not enrolled in a district for a full academic year shall be disaggregated and shall not be used to determine the accountability results of the district (with the exception of high school graduation rates), according to federal law. Data from all students not enrolled in a school site for a full academic year shall be disaggregated and shall not be used to determine the progress of the school site (with the exception of high school graduation rates), according to federal law. For purposes of accountability, a

student shall be considered a "Full Academic Year" (FAY) student if the student is enrolled within the first twenty (20) instructional days of the school's instructional year through and including the date defined by the State Department of Education pertinent to the specific measure (e.g., the beginning of the OSTP assessment period), without an enrollment lapse of ten (10) or more consecutive instructional days.

(2) For purposes of the Oklahoma School Accountability System, the data of all students who have been placed in a state juvenile facility by state law or court order, or students placed in a full time residential facility providing educational services to students by joint agreement with one or more school districts shall not be used to determine the accountability results of the site or the district of residence of the students. Instead their scores will be used in accountability calculations in one statewide "quasi-district".

~~**(e) Rewards for public elementary and secondary schools that reach academic performance targets.** Subject to the availability of funds, public elementary and secondary schools that reach academic performance targets shall be eligible for recognition by the State Board of Education.~~

**(e) Schools identified for support and improvement.** Schools that earn an F on the Oklahoma School Report Card and any high school with a graduation rate of 67% or lower will be identified for comprehensive support and improvement. Those identified for comprehensive support and improvement must include the lowest-performing 5% of Title I schools as required under federal law. Schools that do not meet exit criteria as defined in Oklahoma's ESSA State Plan within three (3) years will be required to implement more rigorous interventions.

~~**(f) Rewards for public elementary and secondary schools that reach academic performance targets.** Subject to the availability of funds, public elementary and secondary schools that reach academic performance targets shall be eligible for recognition by the State Board of Education.~~



**TITLE 210. STATE DEPARTMENT OF EDUCATION  
CHAPTER 25. FINANCE**

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 5. Budgeting and Business Management

Part 1. Implementation

210:25-5-4. Accounting [AMENDED]

**SUMMARY:**

This rule proposes a change to the deadlines for a statement of actual income and expenditures of the district or charter school for the fiscal year that ended the preceding June 30. In particular, this change would move the deadline for additional corrections from September 30 to November 1. Additionally, the rule proposes the removal of the further "good cause" second extension for districts, as moving the first extension deadline to November 1st would render the "good cause" statement unnecessary.

**AUTHORITY:**

State Board of Education; Okla. Const. art. XIII, § 5; 70 O.S. §§ 3-104, 5-135, 5-135.2

**COMMENT PERIOD:**

Written comments on the proposed rule(s) will be accepted from January 16, 2024, until 4:30 p.m. on February 20, 2024. Written comments in electronic form will be accepted during the open public comment period via email at [rules@sde.ok.gov](mailto:rules@sde.ok.gov). During the open public comment period, written comments may also be hand delivered to the agency during regular business hours or via regular mail to the individual at the address shown below under "Contact Person." Oral comments may be submitted for the record at the public hearing at the time, date, and place shown below.

**PUBLIC HEARING:**

A public hearing is scheduled for 10:00 a.m. on Tuesday, February 20, 2024, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Persons wishing to speak must sign in at the door of the State Board Room prior to the start of the hearing. Time limitations may be imposed on oral presentations to ensure that all persons who desire to make oral comments will have an opportunity to do so.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

N/A

**COPIES OF PROPOSED RULES:**

Copies of the proposed rule(s) may be obtained for review by the public from the Office of Legal Services, State Department of Education, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Electronic copies of proposed rules are also available for review thirty (30) days prior to the hearing on the State Department of Education Legal Services website at: <http://ok.gov/sde/administrative-rules>

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303(D), a Rule Impact Statement will be prepared and available for review at the Office of Legal Services, State Department of Education, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma on and after the date of publication of this Notice of Rulemaking Intent. A copy of the RIS will also be available on the State Department of Education Legal Services website at: <http://ok.gov/sde/administrative-rules>

**CONTACT PERSON:**



Bryan Cleveland, General Counsel, Office of Legal Services, State Department of Education, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599. Telephone number: (405) 522-6295.

## TITLE 210. STATE DEPARTMENT OF EDUCATION

### CHAPTER 25. FINANCE

#### SUBCHAPTER 5. BUDGETING AND BUSINESS MANAGEMENT

##### 210:25-5-4. Accounting [AMENDED]

(a) The financial structure of an Oklahoma public school district consists of various classifications as referenced in Oklahoma Administrative Code (OAC) 210:25-7-1, Oklahoma Cost Accounting System (OCAS). School District accounting systems shall be organized and operated on a basis that assures legal compliance by the recording and summarizing of financial transactions within funds, each of which is completely independent of any other. Each fund shall account for and continually maintain the identity of its revenues and expenditures. Financial transactions for purposes of this regulation and as referenced in 70 O.S. § 5-135.2 shall be defined as a detailed reporting of revenue within the Source of Revenue dimension. Revenue shall be reported to the bold codes within each of the following broad categories: District Source of Revenue, Intermediate Source of Revenue, State Source of Revenue, and Federal Source of Revenue. Expenditures shall be reported by the bold codes within the Function dimension as follows: Instruction, Support Services-Students, Support Services-Instructional Staff, Support Services-General Administration, Support Services-School Administration, Support Services-Central, Operation and Maintenance of Plant Services, Student Transportation Services, Child Nutrition Programs Operations, Community Services Operations and Facilities Acquisition and Construction Services. Additional dimensions for Revenue and Expenditures are coded to provide classification by Fiscal Year, Fund, Project Reporting, Object, Program, Subject, Job Classification, and Operational Unit, where applicable.

(b) Beginning July 1 but no later than September 1 of each year, every school district and charter school board of education shall prepare and submit to the State Department of Education, through the Oklahoma Cost Accounting System (OCAS), a statement of actual income and expenditures of the district or charter school for the fiscal year that ended the preceding June 30. The year-end financial report recording and summarizing all revenue and expenditure financial transactions will be completed and locked on or before September 1 of the applicable year. For purposes of the OCAS system, "locked" means that the data submitted has passed the system's initial edit checks and the district has **finalized** the submission. To assure the validity and accuracy of financial reporting and accounting, between September 1 and ~~September 30~~November 1 of each year, school districts and charter schools shall have the opportunity to review and make ~~show cause that review and make~~ corrections to the data submitted ~~are warranted~~. By November 1, the data submission shall be certified by the district superintendent or head of charter school. If the school district or charter school does not report any inaccuracies by ~~September 30~~November 1, the State Department of Education will rely on the data submitted and certified by the school district or charter school to be complete and closed. ~~Upon good cause demonstrated, between October 1 and December 1, a school district or charter school may appeal, in writing, to the State Department of Education for additional changes to the data. For purposes of this Subsection, "good cause" means that a miscalculation was made or that relevant data was omitted from the previously certified submission. The State Department of Education will review the appeal and, if it is determined good cause has been~~

~~demonstrated as defined in this Subsection, the identified changes to the previously certified data will be authorized.~~ Nothing in this Section shall preclude the State Department of Education or the State Board of Education from conducting regular or periodic reviews of school district or charter school financial records as authorized by law and ensuring a public school operates pursuant to the OCAS system.

(c) As referenced in 70 O.S. § 5-135.2, the State Department of Education shall reduce the monthly payment of a district's State Aid funds if the district is not operating pursuant to the OCAS system. Upon final determination, including but not limited to the process set forth in Subsection (b), the reduction of monthly payments shall begin with the first day that the school district or charter school was determined to not be operating in compliance with the OCAS system. The reduction may be waived by the State Board of Education if the school district or charter school can demonstrate that failure to operate pursuant to the OCAS system was due to circumstances beyond the control of the district or charter school, and that every effort is being made to operate in compliance with the OCAS system. Not operating pursuant to said system shall be defined as a district not:

(1) accurately recording and reporting all revenue and expenditures by applicable OCAS bold code dimensions;

(2) submitting OCAS financial records on time and as required, including as provided in Subsection (b), via the Web-based system of all recorded and reported revenue and expenditures by applicable OCAS bold code dimensions to the State Department of Education;

(3) ascertaining that current and accurate applicable OCAS codes are being utilized as updated and maintained by the State Department of Education;

(4) complying with regulations as outlined in OAC 210:25-3-7 (Financial information processing), OAC 210:25-5-10 (The encumbrance clerk), OAC 210:25-5-11 (The school district treasurer), or OAC 210:25-5-13 (School activity fund);

(5) reconciling all recorded and reported revenue and expenditures by applicable OCAS bold code dimensions by balancing data with bank receipts and statements, purchase orders, warrant registers, investment ledgers, and all balance sheet accounts; and

(d) For appropriated funds, all indebtedness should be encumbered (have a purchase order issued and be recorded) on the day the obligation is incurred, rather than when it becomes due, and supporting documentation should be provided for all indebtedness.

(e) Upon the approval of the State Board of Education, school districts may make capital expenditures up to a maximum amount of \$50,000 (fifty thousand dollars) during the current fiscal year within the General Fund pursuant to 70 O.S. ~~2001~~, § 1-117, if the school district meets the established criteria as outlined in the Statutes. School districts shall be voting the maximum five (5) building fund mills. General Fund monies authorized by the State Board of Education for expenditures must be expended within the current fiscal year. Any such funds

encumbered as of June 30th of the current fiscal year, but not expended by November 15th of the subsequent fiscal year, shall lapse and return to the original purpose of such funds.

(f) A school district shall be authorized to utilize general fund monies for capital expenditures, in addition to the amount specified in subsection ~~(e)~~(e), pursuant to the provisions of 70 O.S. ~~2001~~, § 1-117.

(g) Inventory cards or data processing records shall be kept on all equipment and removable fixtures, showing purchase order number when known, date of purchase (when known, if not known an estimated date shall be used), amount of purchase (if known, if not known present value must be estimated) a description of the item, the serial number (when applicable) and the location of the item. New purchases shall be included in the records on the same day in which they are physically received by the district. Disposed equipment must be removed from the records on the disposal date and a detailed description of the circumstances which results in the disposal recorded. Disposed equipment should not be included in the records of future years.

**Public Comment Summary**  
**State Department of Education Proposed Permanent Rule Changes**

**Chapter 25. Finance**

**Subchapter 5. Budgeting and Business Management**

**210:25-5-4. Accounting [AMENDED]**

<b>Summary of Public Comment</b>	<b>Agency Response</b>
<p>Some commenters expressed concern that the new rule would require they finalize their data on September 1 without extensions.</p>	<ul style="list-style-type: none"> <li>• The commenters appear to misunderstand the amendment. The change would move from two revision periods (month of September, and then October through December) to one revision period (September through November). Every district that needs an extension would get one until November 1 instead of October 1 at the outset.</li> <li>• The existing October 1 date appears unworkable because many districts cannot meet it. Last year, 107 districts needed to reopen their OCAS data after October 1, and the vast majority of those completed any changes by November 1. The altered deadline recognizes that many districts make their changes in October, not September.</li> </ul>
<p>One commenter expressed concern that the agency has been creating additional work in OCAS reporting that make deadlines difficult.</p>	<ul style="list-style-type: none"> <li>• This year is the second year that the agency has requested that school districts match their personnel records with their reported administrative personnel in OCAS. This reconciliation of records is both a reasonable request and not part of the proposed rule either way.</li> </ul>
<p>Some commenters requested that the “for cause” restriction be struck, in whole or in part, for the correction period.</p>	<ul style="list-style-type: none"> <li>• The agency has made the requested change.</li> </ul>



**TITLE 210. STATE DEPARTMENT OF EDUCATION**

**CHAPTER 35. STANDARDS FOR ACCREDITATION OF ELEMENTARY, MIDDLE LEVEL, SECONDARY, AND CAREER AND TECHNICAL SCHOOLS**

**SUBCHAPTER 3. STANDARDS FOR ELEMENTARY, MIDDLE LEVEL, SECONDARY, AND CAREER AND TECHNOLOGY SCHOOLS**

**PART 5. STANDARD III: ADMINISTRATION AND ORGANIZATION**

**210:35-3-48. Local board responsibilities/staff relationships [AMENDED]**

(a) The local board shall have the responsibility for the operation of the school, and for performance of their powers and duties as specified in statute. [Reference: 70:5-117; SL Section 65 Powers and Duties]

(1) The local board shall be responsible for developing and adopting effective policies for the operation of the school(s), which must include those policies required by statute. The staff, students, and community shall be involved in the development of the policies which relate to them. The local board's policies shall be prepared in printed form and shall be made available to staff, students, and community.

(2) The governing local board shall be responsible for the selection and evaluation of its chief executive officer who shall be the superintendent or other designated head of the school system.

~~(3) The local board and its individual members shall refrain from involvement in or interference with the administrative functions of the school.~~

(3) Individual board members shall not engage in transactions for the school or the district without prior and specific authorization of the entire board.

(4) Local board meetings shall be announced sufficiently in advance to give proper notice to board members, staff, and community.

(5) Prior to each local board meeting, the superintendent, in cooperation with the board, shall prepare an agenda for the meeting which is in compliance with the Oklahoma Open Meeting Act. Copies of the agenda shall be available to the public.

(6) Local board meetings shall be open to the public, except for executive sessions which shall be limited to topics prescribed by statute.

(7) The local board shall transact official business with professional staff members and other school employees only through the superintendent. The board shall adopt procedures which permit hearing viewpoints of the staff, students, and community during board meetings.

(A) All school equipment, books, and supplies purchased with federal funds shall be labeled or designated when delivered to the school. This labeling shall include the title of the Act and the year purchased.

(B) Lack of harmony in the teaching staff, board, or community, when such conditions affect the quality and effectiveness of instruction and climate of the school, shall be considered sufficient cause for not accrediting a school. Political and special interest groups or individuals shall not interfere in the operation of the schools.

(C) The local board of education shall adopt policies and procedures pertaining to admission, placement, promotion, retention, and graduation requirements for students which shall be disseminated to students and parents/guardians.

(D) For any instances in which the school charges tuition, as provided by law, the school shall have a policy, approved by the local board, regarding procedures to be used in the refunding of tuition if the student withdraws from the school.

~~(4) Individual board members shall not engage in transactions for the school or the district without prior and specific authorization of the entire board.~~

~~(5) Local board meetings shall be announced sufficiently in advance to give proper notice to board members, staff, and community.~~

~~(6) Prior to each local board meeting, the superintendent, in cooperation with the board, shall prepare an agenda for the meeting which is in compliance with the Oklahoma Open Meeting Act. Copies of the agenda shall be available to the public.~~

~~(7) Local board meetings shall be open to the public, except for executive sessions which shall be limited to topics prescribed by statute.~~

~~(8) The local board shall transact official business with professional staff members and other school employees only through the superintendent. The board shall adopt procedures which permit hearing viewpoints of the staff, students, and community during board meetings.~~

~~(A) All school equipment, books, and supplies purchased with federal funds shall be labeled or designated when delivered to the school. This labeling shall include the title of the Act and the year purchased.~~

~~(B) Lack of harmony in the teaching staff, board, or community, when such conditions affect the quality and effectiveness of instruction and climate of the school, shall be considered sufficient cause for not accrediting a school. Political and special interest groups or individuals shall not interfere in the operation of the schools.~~

~~(C) The local board of education shall adopt policies and procedures pertaining to admission, placement, promotion, retention, and graduation requirements for students which shall be disseminated to students and parents/guardians.~~



~~(D) For any instances in which the school charges tuition, as provided by law, the school shall have a policy, approved by the local board, regarding procedures to be used in the refunding of tuition if the student withdraws from the school.~~

(b) The Elementary superintendent will be responsible in an Elementary school district.

(1) The chief executive officer of an independent school district or Elementary superintendent of an Elementary school district shall be expected to attend all meetings of the board of education. The superintendent may be excused from a board meeting during the time his or her employment or salary is under consideration.

(2) The superintendent shall be responsible for developing and administering rules and procedures in accord with local board policies for proper operation of the schools. The staff, students, and community shall be involved, when appropriate, in the development of the rules and procedures which relate to them. The superintendent shall keep the local board informed of the status of all aspects of the school's operation.

(3) The superintendent shall be responsible for the selection, assignment, and evaluation of school employees, the management of the buildings and equipment, and the administration and supervision of the educational and communications program. The chief executive officer shall prepare, or have prepared, and submit annually for the board's consideration a budget of anticipated income and expenditures.

(c) The working relationships among the principal and the staff shall be such as to facilitate the effective administration and operation of the educational program.

**TITLE 210. STATE DEPARTMENT OF EDUCATION  
CHAPTER 35. STANDARDS FOR ACCREDITATION OF ELEMENTARY, MIDDLE  
LEVEL, SECONDARY, AND CAREER AND TECHNOLOGY SCHOOLS**

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 3. Standards for Elementary, Middle Level, Secondary, and Career and  
Technology Schools

Part 5. Standard III: Administration and Organization

210:35-3-48. Local board responsibilities/staff relationships [AMENDED]

**SUMMARY:**

This amendment removes an illegal direction to local boards regarding how they oversee the administrative functions of their school.

**AUTHORITY:**

State Board of Education; Okla. Const. art. XIII, § 5; 70 O.S. § 3-104; 70 O.S. § 5-117

**COMMENT PERIOD:**

Written comments on the proposed rule(s) will be accepted from January 16, 2024, until 4:30 p.m. on February 20, 2024. Written comments in electronic form will be accepted during the open public comment period via email at [rules@sde.ok.gov](mailto:rules@sde.ok.gov). During the open public comment period, written comments may also be hand delivered to the agency during regular business hours or via regular mail to the individual at the address shown below under "Contact Person." Oral comments may be submitted for the record at the public hearing at the time, date, and place shown below.

**PUBLIC HEARING:**

A public hearing is scheduled for 10:00 a.m. on Tuesday, February 20, 2024, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Persons wishing to speak must sign in at the door of the State Board Room prior to the start of the hearing. Time limitations may be imposed on oral presentations to ensure that all persons who desire to make oral comments will have an opportunity to do so.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

N/A

**COPIES OF PROPOSED RULES:**

Copies of the proposed rule(s) may be obtained for review by the public from the Office of Legal Services, State Department of Education, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Electronic copies of proposed rules are also available for review thirty (30) days prior to the hearing on the State Department of Education Legal Services website at: <http://ok.gov/sde/administrative-rules>

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303(D), a Rule Impact Statement will be prepared and available for review at the Office of Legal Services, State Department of Education, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma on and after the date of publication of this Notice of Rulemaking Intent. A copy of the RIS will also be available on the State Department of Education Legal Services website at: <http://ok.gov/sde/administrative-rules>

**CONTACT PERSON:**

Bryan Cleveland, General Counsel, Office of Legal Services, State Department of Education, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599. Telephone number: (405) 522-6295.

**Public Comment Summary**

**State Department of Education Proposed Permanent Rule Changes**

**Chapter 35. Standards for Accreditation of Elementary, Middle Level, Secondary, and Career and Technology Schools**

**Subchapter 3. Standards for Elementary, Middle Level, Secondary, and Career and Technology Schools**

**210:35-3-48. Local board responsibilities/staff relationships [AMENDED]**

<b>Summary of Public Comment</b>	<b>Agency Response</b>
Several commenters opposed the rule. Many of those suggested that if the change were approved, local Boards would interfere in the routine administration of districts and that districts needed to be protected from such interference.	<ul style="list-style-type: none"><li>• The agency sees nothing in the comments that provides a legal basis for the rule. Accordingly, the agency respectfully maintains that the rule provision at issue exceeds the State Board’s authority and should be repealed on that basis.</li></ul>



**TITLE 210. STATE DEPARTMENT OF EDUCATION  
CHAPTER 35. STANDARDS FOR ACCREDITATION OF ELEMENTARY, MIDDLE  
LEVEL, SECONDARY, AND CAREER AND TECHNICAL SCHOOLS**

**SUBCHAPTER 3. STANDARDS FOR ELEMENTARY, MIDDLE LEVEL,  
SECONDARY, AND CAREER AND TECHNOLOGY SCHOOLS**

**PART 17. STANDARD IX: FINANCIAL SUPPORT**

**210:35-3-167. School District Transparency Act [NEW]**

(a) The State Department of Education shall annually review whether school district websites comply with the requirements of the School District Transparency Act, 70 O.S. § 5-135.4.

(b) Any school district that the Department finds is out of compliance with the School District Transparency Act shall receive notice and be given thirty days to correct the identified error.

(c) A school district that receives a notice under this rule and fails to comply shall receive a deficiency for that failure.

**TITLE 210. STATE DEPARTMENT OF EDUCATION  
CHAPTER 35. STANDARDS FOR ACCREDITATION OF ELEMENTARY, MIDDLE  
LEVEL, SECONDARY, AND CAREER AND TECHNICAL SCHOOLS  
RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 3. Standards for Elementary, Middle Level, Secondary, and Career and  
Technology Schools

Part 17. Standard IX: Financial Support

210:35-3-167. School District Transparency Act [NEW]

**SUMMARY:**

This rule would deem a school deficient in their accreditation status should the State Board of Education find that the district in question is not compliant with making their financial information publicly accessible on their website. The rule also offers a timeline for corrective action before State Board review.

**AUTHORITY:**

State Board of Education; Okla. Const. art. XIII, § 5; 70 O.S. §§ 3-104, 3-104.3, 3-104.4, 5-135.4.

**COMMENT PERIOD:**

Written comments on the proposed rule(s) will be accepted from January 16, 2024, until 4:30 p.m. on February 20, 2024. Written comments in electronic form will be accepted during the open public comment period via email at [rules@sde.ok.gov](mailto:rules@sde.ok.gov). During the open public comment period, written comments may also be hand delivered to the agency during regular business hours or via regular mail to the individual at the address shown below under "Contact Person." Oral comments may be submitted for the record at the public hearing at the time, date, and place shown below.

**PUBLIC HEARING:**

A public hearing is scheduled for 10:00 a.m. on Tuesday, February 20, 2024, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Persons wishing to speak must sign in at the door of the State Board Room prior to the start of the hearing. Time limitations may be imposed on oral presentations to ensure that all persons who desire to make oral comments will have an opportunity to do so.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

N/A

**COPIES OF PROPOSED RULES:**

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**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303(D), a Rule Impact Statement will be prepared and available for review at the Office of Legal Services, State Department of Education, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma on and after the date of publication of this Notice of Rulemaking Intent. A copy of the RIS will also be available on the State Department of Education Legal Services website at: <http://ok.gov/sde/administrative-rules>

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**Public Comment Summary**

**State Department of Education Proposed Permanent Rule Changes**

**Chapter 35. Standards for Accreditation of Elementary, Middle Level, Secondary, and Career and Technology Schools**

**Subchapter 3. Standards for Elementary, Middle Level, Secondary, and Career and Technology Schools**

**Part 17. Standard IX: Financial Support**

**210:35-3-167. School District Transparency Act [NEW]**

<b>Summary of Public Comment</b>	<b>Agency Response</b>
Some commenters opposed the rule on the ground that the agency cannot enforce this statute.	<ul style="list-style-type: none"><li>• Accreditation statutes require that the agency assess compliance with state law. The agency is entitled to issue deficiencies for violations of state law without this rule. The change here is that the rule adds a notice requirement before the deficiency issues, which assists school districts with compliance.</li></ul>