

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

SUBCHAPTER 2. PARENTAL RIGHTS [NEW]

210:10-2-1. Parents' rights concerning their minor children. [NEW]

(a) Purpose.

The Parents' Bill of Rights instructs that parents have broad and inalienable rights concerning their minor children and that these rights are reserved to parents without obstruction or interference by governmental entities. 25 O.S. §§ 2001-2005. Parents' rights include the right to direct the education of their minor children, to object to public schools imposing unwanted instruction on questions of sex, morality, or religion; and additional rights applicable to minor children within public schools of this state. This Subchapter (2) seeks to implement and protect the rights of Oklahoma's parents concerning the education of their children and to otherwise exercise the State Board of Education's authority to adopt policies and make rules for public schools. Okla. Const. art. XIII, § 5; 70 O.S. § 3-104(A)(1).

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

For the purposes of this Subchapter (2):

- (a) "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.
- (b) "Course" means any program or activity where instruction or activities tied to the instruction are provided by or within a School ~~District~~district
- (c) "Information" means any form of information including but not limited to, ~~identity~~Identity information.
- (d) "Identity information" means information including but not limited to,
(1) any names or pronouns used by a student at school
(2) any social transition or other transition to a gender that differs from the student's sex
- (e) "Sex" means the physical condition of being male or female based on genetics and physiology, as identified on the individual's original birth certificate;
- (f) "Parent" means the natural or adoptive parent or legal guardian of a minor child.
- (g) "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.

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

(a) Parental rights regarding 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 ~~in whole or in part~~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, ~~to the extent reasonably feasible~~, it honors any ~~partial objections~~requests within the meaning of paragraph (a)(~~3~~2) of this section ~~without~~

excluding students from materials not subject to the partial objection 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 regarding information concerning their children.

(1) No School district, and no employee of the district or its schools, 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 or its employees regarding material changes reasonably expected to be important to ~~parents~~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.

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

(a) Procedure.

(1) If a Parent or guardian alleges a violation of 70 O.S. § 11-105.1, 25 O.S. § 2002(C), 25 O.S. § 2003, or OAC 210:10-2-3, the Parent or guardian shall provide a written complaint to the State Department of Education that summarizes the alleged violation, including the time, date, and location of the violation and the identity of any person involved. The complaint must also include a copy of any complaint to the School District and any response.

(2) Within fourteen days of receiving a complaint, the Department shall notify the School district of the allegation and provide an opportunity for response.

(3) The Department shall then conduct an investigation to determine whether a violation has occurred. The Department's Legal Services staff shall notify the Parent or guardian and the School district of the results of the investigation.

(4) If the Department concludes that a violation has occurred or may have occurred, the School district shall have fourteen days to request a hearing before the Board. The Board shall review the Complaint and the record using a preponderance of the evidence standard, may take additional evidence at its discretion, and shall publish an order with its findings of fact and conclusions of law.

(b) Penalties.

(1) If the State Board of Education makes a finding of willful noncompliance with the provisions of 70 O.S. § 11-105.1, 25 O.S. § 2002(C), 25 O.S. § 2003, or OAC 210:10-2-3, the State Board of Education shall alter the accreditation status of the school district at issue to either Accredited With Warning or Accredited With Probation as classified in OAC 210:35-3-201. The Board shall adjust the status to Accredited With Probation if the School district is already Accredited With Warning.

(b2) If the State Board of Education makes a finding of negligent or reckless noncompliance with the provisions of 70 O.S. § 11-105.1, 25 O.S. § 2002(C), 25 O.S. § 2003, or OAC 210:10-2-3, the State Board of Education shall require the school district at issue to comply

with this rule under such conditions and within such reasonable timeframes as ordered by the State Board of Education.

(e3) Failure to comply with an order of the State Board of Education under paragraph (b)(2) of this section shall constitute willful noncompliance within the meaning of paragraph (ab)(1) of this section.

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CHAPTER 10. SCHOOL ADMINISTRATION AND INSTRUCTIONAL SERVICES**

SUBCHAPTER 2. PARENTAL RIGHTS [NEW]

210:10-2-1. Parents' rights concerning their minor children. [NEW]

(a) Purpose.

The Parents' Bill of Rights instructs that parents have broad and inalienable rights concerning their minor children and that these rights are reserved to parents without obstruction or interference by governmental entities. 25 O.S. §§ 2001-2005. Parents' rights include the right to direct the education of their minor children, to object to public schools imposing unwanted instruction on questions of sex, morality, or religion; and additional rights applicable to minor children within public schools of this state. This Subchapter (2) seeks to implement and protect the rights of Oklahoma's parents concerning the education of their children and to otherwise exercise the State Board of Education's authority to adopt policies and make rules for public schools. Okla. Const. art. XIII, § 5; 70 O.S. § 3-104(A)(1).

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

For the purposes of this Subchapter (2):

- (a) "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.
- (b) "Course" means any program or activity where instruction or activities tied to the instruction are provided by or within a School district
- (c) "Information" means any form of information including but not limited to, Identity information.
- (d) "Identity information" means information including but not limited to,
 - (1) any names or pronouns used by a student at school
 - (2) any social transition or other transition to a gender that differs from the student's sex
- (e) "Sex" means the physical condition of being male or female based on genetics and physiology, as identified on the individual's original birth certificate;
- (f) "Parent" means the natural or adoptive parent or legal guardian of a minor child.
- (g) "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.

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

(a) Parental rights regarding 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 regarding information concerning their children.

(1) No School district, and no employee of the district or its schools, 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 or its employees 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.

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

(a) Procedure.

(1) If a Parent or guardian alleges a violation of 70 O.S. § 11-105.1, 25 O.S. § 2002(C), 25 O.S. § 2003, or OAC 210:10-2-3, the Parent or guardian shall provide a written complaint to the State Department of Education that summarizes the alleged violation, including the time, date, and location of the violation and the identity of any person involved. The complaint must also include a copy of any complaint to the School District and any response.

(2) Within fourteen days of receiving a complaint, the Department shall notify the School district of the allegation and provide an opportunity for response.

(3) The Department shall then conduct an investigation to determine whether a violation has occurred. The Department's Legal Services staff shall notify the Parent or guardian and the School district of the results of the investigation.

(4) If the Department concludes that a violation has occurred or may have occurred, the School district shall have fourteen days to request a hearing before the Board. The Board shall review the Complaint and the record using a preponderance of the evidence standard, may take additional evidence at its discretion, and shall publish an order with its findings of fact and conclusions of law.

(b) Penalties.

(1) If the State Board of Education makes a finding of willful noncompliance with the provisions of 70 O.S. § 11-105.1, 25 O.S. § 2002(C), 25 O.S. § 2003, or OAC 210:10-2-3, the State Board of Education shall alter the accreditation status of the school district at issue to either Accredited With Warning or Accredited With Probation as classified in OAC 210:35-3-201. The Board shall adjust the status to Accredited With Probation if the School district is already Accredited With Warning.

(2) If the State Board of Education makes a finding of negligent or reckless noncompliance with the provisions of 70 O.S. § 11-105.1, 25 O.S. § 2002(C), 25 O.S. § 2003, or OAC 210:10-2-3, the State Board of Education shall require the school district at issue to comply

with this rule under such conditions and within such reasonable timeframes as ordered by the State Board of Education.

(3) Failure to comply with an order of the State Board of Education under paragraph (b)(2) of this section shall constitute willful noncompliance within the meaning of paragraph (b)(1) of this section.

Public Comment Summary
State Department of Education Proposed Permanent Rule Changes

Chapter 10. School Administration and Instructional Services
Subchapter 2. Parental Rights [NEW]

- 210:10-2-1. Parents' rights concerning their minor children. [NEW]**
210:10-2-2. Definitions. [NEW]
210:10-2-3. Requirements. [NEW]
210:10-2-4. Noncompliance. [NEW]

Summary of Public Comment	Agency Response
109 additional commenters agree with the rule as the rights of parents must be recognized. Commenters support the direction of the agency.	N/A
<p>Commenter believes rule is ill-advised/flawed and should not be enacted. Believes the issue should be left to local school boards. Also states that the rule creates an unfunded requirement for schools and a greater burden when teaching courses involving morality and religion. Lastly, the commenter dislikes the enforcement mechanism of impacting a district's accreditation status over a "culture war issue".</p>	<ul style="list-style-type: none"> • The agency agrees that local districts are best positioned to first address protecting minor students from pornographic material. The rule encompasses this view by tasking local districts with enforcing compliance rather than creating a one-size-fits-all approach. However, the agency will not allow districts to remain complacent or inactive on issues of student safety and parents' rights, which are already outlined and protected in law. • The agency agrees that parents should be the final arbiters of what content their children are exposed to at school. The rule provides for parent input and does not disapprove any action or instruction approved by parents. • Accreditation is the proper enforcement method available to the State Board of Education. Comments that a rule should not be enforced as an accreditation standard are truly just comments that the rule should not be enforced. Because the rule is appropriate, it should have an enforcement mechanism. • The agency does not take any action regarding the accreditation of a school district lightly. As a result, the rule focuses on helping schools with compliance, providing clearer limits than most past rules by linking punitive action to willful noncompliance while focusing only on corrective action for

	<p>violations that are not willful. However, in the face of willful noncompliance of a school district to honor parental rights, the rules should enforce parental rights.</p>
<p>Commenter believes the rule is punitive to public schools and seeks to control the "minds and bodies" of citizens and constitutes censorship of LGBTQ topics. Commenter believes Oklahoma's high teen birthrate would best be addressed by more comprehensive sex education per a CDC report. Commenter urges the agency vote against the rules as students need this education to be healthy and thrive.</p>	<ul style="list-style-type: none"> • The rule does not ban any topic. As a result, the agency disagrees with the assertion it is trying to control the "minds and bodies" of students. Instead, the rule protects the expressed rights of parents to have a determining role in what conversations, materials and instruction can influence the mind or body of their student. • Because the rule does not ban any topic, it also does not ban sex education. Instead, it simply ensures the right of parents to receive advance written notice of instruction on such topics and to inspect materials that will be used. Students are authorized to attend portions of the instruction that are not objected to by the parent.
<p>Commenter recommends the agency rejects the rule since research shows a positive correlation between sex education and student health and academic outcomes.</p>	<ul style="list-style-type: none"> • This rule does not ban sex education. Instead, the rule simply ensures the right of parents to receive advance written notice of instruction on such topics and to inspect materials that will be used. Additionally, students are authorized to attend portions of the instruction that are not objected to by the parent.
<p>Commenter states the rule's requirements are unacceptable. States that sex education is not pornographic and that given the proliferation of online pornography, sex should be discussed at school so that students do not form opinions on the topic based on pornography. Correlates the fact that Oklahoma is one of 21 states without required sex education with the state's high teen birth rate. Feels that surveying all students to determine any changes regarding things like gender identity coupled with the duty to inform parents is an impossible and unnecessary regulation.</p>	<ul style="list-style-type: none"> • The rule does not ban any topic. The agency expresses no view on whether schools should have conversations or instructions on these sensitive and occasional explicit topics, as the rule only proposes that these topics need consent of parents. The parents at any school district will have the final say on whether their particular school should have such conversations or instructions. • This rule does not ban sex education. Instead, the rule ensures the right of parents to receive advance written notice of instruction on such topics and to inspect materials that will be used. • The agency disagrees with the assertion the rule requires schools to "survey" all students regarding identity information. Rather, the rule specifies that "any information known to the School district or its employees" be

	<p>relayed to parents. Such a knowledge standard encompasses actions schools already take, such as advising parents when a student becomes physically ill during the course of the school day. A knowledge standard does not impose any requirement to gain that knowledge.</p>
<p>Commenter feels the rule is unnecessary and is political posturing.</p>	<ul style="list-style-type: none"> • The agency disagrees with the assertion that providing meaningful implementation of State law regarding parents’ rights is unnecessary. Instead, rules provide clearer guidance on what the Board expects for compliance with State law instead of leaving the Board’s enforcement of state law to a case-by-case evaluation. Providing concrete guidelines concerning the Parents' Bill of Rights for districts will help districts comply with state law.
<p>Commenter commends the agency for proposing a rule that is common sense, productive, and that will promote better outcomes in public schools.</p>	<p>N/A</p>
<p>1510 commenters cite a study by the Trevor Project that found nonbinary youth who reported acceptance from teachers and peers had lower odds of suicide and that an accepting adult can lower odds of suicide by 40%. Commenters feel the rule would violate trust between students and school staff by outing LGBTQ students which is unsafe for students. State the rules were not developed in accordance with best practices and put students at risk for harm, discrimination, and homelessness. Ask that the rule not be adopted.</p>	<ul style="list-style-type: none"> • The agency disagrees with the assertion that anything in the rule requires teachers or school communities at large to be unaccepting of students as individuals. Rather, the rule simply requires that material changes to a student's health, social, or psychological development be disclosed to parents. The agency recognizes that school employees play an important role in ensuring the wellbeing of students. However, parents are best positioned to help their own children and should be made aware of any developments that could impact their child's physical or mental health. • The agency disagrees with the assertion that the rule promotes distrust between students and teachers. Students may still confide in teachers, but not when the intent is to withhold any information shared from the student's parent. In instances where a school employee suspects or is informed that a student is being abused, the employee already has a duty to report. • There is no credible evidence showing a causal link between suicide and gender

	<p>identity issues. To the contrary, the presence of correlative evidence but the lack of causation evidence suggests that professionals and activists encouraging students into LGBTQ identities without informing their parents are unduly influencing suicidal or mentally troubled students. Including parents in the discussion helps separate true gender identity issues from improper influence on students with other mental health issues.</p> <ul style="list-style-type: none"> • The agency also particularly rejects the percentage offered by the commenters as misinformation. No credible study shows a suicide rate close to that number, and the commenters reference an undefined “odds” measurement because they lack credible data underlying their assertion. • The Parents’ Bill of Rights, which the rule would implement, prohibits a public employee (e.g., teachers) from encouraging or coercing a student to withhold information from the student's parent(s). The rule properly balances the role of parents and teachers in line with state law because it prevents teachers from leveraging trust in a way that is harmful to familial relationships.
<p>Commenter has "disgust and contempt" for the rule requirement for school personnel to relay material changes to a student's health, social, or psychological development, to include "identity information", to parents as this will put students in danger. States that someone's identity is intrinsic to their being and that the rule is targeting the LGBTQ community and should be rejected.</p>	<ul style="list-style-type: none"> • The agency recognizes that school employees play an important role in ensuring the wellbeing of students. However, parents are best positioned to help their own children and should be made aware of any developments that could impact their child's physical or mental health. In addition, the commenter’s preference to prioritize school employees over parents is already rejected in state law. • The agency disagrees with the assertion that the rule would endanger students because withholding key health information from parents prevents them from taking appropriate action to ensure their student's wellbeing. In instances where a school employee suspects or is informed that a student is being abused, the employee already has a duty to report.

<p>Commenter asks the rules be disapproved as they would prohibit students from being their true selves.</p>	<ul style="list-style-type: none"> • The agency disagrees with the assertion that anything in the rule would prohibit students from expressing individuality. Rather, the rule simply requires that material changes to a student's health, social, or psychological development be disclosed to parents.
<p>Commenter "has concerns" regarding the agency's authority to promulgate rules in any area where express authority has not been granted by the Legislature. Commenter also requested the addition of language to the rule to add greater specificity regarding how allegations, investigations should be handled to ensure due process to school districts. The commenter states that the rule is does not specify what constitutes "appropriate disciplinary action" that districts would be charged to initiate.</p>	<ul style="list-style-type: none"> • The agency disagrees that the Board lacks authority to adopt this rule. The Oklahoma Constitution vests the Board with the executive authority over schools. In addition, the Oklahoma Legislature has provided that the Board shall make rules for the operation of the public school system of the state, including accreditation rules that adhere to legislative standards and directions. Implementing the state statutes in the Parents' Bill of Rights is consistent with both sources of the Board's authority. • The agency agrees that greater specificity on the review of allegations would improve the rule. The agency has largely adopted the requested changes, with slight modifications to timing, to precise process, and to the designated staff for addressing complaints. • The agency disagrees that "appropriate disciplinary action" requires further definition. Any school that is taking disciplinary action to enforce these rules cannot be in willful violation of these rules. Accordingly, the corrective action plans contemplated for any disagreements between the Board and a local district's enactment would adequately adjust any inappropriate disciplinary action without penalty.
<p>Commenter strongly supports the proposed rules as written.</p>	<p>N/A</p>
<p>Commenter states she met with her school district's psychology team to review and discuss the proposed rule. The team recognizes the intent of the rule to empower parents/guardians in the education of their children but has concerns the rule would conflict with the ethical standards of the National</p>	<ul style="list-style-type: none"> • The agency agrees that the rule, and pertinent sections of the Parents' Bill of Rights, would likely conflict with the standards of out-of-state associations. Unlike State law or administrative rule, guidance from professional associations is non-binding. Additionally, the fact that the non-binding guidance conflicts with state law confirms that

<p>Association of School Psychologists and the American School Counselor Association. Commenter requests that the rule be amended to only require disclosure of information needed to prevent serious and foreseeable harm to the student or others.</p>	<p>a rule is necessary to address the potential conflict in this area.</p> <ul style="list-style-type: none"> • The agency will not be implementing the recommended amendment because the duty for school staff to disclose information to prevent harm to students or others already exists in law (70 O.S. § 24-159). The rule addresses the additional requirements of the Parents’ Bill of Rights, which exceed the narrow limits of § 24-159.
<p>Commenter requested the following amendments to the rule:</p> <ul style="list-style-type: none"> • Delete enforcement mechanism for State Board of Education and have all investigations, disciplinary proceedings and other determinations be made by the local school district. • Eliminate reference to “negligent or reckless” with regards to noncompliance. 	<ul style="list-style-type: none"> • Accreditation is the proper enforcement method available to the State Board of Education. Comments that a rule should not be enforced as an accreditation standard are truly just comments that the rule should not be enforced at all. Because the rule is appropriate, it should have an enforcement mechanism. • Board enforcement does not prevent local investigation. To the contrary, the rule leaves investigation decisions largely to the local school districts and does not penalize the accreditation of any district that seeks to comply through its own methods. • The agency does not take any action regarding the accreditation of a school district lightly. As a result, the rule focuses on helping schools with compliance, providing clearer limits than most past rules by linking punitive action to willful noncompliance while focusing only on corrective action for violations that are not willful. However, in the face of willful noncompliance of a school district to honor parental rights, the rules should enforce parental rights.
<p>Commenter strongly opposes the rule as it would undermine trust between students and teachers and increase the risk of self-harm. States the rule constitutes scorn rather than compassion.</p>	<ul style="list-style-type: none"> • The agency disagrees with the assertion that the rule promotes distrust between students and teachers. Students may still confide in teachers, but not when the intent is to withhold any information shared from the student's parent. In instances where a school employee suspects or is informed that a student is being abused, the employee already has a duty to report. • The agency disagrees with the overwrought assertion. The rule simply ensures the rights

	of parents to be advised of information regarding the health and wellbeing of their child, consistent with state law.
Commenter asks that the rules be adopted as parents need reasonable security that their child will not be coerced to conceal topics related to sexual identity.	N/A
Commenter alleges the rule constitutes the State Superintendent wanting to impose his will rather than the will of the Board and that the provisions will be cumbersome and difficult.	<ul style="list-style-type: none"> • The agency disagrees with the assessment that the rules, if adopted by the State Board, of which the Superintendent is only one vote of the total seven, could constitute anything other than the will of the Board as a whole. • The agency disagrees that the rules will impose an undue burden on schools. Districts already have many policies in place to incorporate parents in the education of their children, and this rule largely ensures enforcement of these existing requirements.
Commenter supports the rules to push back on the grooming of young children by authority figures who would use their positions to sexualize minors without their parents' knowledge.	N/A
Commenter agrees with the rule and expects parents be informed by schools of any curriculum or information taught that could violate Oklahoma's conservative values.	N/A
Commenter asks the agency to put students first and not advance the rule	<ul style="list-style-type: none"> • The agency will always put parents and students first, and therefore proposed the rule.
Commenter opposes the rule upon the belief it will institute a spy ring of informants to report on public schools.	<ul style="list-style-type: none"> • The agency disagrees that the rules would establish a spy ring or informant network to report on public schools apart from reports the agency regularly receives from teachers and parents.
Commenter views it as the agency's duty to protect students by adopting the rule.	N/A
Commenter supports the proposed rules. As a member of a home school family, the commenter believes public school parents should also be entitled to the same rights,	N/A

<p>ensuring their children are being educated in a way that supports the parents' values.</p>	
<p>Commenter alleges rule will cause students " to start calling each other "gay" to get each other in trouble".</p>	<ul style="list-style-type: none"> • The agency disagrees that the rule will have this impact because child play is not reasonably construed as within the rule.
<p>Commenter alleges her 4th grade niece was provided a worksheet at school to identify her pronouns and was instructed not to inform the student's parents. The student's mother did not speak out for fear of retaliation by the school.</p>	<p>N/A</p>
<p>Commenter states that children "NEED to be able to read about Gay and Transgender Subjects" in the name of inclusivity.</p>	<ul style="list-style-type: none"> • Like the Legislature has stated, the agency believes that parents, not school officials, should be the arbiters of what children need to read with regards to sex, morality, or religion.
<p>Commenter states the rule will harm LGBTQ+ students according to a GLSEN survey that indicates students who have supportive school staff have lower negative mental health outcomes. Believes the rule will cause confusion and distrusts between students and educators.</p>	<ul style="list-style-type: none"> • There is no credible evidence showing a causal link between suicide and gender identity issues. To the contrary, the presence of correlative evidence but the lack of causation evidence suggests that professionals and activists encouraging students into LGBTQ identities without informing their parents are unduly influencing suicidal or mentally troubled students. Including parents in the discussion helps separate true gender identity issues from improper influence on students with other mental health issues. • The agency disagrees with the assertion that the rule promotes distrust between students and teachers. Students may still confide in teachers, but not when the intent is to withhold any information shared from the student's parent. In instances where a school employee suspects or is informed that a student is being abused, the employee already has a duty to report.
<p>Commenter feels parents should be informed if their minor child has gender dysphoria and is questioning gender identity so parents or guardians can appropriately address with individuals professionally trained to work with minor children.</p>	<p>N/A</p>

<p>Commenter states that while transgenderism "doesn't make sense" to him, people should be allowed to live how they want the rules would prevent this.</p>	<ul style="list-style-type: none"> The rule does not ban any topic or gender identity. As a result, the agency disagrees with the assertion it is preventing how students may identify. Instead, the rule protects the expressed rights of parents to have a determining role in what conversations, materials and instruction can influence their student.
<p>Commenter supports the rule and cites NIH study showing that “Sexually explicit media exposure during adolescence has been found to be associated with risky sexual behavior.”</p>	<p>N/A</p>
<p>Commenter states that requiring educators to "justify curriculum or instruction" to parents who hold opposing views will only drive more teachers away from the profession. Believes that reporting on what constitutes "material changes" to a student's information is too vague and will lead to false accusations.</p>	<ul style="list-style-type: none"> The agency disagrees that the rule would require teachers to "justify" their curriculum to parents. Instead, the rule requires teachers to be transparent with parents about the curriculum in order to honor the parents' legal right to be notified regarding certain curriculum and information relating to their children. The agency disagrees that "material changes" is too vague in context. The rule cabins that language further to changes that are “reasonably expected to be important to parents” and that concern “health, social, or psychological development.” These further limitations narrow the scope of relevant material changes, and the concept of materiality and of the reasonable person are well established legal concepts. In addition, the rule appropriately grants some discretion because local districts need discretion when implementing state rules in order to maintain a preference for local control.
<p>Commenter alleges rule is unenforceable as teachers who would be tasked to report required student information will only do so if they feel it is in the best interest of the student.</p>	<ul style="list-style-type: none"> The agency is pursuing the rule to ensure such bad actors face consequences for intentionally failing to recognize the rights of parents in Oklahoma law. School officials who choose to intentionally violate state law will risk penalty.
<p>Commenter requested the following amendments to the rule:</p> <ul style="list-style-type: none"> Require children be identified by their name and biological sex as 	<ul style="list-style-type: none"> The agency declines the first comment because it would require a specific outcome instead of deferring to parents. These rules defer to parents. The agency declines the second comment

<p>stated in their birth certificate.</p> <ul style="list-style-type: none"> • Require that parents have a right to access their children's school library loan page and set parental controls on online library access in the classroom manager system. • Amend definition of "Sex" or "Sexuality education" to include "quiz, LGBT inclusive curriculum, digital and print resources, e-book, manipulatives, book, stand-alone class or program, and integrated in core subjects". • Amend "Identity information" to mean only "The student's name and biological sex contained in the student's birth certificate". • Repeal out-out provisions and replace with opt-in provisions. 	<p>because it was not contemplated within the noticed rule. The agency expresses no view on the propriety of the rule otherwise.</p> <ul style="list-style-type: none"> • The agency declines the third comment because such content is already included within the definition, including the phrase "other instructional material." • The agency declines the fourth change because the agency believes that the broader list of Identity information is material to parents. • The agency declines the fifth change because the Legislature has specified opt-out provisions in the Parents' Bill of Rights.
<p>Commenter believes a student presenting need should be referred to a school counselor before their parents are contacted.</p>	<ul style="list-style-type: none"> • The agency disagrees that a child's needs should be relayed to another school official before the child's own parents because such referral would violate the Parents' Bill of Rights.
<p>Commenter does not want school staff "policing" information concerning student gender identity.</p>	<ul style="list-style-type: none"> • The agency disagrees that the rule would require teachers to "police" student information to the extent the term means constant monitoring. Instead, the rule would simply require notice to parents of significant material <i>changes</i> that the teacher happens to learn.
<p>Commenter states that the propose rule would violate Articles of the Universal Declaration of Human Rights (UDHR) as they pertain to "fundamental human rights to sexual freedom".</p>	<ul style="list-style-type: none"> • The agency disagrees that the UDHR says anything relevant to this issue or that the UDHR applies to minors. In addition, unlike State law or administrative rule, the UDHR is non-binding. If non-binding guidance conflicts with state law, that conflict confirms that a rule is necessary to address this area.

<p>Commenter believes that the partial-opt out provision would be infeasible to implement on a lesson-by-lesson basis.</p>	<ul style="list-style-type: none"> • The agency agrees, and the provision was revised from a partial opt-out to simply a disclosure of all parts.
<p>Commenter believes the rule has little to do with education and should be rejected.</p>	<ul style="list-style-type: none"> • The agency disagrees because the right of parents to direct the instruction of their children is a fundamental principle of education.
<p>Commenter supports the rule as she would never want a stranger influencing his children without his knowledge and consent.</p>	<p>N/A</p>
<p>Commenter states that if a parent wants to fully direct the education of their child, they should homeschool.</p>	<ul style="list-style-type: none"> • The agency disagrees with the commenter because the fundamental rights of parents, as stated in the Parents' Bill of Rights, are not contingent on educational setting.
<p>Commenter supports the rules as they "recognize that parents are the primary caregivers for their children, they have the right to make important healthcare and education decisions for their children, and they should not be treated with suspicion by a school." Commenter cites numerous legal decisions where "both the Oklahoma Supreme Court and the United States Supreme Court have repeatedly recognized that the relationship between a parent and child is a fundamental and constitutionally protected right." Commenter provides copies of legal exhibits as further evidence of these claims.</p>	<p>N/A</p>

<p>Commenter claims the rule has the following legal deficiencies (provides legal analysis):</p> <ul style="list-style-type: none"> • The agency lacks the statutory authority to promulgate the rule • The rule exceeds the constitutional and statutory powers of the Agency • The proposed rule violates 75 O.S. § 302(D) and is null, void, and unenforceable • The rule violates due process rights of children 	<ul style="list-style-type: none"> • The agency disagrees that the Board lacks authority to adopt this rule. The Oklahoma Constitution vests the Board with the executive authority over schools. In addition, the Oklahoma Legislature has provided that the Board shall make rules for the operation of the public school system of the state, including accreditation rules that adhere to legislative standards and directions. Implementing the state statutes in the Parents' Bill of Rights is consistent with both sources of the Board's authority. • The agency disagrees that the rule violates 75 O.S. § 302(D) because a rule, by definition, is not an internal policy, memorandum, or similar form of action. The agency agrees that greater specificity is needed on procedure and has added that specificity to the rule. • The agency rejects the assertion that children have rights superior to parents. That view is also contrary to state law in the Parents' Bill of Rights.
<p>Commenter believes parents already possess the rights found in the rule and asks the rules be amended by clarifying definition of "morality".</p>	<ul style="list-style-type: none"> • While the agency agrees that parents do already have the right to direct the education of their children, the agency believes the rule constitutes meaningful implementation of State law regarding these parental rights. The rights are meaningless without implementation that gives them force and effect. The rules also provide clearer guidance on what the Board expects for compliance with State law instead of leaving the Board's enforcement of state law to a case-by-case evaluation. Providing concrete guidelines concerning the Parents' Bill of Rights for districts will help districts comply with state law. • The term "morality" is in state law, and the agency sees no substantial improvement to this rule from defining that term.

<p>Commenter opposes the rule "as an attempt to enforce sexist stereotypes and police the bodies of all girls and young women, especially transgender girls, queer girls, and Black and brown girls".</p> <p>Commenter asserts the rule will have the following negative ramifications:</p> <ul style="list-style-type: none">• Forcing Oklahoma schools to incur large potential liability by violating federal law• Forcing educators to violate professional ethical codes and best practices• Asserting limits to students' rights without basis in either law or youth well-being• Requiring discredited practices that target individual students and have been shown to harm young people	<ul style="list-style-type: none">• The agency disagrees that the rule would cause these outcomes any further than existing state law. The Parents' Bill of Rights already requires compliance notwithstanding the existence of other non-binding codes, and the Parents' Bill of Rights already establishes the primacy of parents. The commenter is really opposing the Parents' Bill of Rights, not the rule.
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**TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 15. CURRICULUM AND INSTRUCTION**

SUBCHAPTER 19. DRIVER EDUCATION

210:15-19-4. Teacher qualifications [AMENDED]

Each teacher assigned to teach Driver and Traffic Safety Education in an accredited high school must have:

- (1) A valid Oklahoma Secondary, Elementary-Secondary, Library Media Specialist, Speech-Language Pathology or Vocational Technical License/Certificate;
- (2) A credential in Driver and Traffic Safety Education;
- (3) A valid Oklahoma Driver's License as verified by ~~the Department of Public Safety~~ Service Oklahoma;
- (4) The teacher shall meet the requirements in (1) and (2) of this subsection before the State Department of Education recommends to ~~the State Department of Public Safety~~ Service Oklahoma that an instructor's permit be issued. The Instructor Certification, Assurances and Permit (ICAP) application shall be submitted to the State Aid Section. Provided the program meets all requirements and the teacher is properly qualified, the (ICAP) application will be forwarded to ~~the Department of Public Safety~~ Service Oklahoma to consider the instructor's driving record and to issue or renew a current driver education instructor's permit.

210:15-19-5. Reporting [AMENDED]

The State Aid Section of the State Department of Education will furnish all forms of the required reports. There must be on file with the State Aid Section at the State Department of Education:

- (1) A copy of the current Instructor Certification, Assurances and Permit (ICAP) application approved by both the State Department of Education and ~~Department of Public Safety~~ Service Oklahoma. Such approved application shall be prerequisite to any behind-the-wheel instruction. An approved application must be filed for the appropriate session(s) of the school year;
- (2) A copy of the Driver Education Application for Prior Year Reimbursement form shall be submitted to the State Department of Education to claim reimbursement. For reimbursement purposes, each student must receive 30 hours of classroom instruction and 6 hours of behind-the-wheel instruction.
- (3) Any other reports requested by the State Aid Section of the State Department of Education.

210:15-19-8. Summer programs [AMENDED]

- (a) Summer School Driver Education shall comply with rules and regulations for summer high school. Schools desiring Summer School Driver Education shall make application on forms furnished for this purpose. The application shall be properly completed and filed with the State Aid Section, State Department of Education.
- (b) The summer session must be in compliance with 210:15-19-7, Instructional Time Requirements, and rules and regulations for summer high school.
- (c) Application for Instructor Certification, Assurances and Permit (ICAP) must be filed on forms furnished for this purpose and approved by the State Aid Section of the State Department of Education and ~~the State Department of Public Safety~~ Service Oklahoma before behind-the-wheel instruction begins.

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

SUBCHAPTER 35. ENGLISH LANGUAGE LEARNER PROGRAMS

210:15-35-1. Definitions [AMENDED]

The following terms, when used in this subchapter and related State Department of Education materials, shall have the following meanings unless the context clearly indicates otherwise:

"Bilingual" means a student whose Home Language Survey (HLS) indicates that a language other than English is spoken in the student's home, and:

(A) The HLS indicates that a language other than English is spoken in the home "more often" than English; or

(B) The HLS indicates that a language other than English is spoken in the home "less often" than English, and one of the following three factors applies:

~~(i) The student scores 35% or below on the composite reading score on a norm-referenced test (NRT);~~

~~(ii) The student scores "limited knowledge" or "unsatisfactory" on an Oklahoma Core Curriculum Test (OCCT) in reading; or~~

~~(iii) The student is designated English Language Learner/Limited English Proficient on an Oklahoma English language proficiency test, including the WIDA ACCESS for English Language Learners Test, a WIDA Placement Test (K W APT, W APT, or Kindergarten MODEL), or the Oklahoma Pre-K Language Screening Tool.~~

(i) The student's previous year Oklahoma School Testing Program (OSTP) English Language Arts (ELA) test score was Basic or Below Basic or their College and Career Readiness Assessment (CCRA) (ACT or SAT) Reading subtest score was at or below the 35th percentile;

(ii) The student has a recent, qualifying ELA/Reading score as measured by a state-approved, locally administered norm-referenced test (NRT). Note that qualifying NRT scores must be the most recently available and may not be used if obtained from an assessment administered prior to spring of the previous school year; or

(iii) The student is designated English Language Learner/Limited English Proficient on an Oklahoma English language proficiency test, including the WIDA ACCESS for ELLs or Alternate ACCESS for ELLs assessment, the WIDA Screener for Kindergarten, the WIDA Screener, or WIDA MODEL assessment.

"English Language Learner" means an individual:

(A) Who is aged three (3) through twenty-one (21);

(B) Who is enrolled or preparing to enroll in an elementary school or secondary school;

(C) Who:

(i) was not born in the United States or whose native language is a language other than English; or

(ii) is a Native American or Alaska Native, and who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or

(iii) is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and

(D) Whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual

(i) The ability to meet the state's proficient level of achievement on state assessments; or

(ii) The ability to successfully achieve in classrooms where the language of instruction is English; or

(iii) The opportunity to participate fully in society.

"Home Language Survey" (HLS) means a survey that must be conducted in regard to every student, which asks the following:

~~(A) Is a language other than English used in the student's home?~~

~~(B) If a language other than English is used in the student's home, is it spoken more often or less often than English?~~

(A) What is the dominant language most often spoken by the student?

(B) What is the language routinely spoken in the home, regardless of the language spoken by the student?

(C) What language was first learned by the student?

"Immigrant children and youth" means individuals who:

(A) Are aged three (3) through twenty-one (21);

(B) Were not born in any U.S. state, the District of Columbia, or Puerto Rico; and

(C) Have not been attending one or more schools in any U.S. state(s), the District of Columbia, or Puerto Rico for more than three (3) full academic years.

~~**"Language Instruction Educational Plan" or "LIEP"**~~ **English Language Academic Plan" or "ELAP"** means an individualized education plan designed to address the specific needs of an ELL student.

"Limited English proficient" means "English Language Learner", as defined in this section.

210:15-35-2. Responsibilities of school districts [AMENDED]

(a) **Identification of ELL students.** Pursuant to federal law, school districts are required to implement procedures for identifying English Language Learner (ELL) students.

(1) **Timeframe.** Identification, screening, and parental notification of ELL students eligible for language assistance services shall occur within thirty (30) days of the beginning of the school year. For students who transfer to a district during the school year, identification as an ELL student eligible for language assistance services and parental notification shall occur within two weeks of enrollment.

(2) **Home Language Survey.** Each school is required to conduct a home language survey in regard to every student, which requests from the student's parent or guardian only the following information:

~~(A) What the native language of the student is;~~

~~(B) What language is spoken most often by the student; and~~

~~(C) What language is spoken by the student in the home.~~

(A) What is the dominant language most often spoken by the student?

(B) What is the language routinely spoken in the home, regardless of the language spoken by the student?

(C) What language was first learned by the student?

(3) **Screening tools.**

(A) A student in an early childhood education program whose Home Language Survey indicates that another language is spoken in the home, either "more often" or "less often" than English, shall be assessed using the ELL Pre-K Screening Tool. A student who scores 7/10 or higher on the Pre-K Screening Tool is deemed ineligible for language assistance services. A student who scores 6/10 or lower on the Pre-K Screening Tool is deemed eligible for language assistance services.

~~(B) A kindergarten student or a student in the first semester of first grade whose Home Language Survey indicates that another language is spoken in the home, either "more often" or "less often" than English, shall be screened with the Kindergarten WIDA ACCESS Placement Test (W-APT). All Kindergarten students assessed with the W-APT qualify for language assistance services and should be given the ACCESS for ELLs annual assessment. A student in the first semester of first grade will qualify for services if they score a 28 or below on Listening/Speaking, a 12 or below on Reading, or a 14 or below on Writing.~~

~~(C) A student in the second semester of first grade whose Home Language Survey indicates that another language is spoken in the home, either "more often" or "less often" than English, shall be screened with the W-APT (Cluster 1-2). A student in the second semester of first grade will qualify for services if they score a Grade Adjusted Composite Proficiency Level of 4.9 or below, or a Grade Adjusted Literacy Composite Proficiency Level of 4.4 or below.~~

~~(D) A student in grades two (2) through twelve (12) whose Home Language Survey indicates that another language is spoken in the home, either "more often" or "less often" than English, shall be screened with the W-APT. A student in second through twelfth grade will qualify for services if they score a Grade Adjusted Composite Proficiency Level of 4.9 or below, or a Grade Adjusted Literacy Composite Proficiency Level of 4.4 or below.~~

(B) Kindergarten 1st semester: Potential EL students are administered only the oral language domain (Speaking and Listening) section of the WIDA Screener for Kindergarten* or Kindergarten MODEL. A Composite/Overall score of 5.0 for WIDA Screener for Kindergarten* or 4.8 for Kindergarten MODEL or better is considered English Language Proficient/Not EL. A Composite/Overall score of 4.5 or below is considered Not English Language Proficient/EL.

(C) Kindergarten 2nd semester through 1st semester 1st grade: Potential EL students are administered all four domains (Listening, Speaking, Reading, and Writing) of the WIDA Screener for Kindergarten* or Kindergarten MODEL. A Composite/Overall score of 5.0 for WIDA Screener for Kindergarten* or 4.8 for Kindergarten MODEL or better is considered English Language Proficient/Not EL. A Composite/Overall score of 4.5 or below is considered Not English Language Proficient/EL.

(D) A student in the 2nd semester of 1st grade-12th grade whose Home Language Survey indicates that another language is spoken in the home, either "more often" or "less often" than English, shall be administered all four domains of the grade-appropriate WIDA Screener. A Composite/Overall score of 5.0 or better is considered English Language Proficient/Non-EL. A Composite/Overall score of 4.5 or below is considered Not English Proficient/EL.

(b) **English language acquisition program Language Instruction Education Program (LIEP).** Every school district must provide an evidence-based English language acquisition

program for students identified as ELLs. A school district may participate in a Title III consortium to provide an appropriate ~~English language acquisition program~~ Language Instruction Education Program (LIEP) to ELL students of member districts.

210:15-35-3. Assessments [AMENDED]

(a) **Inclusion of ELL students in state academic content assessments.** An ELL student must be included in the state academic assessment system immediately upon enrollment, and shall participate in assessments administered under the Oklahoma School Testing Program (OSTP). A student may not be excluded from participation in OSTP assessments based on English proficiency status, ~~with the exception that an ELL student who has attended school in the United States for less than twelve (12) months may receive a one-time exemption for the OSTP Reading test in grades three (3) through eight (8), or the English EOI II/III. This one-time exception does not waive ACE graduation requirements.~~

(b) **Accommodations for ELL students taking state academic content assessments.** While ELL students must participate in content assessments required under the OSTP, an ELL student may qualify for a test accommodation based on limited English proficiency. Test accommodations for ELL students may be either linguistic (direct) or nonlinguistic (indirect), and are intended to increase the likelihood that English Language Learners are tested on their knowledge of the subject content rather than their proficiency in English. Decisions concerning OSTP accommodations for an ELL student shall be made by the ~~Language Instruction Educational Plan (LIEP)~~ English Language Academic Plan (ELAP) committee, or the district or consortium equivalent.

(1) **Eligibility.** An individual ELL student is eligible for testing accommodations only when all of the following factors apply:

- (A) The student has a primary language other than English and is not proficient in listening, speaking, reading, writing, or comprehension in an English-speaking classroom;
- (B) The student routinely uses the accommodation during classroom instruction and assessment in the subject, both before and after the OSTP test is administered;
- (C) The accommodation must be documented on the student's current ~~LIEP~~ ELAP or locally designed equivalent plan;
- (D) The accommodation must be among those approved by the State Department of Education; and
- (E) The student requires the accommodation in order to participate in OSTP testing.

(2) **Impermissible accommodations.** An ELL test accommodation may not:

- (A) Alter, explain, simplify, paraphrase, or eliminate any test question, reading passage, writing prompt, or multiple-choice answer option;
- (B) Provide verbal clues or other suggestions that hint at or give away the correct response to the student; or
- (C) Contradict test administration requirements or result in the violation of test security, including but not limited to modifying, reordering, or reformatting test questions or altering, enlarging, or duplicating tests.

(c) **Accommodations for ELL students with disabilities.** For an ELL student who is also identified as a student with disabilities, any testing accommodations other than the ELL supports addressed in subsection (b) must be based on the student's disability and documented in the student's IEP or Section 504 Plan.

(d) **English language proficiency assessments.** The English language proficiency of every ELL student shall be assessed annually using the ACCESS for ELLs test, which shall measure ELL students' oral language, reading, and writing skills in English. Any testing accommodations

provided to an ELL student with a disability must be based on the student's disability and documented in the student's IEP or Section 504 Plan.

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

SUBCHAPTER 18. ADVANCED, LEAD, AND MASTER TEACHERS [AMENDED]

210:20-18-1. Advanced, lead and, master teaching certificates [AMENDED]

(a) **Purpose.** Pursuant to ~~Senate Bill 980 (2018)~~House Bill 4388 (2022), ~~two~~three advanced classes of teacher certification, an advanced teaching certificate, a lead teaching certificate, and a master teaching certificate, are available to applicants who meet the statutory criteria and make application to the State Board of Education.

(b) **Effect of advanced, lead, or master certification status on school districts.** Because a teacher certified as ~~either an advanced teacher, a lead teacher,~~ or a master teacher is subject to contract requirements under 70 O.S. § 6-190 in addition to those that apply to a teacher with standard certification, a school district shall consider the school district obligations to teachers who hold an advanced, lead, or master teaching certificate when recommending a teacher for advanced certification, and when entering an employment contract with such a teacher. If a person who holds an advanced, lead, or master teaching certificate changes school districts during the validity period of the certificate, the terms of the contracts required under 70 O.S. § 6-190 shall be subject to approval by the new employing school district.

(1) **School board recommendation for advanced, lead, or master teaching certificate.** In order for a teacher to be eligible for an advanced, lead, or master teacher certificate, the board of education of the teacher's employing school district must submit a recommendation to the State Board of Education indicating that the local board has determined the applying teacher's eligibility under the statutory criteria and is in favor of the teacher's advanced certification. The school district that recommends a teacher for an advanced, lead, or master teacher certification will be responsible for meeting the contract requirements associated with the advanced certification beginning with the school ~~year~~semester following submission of the application.

(2) **Contract requirements for advanced, lead, and master teachers.** In addition to the contract requirements applicable to all certified teachers employed by Oklahoma public school districts, the following additional terms apply to the advanced certification classes:

(A) **Advanced teachers.** The contract of an advanced teacher shall provide for an additional five (5) days to be used to strengthen instructional leadership, as well as a salary supplement of at least three thousand dollars (\$3,000) or the district's daily rate of pay, whichever is higher, in addition to the salary the teacher is entitled to under 70 O.S. § 18-114.14. If the relevant school or school district satisfies the criteria of 70 O.S. § 6-190(I)(2), the contract of an advanced teacher shall also provide for a one-time award of \$1,500.

~~(A)(B) **Lead teachers.** An individual who holds a lead teaching certificate may have a teaching load of not more than seventy five percent (75%) student instruction to allow the teacher to mentor other teachers.~~ The contract of a lead teacher shall provide for an additional ten (10) days to be used to strengthen instructional leadership, as well as a salary supplement of at least ~~three~~five thousand dollars ~~(\$3,000)~~(\$5,000) or the district's daily rate of pay, whichever is higher, in addition to the salary the teacher is entitled to under 70 O.S. § 18-

114.14. If the relevant school or school district satisfies the criteria of 70 O.S. § 6-190(I)(2), the contract of a lead teacher shall also provide for a one-time award of \$2,500.

~~(B)(C) Master teachers. An individual who holds a master teaching certificate may have a teaching load of not more than fifty percent (50%) student instruction to allow the master teacher to spend time on co-teaching, co-planning, peer reviews, and other duties mutually agreed on by the district superintendent and the master teacher.~~ The contract of a master teacher shall provide for an additional fifteen (15) days to be used to strengthen leadership, as well as a salary supplement of at least ~~five ten~~ thousand dollars ~~(\$5,000)(\$10,000)~~ or the district's daily rate of pay, whichever is higher, in addition to the salary the teacher is entitled to under 70 O.S. § 18-114.14. If the relevant school or school district satisfies the criteria of 70 O.S. § 6-190(I)(2), the contract of an advanced teacher shall also provide for a one-time award of \$5,000.

(c) **Criteria for advanced, lead, or master teaching certificates.** The State Board of Education shall issue an advanced, lead, or master teaching certificate to any person who upon application:

- ~~(1) Has a minimum of five (5) years of experience as a teacher, as reflected in the official record of teacher experience maintained by the State Department of Education Office of School Personnel Records;~~
- ~~(2) Participates in a meaningful individualized program of professional development as provided for in 70 O.S. § 6-101.10;~~
- ~~(3) Has earned a "highly effective" or "superior" rating on their most recent district evaluation conducted pursuant to 70 O.S. § 6-101.16; and~~
- ~~(4)(1) Has been recommended by their employing school district for lead an advanced, lead, or master teacher ~~certification-certificate;~~~~
- ~~(2) Meets the eligibility criteria for the certificate provided for in 70 O.S. § 6-190.~~

~~(d) **Criteria for master teaching certificate.** The State Board of Education shall issue a master teaching certificate to any person who upon application:~~

- ~~(1) Has a minimum of seven (7) years of experience as a teacher;~~
- ~~(2) Has either:~~
 - ~~(A) Earned a "superior" rating on their most recent district evaluation conducted pursuant to 70 O.S. § 6-101.16; or~~
 - ~~(B) Earned a "highly effective" rating on their most recent district evaluation conducted pursuant to 70 O.S. § 6-101.16 and holds or has held National Board certification; and~~
- ~~(3) Has been recommended by their employing school district for master teacher certification.~~

~~(e)(d) **Fees and renewal schedule for lead and master teaching certificates.** The application fee for an advanced teaching certificate, a lead teaching certificate, or a master teaching certificate shall be the same as the fee for a standard teaching certificate as established in *Oklahoma Administrative Code* 210:20-9-9. The validity period of an advanced teaching certificate, a lead teaching certificate, or a master teaching certificate shall be the same as the validity period of a standard teaching certificate as established in *Oklahoma Administrative Code* 210:9-9-94. Renewal procedures and timelines for an advanced teaching certificate, a~~

lead teaching certificate, or a master teaching certificate shall be the same as those established for a standard teaching certificate in *Oklahoma Administrative Code* 210:20-9-96, ~~with the additional requirement that a lead teaching certificate may only be renewed if the teacher received a "superior" or "highly effective" rating on their most recent district evaluation, and a master teaching certificate may only be renewed if the teacher received either a "superior" rating on their most recent district evaluation, or received a "highly effective" rating and holds or has held a National Board certification.~~

~~(f)~~(e) **Standard certification available to advanced, lead, or master teachers who no longer meets requirements.** An individual who holds an advanced teaching certificate, lead teaching certificate, or a master teaching certificate may obtain a standard teaching certificate if they no longer meet the requirements for the advanced certification, or no longer wish to hold the advanced certification. Upon receipt of a written request for standard certification from an individual who holds an advanced, lead or master teaching certificate, the State Department of Education shall issue a standard teaching certificate with a validity period that ends on the same date as the advanced, lead, or master teaching certificate currently held by the individual. Upon issuance of the standard teaching certificate, the advanced teaching certificate, lead teaching certificate, or master teaching certificate previously held by the individual shall be deemed void. An advanced teacher, lead teacher, or master teacher who returns to standard teaching certification is responsible for notifying the school district(s) where they are currently employed, as well as any district with which a contract has been entered for the following school year, of their change in certification class.

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

SUBCHAPTER 19. LOCAL PROFESSIONAL DEVELOPMENT PROGRAMS

210:20-19-6. Professional Development programs for early childhood educators and administrators [NEW]

Professional Development programs for early childhood educators and administrators should focus on the importance of child-centered, play-based learning as the most rigorous and most developmentally appropriate way for children in the early childhood grade levels to learn literacy, science, technology, engineering, art and math academic concepts. Such programs can include, but should not be limited to, asynchronous or synchronous virtual learning, in-person training, or on-going mentoring and support.

The Professional Development should:

- (a) Highlight the importance of play in the early grades
- (b) Provide research to support the use of play-based learning as a way to develop student's academic and personal skills
- (c) Include research on the impact of play on the developing brain
- (d) Include pedagogical concepts, such as:
 - (1) Types of play and the continuum of play-based learning
 - (2) Defining the teacher role before, during, and after play
 - (3) Intentional planning for playful learning experiences
 - (4) Connecting academic standards to play
 - (5) Creating an environment conducive for playful learning

Public Comment Summary
State Department of Education Proposed Permanent Rule Changes

Chapter 20. Staff
Subchapter 19. Local Professional Development Programs

210:20-19-6. Professional Development programs for early childhood educators and administrators [NEW]

Summary of Public Comment	Agency Response
Commenter commends the agency for proposing a rule that is common sense, productive, and that will promote better outcomes in public schools.	N/A
Commenter is concerned that the rule mandates another required professional development requirement to the extensive existing requirements.	<ul style="list-style-type: none">• The agency disagrees that the rule, or the authorizing statute, mandate any new requirement. Instead, they recommend what existing professional development <i>should</i> entail.

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

SUBCHAPTER 37. ADJUNCT TEACHERS

210:20-37-2. Adjunct teachers [AMENDED]

Rules which pertain to adjunct teachers are:

- (1) The local school district shall determine the specific qualifications, duties, and responsibilities of adjunct teachers.
- (2) The employment of persons to serve as adjunct teachers shall be approved by the local board of education.
- (3) The local district shall request a felony record search of any person approved for adjunct employment.
- (4) Formal notification of the employment of adjunct teachers shall be provided to the State Department of Education within thirty (30) days of the date of employment.
- ~~(5) Adjunct teachers shall be limited to two hundred seventy (270) clock hours of classroom teaching per semester.~~
- ~~(6)~~(5) For individuals who do not hold a valid Oklahoma teaching certificate, hours taught while serving as an adjunct teacher shall not count towards teaching experience or recency for purposes of meeting certification or recertification requirements, tenure, ~~or retirement benefits~~, or for placement on the state minimum salary schedule. For individuals who hold a valid Oklahoma teaching certificate, hours taught while serving as an adjunct teacher may apply toward teaching experience and recency under the experience accrual guidelines of 210:25-3-4(b).
- ~~(7)~~(6) Salary for an uncertified individual employed as an adjunct teacher shall be established by the school district. Salary for a certified individual who serves as an adjunct teacher shall be the amount the individual would be entitled to on the state minimum salary schedule if they were serving as a full-time teacher, pro-rated to the number of hours taught.
- ~~(8)~~(7) Adjunct teachers employed to coach school athletic teams shall have successfully completed a course in the care and prevention of athletic injuries.

**TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 30. SCHOOL FACILITIES AND TRANSPORTATION**

SUBCHAPTER 5. TRANSPORTATION

210:30-5-8. School bus driver certification [AMENDED]

(a) General criteria.

(1) Pursuant to the authority granted to the State Board of Education in 70 O.S. § 3-104(6) to regulate school bus drivers and 47 O.S. § 15-109, no board of education shall have authority to enter into any written contract with a school bus driver who does not hold a valid Oklahoma School Bus Driver's Certificate issued by the State Board of Education authorizing said bus driver to operate a school bus within the State of Oklahoma.

(2) In order to obtain and maintain a standard Oklahoma School Bus Driver's Certificate, the State Board of Education requires all public school bus drivers to:

(A) Successfully complete a school bus driver training course approved by the State Department of Education;

(B) Possess and maintain a valid Commercial Driver's License (CDL), which includes the following endorsements required by 47 O.S. § 6-110.1 in accordance with the qualifications determined by ~~the Department of Public Safety~~Service Oklahoma:

(i) A school bus "S" endorsement; and

(ii) For drivers of vehicles designed to transport sixteen (16) or more passengers (including the driver), a passenger "P" endorsement; and

(C) Comply with all other health and safety qualifications set forth in this Section.

(3) No school district board of education shall assign or allow to be assigned any school bus driving duty involving the transportation of students to any employee or volunteer, regardless of contract status (e.g. coach, teacher, mechanic), unless that person has all required supporting documentation required for school bus drivers on file with the school district and a valid Oklahoma State Department of Education School Bus Driving Certificate as provided for in this section.

(4) The State Board of Education recognizes the substantial public interest in safe school bus transportation of children. Therefore, in addition to meeting the vision standards required to obtain a CDL from ~~the Department of Public Safety~~Service Oklahoma, in order to obtain a standard or emergency Oklahoma School Bus Driver's Certificate, all school bus drivers must have:

(A) A visual acuity of not less than twenty-fourty (20/40) (Snellen) in each eye with or without corrective lenses; and

(B) Not less than twenty-fourty (20/40) (Snellen) with both eyes with or without corrective lenses; and

(C) A minimum field of vision of 70 degrees horizontal median vision in each eye.

(5) The use of tobacco by a school bus driver is not permitted during the operation of the bus while hauling pupils. The use of any intoxicating or non-intoxicating alcoholic beverage by the driver eight (8) hours prior to or during the operation of a school bus is strictly prohibited. The use of any controlled dangerous substance seventy-two (72) hours prior to or during the operation of a school bus is strictly prohibited. The possession of any controlled dangerous substance on a school bus is strictly prohibited.

(6) All school bus drivers shall have an annual health certificate signed by a physician licensed by any state within the United States of America (U.S.), or a nurse or physician

assistant who is licensed to practice in any state within the U.S. and who is working under the supervision of a medical doctor (MD) or doctor of osteopathy (DO) licensed by any state within the U.S. A school bus driver who is a veteran of the United States Armed Forces may submit a health certificate signed by a licensed physician of the U.S. Department of Veterans Affairs Veterans Health Administration. The certificate shall be filed in the office of the chief administrative officer of the local school district or designee of the chief administrative officer attesting that such physician, or other authorized health care professional working under the supervision of a physician, has examined the applicant and that the applicant has no sign or symptoms of ill health, and is otherwise, from the observation of such physician or other authorized health care professional, physically and mentally capable of safely operating a school bus. As an alternative to the annual physical examination requirements for school bus drivers, school districts may adopt a policy that utilizes a biannual physical examination, provided the examination is in compliance with the physical qualifications and examination requirements at Subpart E of the Federal Motor Carrier Safety Regulations, 49 CFR §§ 391.41 to 391.50.

(7) Substitute and activity school bus drivers shall meet all the requirements prescribed for regular bus drivers.

(8) At a minimum, the chief administrative officer of the local school district or designee of the chief administrative officer shall conduct an annual driving record check of all school bus drivers, including substitute and activity drivers. The Oklahoma State Department of Education shall be immediately notified of any violation(s) that make a school bus driver ineligible to hold an Oklahoma School Bus Driver's Certificate.

(9) The State Board of Education shall revoke the bus driver's certificate of any holder who fails to comply with the provisions of this Section.

(10) School districts who fail to comply with the provisions of this section shall be subject to penalty pursuant to 210:30-5-2.

(b) School bus driver certificate requirements.

(1) The chief administrative officer of the local school district or designee of the chief administrative officer shall certify to the State Department of Education that each applicant submitted for Standard Five-Year Certification:

(A) Is at least 18 years of age;

(B) Has successfully completed a special school bus drivers' course approved by the State Department of Education;

(C) Holds a valid Commercial Drivers license (CDL) appropriate for the type of vehicle driven with the proper endorsements required by ~~the Department of Public Safety~~ Service Oklahoma;

(D) Has not been convicted of a felony, or pled guilty or nolo contendere to a felony during the last ten years; and

(E) Has passed a driving record check, and no certificate shall be issued to any person who, within the preceding three (3) years:

(i) Has had a license suspended or revoked, canceled or withdrawn pursuant to the Implied Consent Laws at 47 O.S. § 751 et seq.;

(ii) Has a conviction for a violation of 47 O.S. § 11-902 which includes driving, operating or being in actual physical control of a vehicle while under the influence of alcohol or any intoxicating drug;

(iii) Has been convicted or plead guilty to a violation of 47 O.S. § 761, operating a motor vehicle while impaired by consumption of alcohol;

- (iv) Has been convicted of any municipal violation of driving under the influence of alcohol or drugs or operating a motor vehicle while impaired or being in actual physical control of a motor vehicle while impaired; or
- (v) Has had four (4) or more traffic violations (excluding parking violations).

(2) The chief administrative officer of the local school district or designee of the chief administrative officer shall certify to the State Department of Education that the applicant for an Emergency One-Year School Bus Driver Certificate (Not Renewable):

- (A) Is at least 18 years of age;
- (B) Holds a valid Commercial Driver's License with the proper endorsements required by ~~the Department of Public Safety~~ Service Oklahoma; and
- (C) Has passed a driving record check and meets the requirements set forth in (1)(D)-(E) of this subsection.

(3) Requirements for Renewal of the Standard Five-Year Certificate include:

- (A) Every five (5) years, each driver shall have successfully completed four (4) hours per year of inservice training approved by the State Department of Education;
- (B) The chief administrative officer of the local school district or designee of the chief administrative officer shall certify to the State Department of Education that the applicant meets all requirements for standard certification; [47 O.S. § 15-109]
- (C) Each applicant has a health certificate on file signed by a licensed physician, or a nurse or physician assistant who is licensed to practice in any state within the U.S. and who is working under the supervision of a medical doctor (MD) or doctor of osteopathy (DO), and meets all vision requirements;
- (D) Each applicant has not been convicted or pled guilty to a felony in the last ten (10) years;
- (E) The applicant's driving record has been checked and meets all other State Board of Education requirements for certification; and
- (F) Notwithstanding the provisions of this paragraph, in order to renew any school bus driver certificate which has been expired for more than one year, a driver must successfully complete a renewal course approved by the State Department of Education. Such a course must, at a minimum, include topics on:
 - (i) Railroad crossings;
 - (ii) Emergency evacuation procedures;
 - (iii) Mirror placement;
 - (iv) Pick-up and drop-off procedures;
 - (v) Sound driving practices; and
 - (vi) Accident procedures.

(4) During the period that the application for issuance of a new or renewed school bus driver certificate is pending, applicants must immediately notify the State Department of Education Transportation Section of any arrest, citation, or conviction of any disqualifying offense set forth in (1)(E) of this subsection; any moving violation; or any involvement in a traffic accident.

(c) Certification of drivers with a monocular vision condition.

(1) Individuals who wish to obtain an Oklahoma School Bus Driver's Certificate and meet all other requirements of this Section, but cannot meet the vision requirements in (a)(3) of this Section in both eyes due to the presence of a monocular vision condition, may obtain an exemption from the vision requirements of (a)(3) of this Section by providing evidence showing that Applicant is exempt from the requirements of 49 C.F.R. § 391.41, has fully

adapted to the monocular vision condition, and is capable of safely operating a school bus for the purpose of transporting school children. Such evidence must consist of documentation for each one of the following:

- (A) Documentation establishing that Applicant's vision condition has been present and unchanged for three years or more prior to the application for an exemption from the vision requirements of (a)(3) of this Section;
- (B) Documentation establishing that Applicant has experience in safely operating a Commercial Motor Vehicle with the monocular vision condition within the three (3) year period immediately preceding the date of the application for an exemption from the vision requirements of (a)(3) of this Section; and
- (C) One of the following:
 - (i) An authority letter issued by the Applicant's CDL licensing jurisdiction qualifying the individual as exempt from the vision requirements of 49 C.F.R. § 391.41; or
 - (ii) A letter or waiver issued by the Federal Motor Carrier Safety Administration (FMCSA) documenting that the applicant has received a waiver from the vision requirements of 49 C.F.R. § 391.41.

(2) Documentation of the evidence required by (1)(A) of this subsection shall consist of documentation for each one of the following:

- (A) Applicant must have been examined by a licensed ophthalmologist or optometrist within sixty (60) days prior to obtaining the Commercial Driver License and within one year of applying for the State Department of Education monocular vision exemption. Applicant must provide the State Department of Education a copy of official documentation of the vision examination from the Applicant's CDL licensing jurisdiction.
- (B) In addition, if not included on the official documentation of the vision exam, Applicant must submit additional documentation, in which a licensed ophthalmologist or optometrist identifies and describes:
 - (i) The nature of the vision deficiency, including how long the individual has had the deficiency;
 - (ii) The date of the examination;
 - (iii) Whether the applicant's vision is stable;
 - (iv) The visual acuity of each eye, corrected and uncorrected;
 - (v) The field of vision of each eye, including central and peripheral fields, testing to at least 120 in the horizontal. (Formal perimetry is required. The doctor must submit the formal perimetry test for each eye and interpret the results in degrees of field of vision.);
 - (vi) Whether the applicant has the ability to recognize the colors of traffic control signals and devices showing red, green, and amber; and
 - (vii) The ophthalmologist/optometrist's medical opinion as to whether the individual has sufficient vision to perform the driving tasks required to operate a school bus.

(3) Documentation of the evidence required by (1)(B) of this subsection shall consist of each of the following:

- (A) Applicant must provide documentation of experience in operating a commercial motor vehicle (as defined by 47 O.S. §§ 1-107.1, 1-107.2, or 1-107.3) while the Applicant has a monocular vision condition for the three (3) year period

immediately preceding the date of this application which includes the following information:

- (i) For any applicant employed as a driver of a commercial motor vehicle, the DOT # or ICC# of Applicant's employer(s); for any applicant with driving experience as an independent motor carrier, a list of names, addresses, and phone numbers of customers for whom Applicant performed transportation services through the operation of a commercial motor vehicle on public highways;
- (ii) A list of all dates (month/date/year) during the three (3) year period for which Applicant performed services driving and/or operating a commercial motor vehicle, and the number of hours driven per week; and
- (iii) A list of all types of commercial motor vehicles operated by Applicant and gross vehicle weight rating ("GVWR") of each vehicle operated by Applicant;

(B) Acceptable forms of required documentation of the Applicant's driving experience described in (3) of this paragraph may include either:

- (i) A signed, notarized statement from the individual's present or past employer(s) on company letterhead; or
- (ii) An affidavit by the Applicant.

(C) Applicant shall provide the State Department of Education with a Motor Vehicle Report demonstrating that applicant's driving record during the three (3) year period prior to the date the application is filed:

- (i) Contains no suspensions or revocations of Applicant's driver's license for the operation of any motor vehicle (including Applicant's personal vehicle);
- (ii) Contains no record of involvement in an accident involving negligence attributable to the monocular vision condition;
- (iii) Contains no record of a serious traffic offense attributable to the monocular vision condition (e.g., erratic unsafe lane changes, following too closely, etc.)

(4) Individuals who receive the vision exemption to drive a bus for an accredited school in Oklahoma must submit to their employer a copy of the documentation required by (1)(C) of this subsection.

(d) Certification of drivers with insulin-dependent diabetes mellitus.

(1) Any person with diabetes mellitus requiring insulin by injection shall not be eligible for a school bus certificate unless the individual meets all other requirements of (a) and (b) of this Section, and the individual possesses and maintains either:

- (A) An authority letter issued by Applicant's CDL licensing jurisdiction qualifying the individual as exempt from the physical requirements of 49 C.F.R. § 391.41; or
- (B) A letter or waiver issued by the Federal Motor Carrier Safety Administration (FMCSA) documenting that the applicant has received a waiver from the physical requirements of 49 C.F.R. § 391.41.

(2) Upon hire, exempted individuals will be required to agree to and comply with the following conditions:

- (A) Blood glucose levels shall be self-monitored one (1) hour prior to driving and at least once every four (4) hours while driving a school bus or on duty by using a portable glucose monitoring device with a computerized memory, and take corrective action if necessary;

(B) The individual shall maintain blood glucose logs, three months from the current date (or the date that insulin use began, whichever is shorter).

(i) If the employing district has cause to require a medical evaluation as authorized by (5) of this subsection, logs maintained pursuant to this subsection must be provided to the board certified medical doctor (MD) or doctor of osteopathy (DO) treating the individual.

(ii) Blood glucose logs must be created by an electronic blood glucose meter that stores every reading, records date and time of reading, and from which data can be downloaded and printed.

(C) The individual shall carry a source of rapidly absorbable glucose at all times while operating a school bus; and

(D) The individual shall meet the annual physical examination requirements for drivers with metabolic diseases set forth by ~~the Department of Public Safety~~Service Oklahoma in ~~OAC 595:10-5~~OAC 260:135-5-50.

(E) The individual shall notify the Department of Public Safety and the State Department of Education of any changes in physical or mental ailments or conditions which may cause loss of control or partial control or may otherwise render the individual incapable of properly controlling a school bus.

(3) Superintendents or their designees who hire individuals who hold a diabetes exemption certification must keep on file in a separate medical record:

(A) A current copy of the diabetes exemption certificate of the individual;

(B) The contact information of the board certified medical doctor (MD) or doctor of osteopathy (DO) who is treating the individual;

(C) Record of the annual medical certification issued by the board certified medical doctor (MD) or doctor of osteopathy (DO) pursuant to (1)(B) of this subsection; and

(D) Copies of any medical certifications obtained pursuant to (5) of this subsection.

(4) An individual holding a diabetes exemption certificate shall immediately notify the superintendent (or the superintendent's designee) of the school district in which the individual is employed if the individual's blood glucose level is outside of a range of 100 mg/dl to 400 mg/dl one (1) hour prior to driving. Upon receipt of such notice, the superintendent or the superintendent's designee shall not allow the individual holding the diabetes exemption certificate to drive. If the individual's blood glucose level is below 100 mg/dl or above 400 mg/dl, then the driver cannot operate a school bus or transport school children as an employee of any school district until the blood glucose measure is within the target range.

(5) In the event an individual holding a diabetes exemption is involved in an incident directly caused by the individual's diabetic condition, the individual cannot operate a school bus or transport school children as an employee of any school district until the individual has been certified in writing as medically able to safely resume work related duties by the certified medical doctor (MD) or doctor of osteopathy (DO) by whom they are being treated.

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

SUBCHAPTER 19. CONCURRENT ENROLLMENT

210:35-19-3. General procedures [AMENDED]

(a) **Purpose.** Concurrent enrollment provides eligible high school students with an opportunity to earn college credit. Overall, concurrent enrollment is recognized as a valuable opportunity to advance the State System's commitment to expand access to higher education opportunities, produce favorable student achievement outcomes, and enhance educational efficiency. With these purposes in mind, and consistent with the requirements in 70 O.S. § 628.13, the State Board of Education establishes requirements and procedures for concurrent enrollment as set forth below.

(b) **Approval.** Prior to enrolling in a concurrent enrollment course, a student must have a signed form from the high school principal or counselor stating that he/she is eligible to satisfy, no later than the spring of the student's senior year, requirements for graduation from high school ~~no later than the spring of the senior year.~~ For purposes of this subsection, graduation requirements include curricular requirements for college admission. In addition, a **minor** student must also have written permission from a parent or legal guardian prior to enrollment in a concurrent enrollment course.

(c) No ~~independent~~ school district may prohibit any student who meets the requirements of concurrent enrollment from participating in concurrent enrollment, provided the student also meets any requirement of the State Regents for Higher Education and/or as set forth in Oklahoma law.

(d) ~~General procedures applicable to K-12 students enrolling at a college or university in the state system are:~~ A school district may receive full average daily attendance on a high school student who is participating in concurrent enrollment. In determining a legal school day for a student who is concurrently enrolled the district can use a combination of local school enrollment, college enrollment, and travel time.

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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 19. Concurrent Enrollment

210:35-19-3. General procedures [AMENDED]

Summary of Public Comment	Agency Response
Commenter commends the agency for proposing a rule that is common sense, productive, and that will promote better outcomes in public schools.	N/A
Commenter recommends the rule be amended to remove the qualifier "independent" with regards to impacted school districts to ensure all kinds of public school districts are subject to the rule's requirements.	The agency has incorporated the suggested change.
Commenter requests deletion of repetitive language in the rule.	The agency has incorporated the suggested change.

**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 11. STANDARD VI: STUDENT SERVICES

210:35-3-106. Guidance and counseling services [AMENDED]

(a) The counseling staff, parents, administrators, and others shall provide guidance and counseling program direction through involvement in assessment and identification of student needs.

(b) The school shall develop a written description of an outcomes-based (competency) guidance and counseling program with special provisions for at-risk students. The program shall address assessed needs of all students, including those who are identified as at-risk, and shall establish program goals, objectives, and an evaluation.

(c) Each school shall provide an organized program of guidance and counseling services.

(1) Counseling services shall be provided to students, in group or individual settings, that facilitate understanding of self and environment.

(2) The counseling services shall provide a planned sequential program of group guidance activities that enhance student self-esteem and promote the development of student competence in the academic, personal/social, and career/vocational areas.

(3) The provider of counseling services shall consult with staff members, parents, and community resources and make appropriate referrals to other specialized persons, clinics, or agencies in the community.

(4) Counseling and guidance services shall be coordinated and shall work cooperatively with other school staff, parents, community resources, and other educational entities.

(d) Each counselor shall follow a planned calendar of activities based on established program goals and provide direct and indirect services to students, teachers, and/or parents.

(e) Beginning with the 2023-2024 school year, prior to annual enrollment of a new or returning student, the parent or legal guardian of a student may disclose to the student's resident district, as determined by Section 1-113 of Title 70 of the Oklahoma Statutes, if the student has received inpatient or emergency outpatient mental health services from a mental health facility in the previous twenty-four (24) months. For the purposes of this section, "mental health facility" shall have the same meaning as Section 5-502 of Title 43A of the Oklahoma Statutes.

(1) If a disclosure provided occurs, designated school personnel, which may include members of the individualized education program (IEP) team, shall meet with the parent or legal guardian of the student and representatives of the mental health facility prior to enrollment to determine whether the student is in need of any accommodations including but not limited to an IEP in accordance with the Individuals with Disabilities Education Act (IDEA) or a Section 504 Plan as defined by the Rehabilitation Act of 1973. The meeting required by this section may take place in person, via teleconference, or via videoconference.

(2) The disclosure and subsequent handling of personal health information and related student education records pursuant to this section shall comply with the

Family Educational Rights and Privacy Act of 1974 (FERPA) and the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

**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**

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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 11. Standard VI: student services

210:35-3-106. Guidance and counseling services [AMENDED]

Summary of Public Comment	Agency Response
<p>Commenter commends the agency for proposing a rule that is common sense, productive, and that will promote better outcomes in public schools.</p>	<p>N/A</p>
<p>Commenter supports the rule but requests an amendment that requires parents to disclose to the School District and any assigned teachers all prior criminal convictions, prior mental health issues, and past violent or threatening behavior documented at prior schools or institutions. Students with criminal predatory histories have been brought into schools as new students without any specific notice to the District or teachers, making them unable to prepare adequately. Requiring that parents disclose any past matter pertaining to a newly enrolled student that may pose a danger to students or staff allows the school to take appropriate preventative measures to protect all parties.</p>	<ul style="list-style-type: none"> • The agency does not believe the requested change is contemplated by 70 O.S. § 3-169 and declines to adopt it at this time. The agency expresses no view otherwise on the appropriateness of the policy requested.
<p>Commenter requests clarification regarding what is meant by “prior to enrollment” in paragraph h (e) of the rule. Asks if the intent is only new student enrollment or also the annual returning student documentation completion timeline.</p>	<ul style="list-style-type: none"> • The agency agrees that further specificity is required and will revise the rule to indicate that the voluntary disclosure and subsequent student supports may occur open initial enrollment and/or upon annual reenrollment.

**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 13. STANDARD VII: THE MEDIA PROGRAM**

210:35-3-121. Statement of the standard [AMENDED]

(a) Mission of school library media program.

The mission of the media program is to assist students and teachers in becoming effective users of ideas and information. Emphasis is placed on the development of skills necessary for independent lifelong learning. To that end, schools shall provide an effective library media program through the employment of qualified staff and the acquisition of library media materials sufficient to meet the instructional needs of the staff and students. One centralized library media center can serve two or more organizational units if the units are housed at one site. The library media program is to be based on the combined enrollment and standards for the highest grade unit served.

(b) Prohibition on Pornographic material and Sexualized content in library media program.

The State Board of Education recognizes its duty and responsibility to protect minor students from accessing Pornographic materials and Sexualized content and will implement this duty by exercising the State Board of Education's authority to adopt policies and make rules for public schools. Okla. Const. art. XIII, § 5; 70 O.S. § 3-104(A)(1).

210:35-3-121.1. Definitions. [NEW]

For purposes of this Part (13):

(a) "Library" means a school library, media program, a classroom library, or any other collection of books or other materials, print or digital, that are maintained by a ~~school~~School district or its employees for use by ~~minor~~students and that do not qualify as textbooks within the jurisdiction of the State Textbook Committee under 70 O.S. §§ 16-101–16-124.

(b) "School library" means the official library maintained by a school for use by ~~minor~~students.

(c) "Pornographic" means:

(1) depictions or descriptions of sexual conduct which are patently offensive as found by the average person applying contemporary community standards, considering the youngest age of students with access to the material,

(2) materials that, taken as a whole, have as the dominant theme an appeal to prurient interest in sex as found by the average person applying contemporary community standards, and

(3) a reasonable person would find the material or performance taken as a whole, lacks serious literary, artistic, educational, political, or scientific purposes or value, considering the youngest age of students with access to the material.

(d) "Sexualized content" means material that is not strictly Pornographic but otherwise contains excessive sexual material in light of the ~~educational value of the material and in light of the~~ youngest age of students with access to said material.

(e) "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.

(f) "Parent" means the natural or adoptive parent of legal guardian of a minor child.

210:35-3-126. Collection requirements and penalty for noncompliance [AMENDED]

(a) Requirements.

(1) There shall be a written policy, approved by the local board, concerning the criteria to be used in the evaluation and selection of materials for the media program. The written policies should contain criteria for selection, responsibility for selection, and guidelines for reconsideration.

(2) The media program shall consist of a balanced collection of print materials, nonprint materials, multimedia resources, and equipment and supplies adequate in quality and quantity to meet the needs of students and staff in all areas of the school's program.

(3) A library of professional materials containing print and multimedia resources shall be available to the staff. The professional library is an organized collection to support the instructional process and continued professional growth.

(4) All media materials and equipment shall be maintained adequately with provisions made for regular replacement of outdated materials and equipment.

(5) The school shall provide a variety and diversity of instructional/learning materials sufficient to accommodate the scope of the program and the individual differences among students.

(6) Instructional/learning materials and equipment shall be available in a sufficient quantity to provide for the number of students involved in learning activities and for the number of teachers in the school.

(7) Records of acquisition, classification, cataloging, circulation, and financing shall be accurate and current. A computerized library catalog or an alphabetically arranged card catalog, using a recognized system, and a shelf list of holdings shall be maintained.

(8) All instructional/learning materials in the school related to the media program shall be listed in a central catalog.

(9) The school shall provide equipment, materials, space, and professional guidance for the staff and students in designing and producing instructional/learning materials.

(10) Within 60 days of the effective date of this rule, and annually every October 1, each School ~~Distriet~~district shall transmit to the State Department of Education a complete listing of all books and other materials available in any School library in that district. An attestation from the Superintendent that a public online ~~Library~~School library catalog or catalogs contain a complete and accurate list, along with the website for accessing the relevant ~~Library~~School library catalog or catalogs, shall fulfill this requirement.

(11) No Library shall have available to minor students any Pornographic materials or Sexualized content.

(12) Every School ~~Distriet~~district shall have a written policy for reviewing the educational suitability and age-appropriate nature of any material in a Library in the district and for receiving and responding to complaints regarding materials in Libraries in the district.

(13) Nothing in this section shall be construed to prohibit students from reading, owning, possessing, or discussing any book they obtained without the assistance or encouragement of a School ~~Distriet~~district, its employees, or its Libraries; provided, nothing in this Part shall be

construed to authorize bringing Pornographic material or Sexualized content on the grounds of any public School district.

(b) Noncompliance.

(1) Procedure

(A) If a Parent or guardian alleges a violation of OAC 210:35-3-126(a), the Parent or guardian shall provide a written complaint to the State Department of Education that summarizes the alleged violation, including the time, date, and location of the violation and the identity of any person involved. The complaint must also include a copy of any complaint to the School district and any response.

(B) Within fourteen days of receiving a complaint, the Department shall notify the School district of the allegation and provide an opportunity for response.

(C) The Department shall then conduct an investigation to determine whether a violation has occurred. The Department's Legal Services staff shall notify the Parent or guardian and the School district of the results of the investigation.

(D) If the Department concludes that a violation has occurred or may have occurred, the School district shall have fourteen days to request a hearing before the Board. The Board shall review the Complaint and the record using a preponderance of the evidence standard, may take additional evidence at its discretion, and shall publish an order with its findings of fact and conclusions of law.

(2) Penalties

(A) If the State Board of Education makes a finding of willful noncompliance with any requirement of this section, the State Board of Education shall alter the accreditation status of the ~~school district at issue~~ School district at issue to either Accredited With Warning or Accredited With Probation as classified in OAC 210:35-3-201. The Board shall adjust the status to Accredited With Probation if the School district is already Accredited With Warning.

(2B) If the State Board of Education makes a finding of negligent or reckless noncompliance with this rule, the State Board of Education shall require the ~~school~~ School district at issue to comply with this rule within a reasonable timeframe ordered by the State Board of Education.

(3C) Failure to comply with an order of the State Board of Education pursuant to paragraph (b)(2)(B) of this section shall constitute willful noncompliance within the meaning of paragraph (b)(~~12~~)(A) of this section.

210:35-3-128. Evaluation [AMENDED]

Subject to the requirements and prohibitions of this Part (13), The the media program shall reflect the philosophy of the school. The effectiveness of the program shall be judged on the basis of how it facilitates the instructional program, while ensuring minor students are not exposed to Pornographic material or Sexualized content. There shall be an ongoing evaluation of the effectiveness of the organization, services, and resources of the media program.

**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 13. STANDARD VII: THE MEDIA PROGRAM**

210:35-3-121. Statement of the standard [AMENDED]

(a) Mission of school library media program.

The mission of the media program is to assist students and teachers in becoming effective users of ideas and information. Emphasis is placed on the development of skills necessary for independent lifelong learning. To that end, schools shall provide an effective library media program through the employment of qualified staff and the acquisition of library media materials sufficient to meet the instructional needs of the staff and students. One centralized library media center can serve two or more organizational units if the units are housed at one site. The library media program is to be based on the combined enrollment and standards for the highest grade unit served.

(b) Prohibition on Pornographic material and Sexualized content in library media program.

The State Board of Education recognizes its duty and responsibility to protect minor students from accessing Pornographic materials and Sexualized content and will implement this duty by exercising the State Board of Education's authority to adopt policies and make rules for public schools. Okla. Const. art. XIII, § 5; 70 O.S. § 3-104(A)(1).

210:35-3-121.1. Definitions. [NEW]

For purposes of this Part (13):

(a) "Library" means a school library, media program, a classroom library, or any other collection of books or other materials, print or digital, that are maintained by a School district or its employees for use by students and that do not qualify as textbooks within the jurisdiction of the State Textbook Committee under 70 O.S. §§ 16-101–16-124.

(b) "School library" means the official library maintained by a school for use by students.

(c) "Pornographic" means:

(1) depictions or descriptions of sexual conduct which are patently offensive as found by the average person applying contemporary community standards, considering the youngest age of students with access to the material,

(2) materials that, taken as a whole, have as the dominant theme an appeal to prurient interest in sex as found by the average person applying contemporary community standards, and

(3) a reasonable person would find the material or performance taken as a whole, lacks serious literary, artistic, educational, political, or scientific purposes or value, considering the youngest age of students with access to the material.

(d) "Sexualized content" means material that is not strictly Pornographic but otherwise contains excessive sexual material in light of the educational value of the material and in light of the youngest age of students with access to said material.

(e) "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.

(f) "Parent" means the natural or adoptive parent of legal guardian of a minor child.

210:35-3-126. Collection requirements and penalty for noncompliance [AMENDED]

(a) Requirements.

(1) There shall be a written policy, approved by the local board, concerning the criteria to be used in the evaluation and selection of materials for the media program. The written policies should contain criteria for selection, responsibility for selection, and guidelines for reconsideration.

(2) The media program shall consist of a balanced collection of print materials, nonprint materials, multimedia resources, and equipment and supplies adequate in quality and quantity to meet the needs of students and staff in all areas of the school's program.

(3) A library of professional materials containing print and multimedia resources shall be available to the staff. The professional library is an organized collection to support the instructional process and continued professional growth.

(4) All media materials and equipment shall be maintained adequately with provisions made for regular replacement of outdated materials and equipment.

(5) The school shall provide a variety and diversity of instructional/learning materials sufficient to accommodate the scope of the program and the individual differences among students.

(6) Instructional/learning materials and equipment shall be available in a sufficient quantity to provide for the number of students involved in learning activities and for the number of teachers in the school.

(7) Records of acquisition, classification, cataloging, circulation, and financing shall be accurate and current. A computerized library catalog or an alphabetically arranged card catalog, using a recognized system, and a shelf list of holdings shall be maintained.

(8) All instructional/learning materials in the school related to the media program shall be listed in a central catalog.

(9) The school shall provide equipment, materials, space, and professional guidance for the staff and students in designing and producing instructional/learning materials.

(10) Within 60 days of the effective date of this rule, and annually every October 1, each School district shall transmit to the State Department of Education a complete listing of all books and other materials available in any School library in that district. An attestation from the Superintendent that a public online School library catalog or catalogs contain a complete and accurate list, along with the website for accessing the relevant School library catalog or catalogs, shall fulfill this requirement.

(11) No Library shall have available to minor students any Pornographic materials or Sexualized content.

(12) Every School district shall have a written policy for reviewing the educational suitability and age-appropriate nature of any material in a Library in the district and for receiving and responding to complaints regarding materials in Libraries in the district.

(13) Nothing in this section shall be construed to prohibit students from reading, owning, possessing, or discussing any book they obtained without the assistance or encouragement of a School district, its employees, or its Libraries; provided, nothing in this Part shall be

construed to authorize bringing Pornographic material or Sexualized content on the grounds of any public School district.

(b) Noncompliance.

(1) Procedure

(A) If a Parent or guardian alleges a violation of OAC 210:35-3-126(a), the Parent or guardian shall provide a written complaint to the State Department of Education that summarizes the alleged violation, including the time, date, and location of the violation and the identity of any person involved. The complaint must also include a copy of any complaint to the School district and any response.

(B) Within fourteen days of receiving a complaint, the Department shall notify the School district of the allegation and provide an opportunity for response.

(C) The Department shall then conduct an investigation to determine whether a violation has occurred. The Department's Legal Services staff shall notify the Parent or guardian and the School district of the results of the investigation.

(D) If the Department concludes that a violation has occurred or may have occurred, the School district shall have fourteen days to request a hearing before the Board. The Board shall review the Complaint and the record using a preponderance of the evidence standard, may take additional evidence at its discretion, and shall publish an order with its findings of fact and conclusions of law.

(2) Penalties

(A) If the State Board of Education makes a finding of willful noncompliance with any requirement of this section, the State Board of Education shall alter the accreditation status of the School district at issue to either Accredited With Warning or Accredited With Probation as classified in OAC 210:35-3-201. The Board shall adjust the status to Accredited With Probation if the School district is already Accredited With Warning.(B) If the State Board of Education makes a finding of negligent or reckless noncompliance with this rule, the State Board of Education shall require the School district at issue to comply with this rule within a reasonable timeframe ordered by the State Board of Education.

(C) Failure to comply with an order of the State Board of Education pursuant to paragraph (b)(2)(B) of this section shall constitute willful noncompliance within the meaning of paragraph (b)(2)(A) of this section.

210:35-3-128. Evaluation [AMENDED]

Subject to the requirements and prohibitions of this Part (13), The the media program shall reflect the philosophy of the school. The effectiveness of the program shall be judged on the basis of how it facilitates the instructional program, while ensuring minor students are not exposed to Pornographic material or Sexualized content. There shall be an ongoing evaluation of the effectiveness of the organization, services, and resources of the media program.

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. 13 Standard VII: The media program

210:35-3-121. Statement of the standard [AMENDED]

210:35-3-121.1. Definitions. [NEW]

210:35-3-126. Collection requirements and penalty for noncompliance [AMENDED]

210:35-3-128. Evaluation [AMENDED]

Summary of Public Comment	Agency Response
<p>131 commenters agree with the rule as there should not be obscene materials in school libraries. Some commenters advocate opposition of the Oklahoma Parent Legislative Action Committee (OKPLAC) as it represents the interests of public education administration, not parents. Commenters support the direction of the agency.</p>	<p>N/A</p>
<p>Commenter states there is "no pornography in school library collections" according to the criteria outlined in the rule and that spurious reports of such materials are an attempt to undermine public education. Comment asks why a list of materials must be determined for every school site, who will verify the lists, what will the lists be compared against, and who will cover the cost of labor to compile the lists. Advocates for additional training, PD, conversations, and respect as opposed to "punitive measures" as the best means to prevent "mistakes".</p>	<ul style="list-style-type: none"> • The agency disagrees with the assertion that there is no concerning material currently accessible in any of the school buildings across Oklahoma's 500 plus districts. There have been recent documented instances of such materials in state schools. • School library programs should already have some form of active list denoting materials available to students. The rule simply requires this list be provided to the agency or maintained online and certified as accurate. Neither option is burdensome. Vague allegations that some school districts maintain disorganized libraries with no catalog, without more concrete examples, are not a basis to reject the rule.
<p>Commenter states the rule places an "undue burden" on teachers, particularly reading specialists and special education teachers who maintain classroom libraries, at their own expense, and separate from</p>	<ul style="list-style-type: none"> • School library programs should already have some form of active list denoting materials available to students. The rule simply requires this list be provided to the agency or maintained online and certified as accurate.

<p>the school library or media center. Worries required district policy on library materials will further overburden teachers and prevent them from sharing newly released books with their class before the district reviews the book for age-appropriateness. Asks that definition of "sexualized content" be stricken since it is too broad and provides an example where a doctor Suess book would technically be in violation. Concerned that prohibition on assisting to encouraging students to access prohibited material could prevent school employees from encouraging students to use public libraries in general. Commenter is unsure if contracted employees who are not technically district employees but who provided services to students, such as reading coaching would be restricted only to using school library materials? Feels the rules are a solution in search of a problem.</p>	<p>Neither option is burdensome. Vague allegations that some school districts maintain disorganized libraries with no catalog, without more concrete examples, are not a basis to reject the rule.</p> <ul style="list-style-type: none"> • Private teacher libraries are not subject to the catalog requirement under this rule. Such libraries can also be easily vetted for compliance by school library media staff if a School district seeks to avoid complaints. • The definition of "sexualized content" recognizes that material does not need to reach the heightened definition of pornography in order to be inappropriately explicit for minors. A rule that only addressed pornography strictly would permit several graphic depictions for use in schools and would create a loophole to avoid the clear intent of the rule. Because the comment provides no alternative proposal to address this category of problems, it does not provide any change that can be adopted. • The rule applies to Library books and other materials, not to instructional materials. It would only affect instructional materials if they are available to students in a Library within the meaning of the rule. • The rule does not prohibit a school employee from encouraging students to use public libraries.
<p>Commenter believes rule is ill-advised/flawed and should not be enacted. Believes the issue should be left to local school boards. Also states that the rule creates an unfunded requirement for schools and a greater burden when teaching courses involving generic "sex education". Commenter feels the state should not be determining which books students have access to and that should be a decision made by parents. Lastly, the commenter dislikes the enforcement mechanism of impacting a district's accreditation status over "culture war issue".</p>	<ul style="list-style-type: none"> • The agency agrees that local boards are best positioned to protect minor students from pornographic material. The rule acknowledges this view by tasking local districts with developing a policy for reviewing age-appropriateness rather than a one-size-fits-all approach. However, the agency will not allow districts to remain complacent or inactive on these issues. • The agency agrees that parents should be the final arbiters of what content their children are exposed to at school. The rule acknowledges this approach because it does not affect books that students bring from home. • Accreditation is the proper enforcement method available to the State Board of

	<p>Education. Comments that a rule should not be enforced as an accreditation standard are truly just comments that a rule should not be enforced. Because the rule is appropriate, it should have an enforcement mechanism.</p> <ul style="list-style-type: none"> • The agency does not take any action regarding the accreditation of a school district lightly. As a result, the rule focuses on helping schools with compliance, providing clearer limits than most past rules by linking punitive action to willful noncompliance while focusing only on corrective action for violations that are not willful. However, in the face of willful noncompliance of a school district to protect children from pornography or sexualized materials or to adequately consult parents, the Board is willing and able to use its authority.
<p>Commenter expressed strong support for the rule as pornographic or sexualized content/material is improper in a learning environment.</p>	<p>N/A</p>
<p>Commenter opposes the rule citing 17 years of experience as a library media specialist, curating, and maintaining a collection of materials for school use. Alleges the rule is disrespectful to school librarians, one of the few school positions requiring a master's degree. Claims the rules are unnecessary since library specialists are already monitoring and using professional resources as part of material selection criteria and that "no school librarian or media center employee is actively working to sexualize, groom, or provide pornographic materials to children". Alleges that adding restrictions for the purpose of age-appropriateness violates the First Amendment and the Oklahoma Constitution and constitutes government overreach.</p>	<ul style="list-style-type: none"> • The agency disagrees with the assertion that there is no concerning material currently accessible in any of the school buildings across Oklahoma's 500 plus districts. There have been recent documented instances of such materials in state schools and libraries. Numerous recent incidents indicate that school library/ media specialists cannot be the only safeguard to ensure pornographic/sexualized materials are not accessible to minor students. • Neither the First Amendment nor the similar clause of the Oklahoma Constitution protects speech offered in an official capacity. Accordingly, neither clause would protect the offering of books or other materials in the manner addressed by this rule.
<p>Commenter expressed concerns on the rules as written.</p> <ul style="list-style-type: none"> • Feels rules are superfluous since providing pornography to minors is already illegal and since 	<ul style="list-style-type: none"> • While the agency agrees with the assessment that exposing minors to pornographic material is indeed illegal, there have been numerous documented instances of school libraries authorizing access to books or other materials

<p>procedures to request reconsideration of available materials are already in place.</p> <ul style="list-style-type: none"> • States the definition of sexual content is vague, which can lead to objecting to materials that others would find appropriate base on perception. Suggests the Bible might qualify as "sexualized content" under the definition. • Commenter questions what determines student "access" for instances where a library that serves a wide range of age-ranges such as K-12. • Commenter wonders if a librarian will risk violating the rule if a student asks for a book not found in the library, and the librarian recommends they check the local public library not knowing the book deals with sexualized content. • Commenter believes the Rule Impact Statement should reflect possibility that teachers cease having classroom libraries rather than try to ensure their materials meet the standards of the rule. 	<p>that are clearly overtly sexual, often graphically so, under the guise these materials are educational. The definition of "pornographic" in the rule addresses content that a reasonable person would find to be lacking in educational value. The "average person standard" is a common legal standard found throughout Oklahoma law and administrative code.</p> <ul style="list-style-type: none"> • The agency disagrees that the Bible contains excessive sexual material relative to its educational value. While the Bible certainly includes topics which are not appropriate for all ages, it does not contain graphic visual illustrations, and its educational value throughout history is indisputable. • In a library where all material is accessible to K-12, the youngest age with access to the material would most likely be the kindergarteners. The agency acknowledges that access may depend on particular facts, though, because kindergarteners may not be able to reach the books on higher shelves in a single library. • Regarding the possibility of accidental violations, the rule explicitly outlines the concept of "willful noncompliance" as the criteria for corrective action. No School district engaging in good faith compliance will be penalized. • All library materials, including those in classroom libraries, should already conform to school district standards for available materials.
<p>Commenter asks the agency to implement the rules as proposed as parents must be made aware of the possibility of their students being exposed to inappropriate materials. Thanks the agency for acting to protect children.</p>	<p>N/A</p>
<p>Commenter supports the rule as proposed as children should not be sexualized when they should be receiving educational instruction. Pornography should and must be removed from schools.</p>	<p>N/A</p>

<p>Commenter believes the rule will restrict free speech in public schools by redefining free speech. The commenter believes that parents and local school professionals should be making the decision regarding what materials are appropriate or not. States that most school districts already have policies in place to review materials for alignment with community standards.</p>	<ul style="list-style-type: none"> • The agency agrees that parents and local board are best positioned to protect minor students from pornographic material. This is why the rule tasks local boards with developing a policy for reviewing age-appropriateness rather than a one-size-fits-all approach. However, the agency will not allow districts to remain complacent or inactive on issues of student safety and parents' rights, which are already outlined and protected in law. • Neither the First Amendment nor the similar clause of the Oklahoma Constitution protects speech offered in an official capacity. Accordingly, neither clause would protect the offering of books or other materials in the manner addressed by this rule.
<p>Commenter believes school libraries and local school boards are best equipped to make decisions regarding library materials.</p>	<ul style="list-style-type: none"> • The agency agrees that parents and local boards are best positioned to protect minor students from pornographic material. The rule as drafter tasks local districts with developing a policy for reviewing age-appropriateness rather than a one-size-fits-all approach. However, the agency will not allow districts to remain complacent or inactive on issues of student safety and parents' rights, which are already outlined and protected in law. The agency trusts that vigilant parents and vigilant local boards will minimize any need to agency involvement to enforce this rule with local districts.
<p>Commenter believes the requirement to have a comprehensive list of library books and materials to provide to the agency by October 1 is a waste of time and energy and constitutes an attack on public education.</p>	<ul style="list-style-type: none"> • School library programs should already have some form of active list denoting materials available to students. The rule simply requires this list be provided to the agency and certified as accurate, which does not seem overly burdensome. • The agency disagrees with the allegation that ensuring students are not exposed to pornographic and sexualized content constitutes an attack on public education.
<p>Commenter is concerned the rule constitutes overreach by the agency and places an undue burden on public schools. States that most schools already have a written policy governing criterion</p>	<ul style="list-style-type: none"> • The agency agrees that school libraries programs should already have some form of active list denoting materials available to students. The rule simply requires this list be provided to the agency or maintained online

for selection of materials. Suggests time would be better spent teaching curriculum.	and certified as accurate, which is not burdensome.
Commenter strongly supports the proposed rules as written.	N/A
Commenter supports proposed rules and is incredulous that they would even be necessary to prohibit sexualized and pornographic content in schools.	N/A
6 commenters feel the rule is unnecessary, is political posturing, and should not be adopted.	<ul style="list-style-type: none"> The agency disagrees with the assertion that the rule is unnecessary as there have been recent documented instances of such materials in state schools.
Commenter commends the agency for proposing a rule that is common sense, productive, and that will promote better outcomes in public schools.	N/A
Commenter is in favor of the rule as proposed. Asks the agency to adopt the rule.	N/A
Commenter is in favor of the rule as proposed. Asks the agency to adopt the rule.	N/A
Commenter is in favor of the rule as proposed.	N/A
Commenter states the rule would include "the Bible" and "sex education" as inappropriate materials and that sex education should not be included since it would result in negative health outcomes. Feels the threat of a district losing accreditation is excessive.	<ul style="list-style-type: none"> The agency disagrees that rule would prohibit sex education, which by definition does not contain excessive sexual material in light of its educational purpose. The agency disagrees that the Bible contains excessive sexual material relative to its educational value. While the Bible certainly includes topics which are not appropriate for all ages, it does not contain graphic visual illustrations, and its educational value throughout history is indisputable. Accreditation is the proper enforcement method available to the State Board of Education. Comments that a rule should not be enforced as an accreditation standard are

	<p>truly just comments that a rule should not be enforced. Because the rule is appropriate, it should have an enforcement mechanism.</p> <ul style="list-style-type: none"> • The agency does not take any action regarding the accreditation of a school district lightly. As a result, the rule focuses on helping schools with compliance, providing clearer limits than most past rules by linking punitive action to willful noncompliance while focusing only on corrective action for violations that are not willful. However, in the face of willful noncompliance of a school district to protect children from pornography or sexualized materials or to adequately consult parents, the Board is willing and able to use its authority.
<p>Commenter feels the rule requirement to submit a list of library materials annually constitutes an undue burden on school districts and that it is unnecessary since most districts have a policy regulating materials.</p>	<ul style="list-style-type: none"> • The agency agrees that districts should already have some form of active list denoting materials available to students. The rule simply requires this list be provided to the agency or maintained online and certified as accurate, which is not burdensome.
<p>Commenter feels the rule requirement to submit a list of library materials annually constitutes an undue burden on school districts and that it is unnecessary since most districts have a policy regulating materials.</p>	<ul style="list-style-type: none"> • The agency agrees that districts should already have some form of active list denoting materials available to students. The rule simply requires this list be provided to the agency or maintained online and certified as accurate, which is not burdensome.
<p>19 commenters feel the threat of a district losing accreditation is excessive. Believe that the rule requirement to submit a list of library materials annually constitutes an undue burden on school districts and that it is unnecessary since most districts have a policy regulating materials.</p>	<ul style="list-style-type: none"> • The agency agrees that districts should already have some form of active list denoting materials available to students. The rule simply requires this list be provided to the agency or maintained online and certified as accurate, which is not burdensome. • The agency does not take any action regarding the accreditation of a school district lightly, and no district would lose accreditation for a single violation under existing accreditation rules. As a result, the rule focuses on helping schools with compliance, providing clearer limits than most past rules by linking punitive action to willful noncompliance while focusing only on corrective action for violations that are not willful. However, in the face of willful noncompliance of a school district to protect children from pornography

	<p>or sexualized materials or to adequately consult parents, the Board is willing and able to use its authority.</p>
<p>3 commenters have concerns regarding the agency's authority to promulgate rules in any area where express authority has not been granted by the Legislature. Commenter also requested the addition of language to the rule to add greater specificity regarding how allegations, investigations should be handled to ensure due process to school districts. One commenter provided proposed amendatory language.</p>	<ul style="list-style-type: none"> • The agency disagrees that the Board lacks authority to adopt this rule. The Oklahoma Constitution vests the Board with the executive authority over schools. In addition, the Oklahoma Legislature has provided that the Board shall make rules for the operation of the public school system of the state, including accreditation rules that adhere to legislative standards and directions.. The language on pornography is also taken directly from state law. Implementing the rules is consistent with both sources of the Board’s authority. • The agency agrees that greater specificity on the review of allegations would improve the rule. The agency has largely adopted the requested changes, with slight modifications to timing, to precise process, and to the designated staff for addressing complaints.
<p>Commenter agrees with the rule as there should not be obscene materials in school libraries. Advocates for investigation into the American Library Association.</p>	<p>N/A</p>
<p>Commenter requested the following amendments to the rule:</p> <ul style="list-style-type: none"> • Conform the rules to reflect HB3092 (2022) which required library media programs reflect the “community standards”. • Revise definition of “Library” to omit classroom libraries. • Revise definition of “school library” to include all students by removing word “minor”. • Eliminate term “sexualized content”. 	<ul style="list-style-type: none"> • The proposed rule already incorporates community standards and calls for a local board policy, which does not conflict with the mentioned legislation. • The agency rejects the suggestion to omit classroom libraries. Such an omission would be a loophole that swallows the rule, allowing school staff to expose minors to pornographic books solely based on what bookshelf holds the book. The agency also does not believe there is any more valid reason to expose children to excessively sexual material in a classroom library than in a school library. • The agency adjusted the wording regarding minors to account for the existence of adult students while acknowledging the restrictions

<ul style="list-style-type: none"> • Specify what kinds of materials should be included in the list transmitted to the State Department of Education. • Ensure a school district is afforded an opportunity to determine if a material violates district policy before the any finding of Noncompliance may be made by the State Board. • Delete “negligent or reckless” from determination of noncompliance. 	<p>concern minors.</p> <ul style="list-style-type: none"> • The definition of "sexualized content" recognizes that material does not need to reach the heightened definition of pornography in order to be inappropriately explicit for minors. A rule that only addressed pornography strictly would permit several graphic depictions for use in schools and would create a loophole to avoid the clear intent of the rule. Because the comment provides no alternative proposal to address this category of problems, it does not provide any change that can be adopted. • The agency declines to add excessive detail to the list of materials because a library catalog is a well-known resource with standard formatting for a list. The rule would create excessive burdens if it altered the standard format for a catalog. • The agency agrees with local school districts addressing potential violations in the first instance, which is why the rules require them to have a policy in place. The rules have also been revised to add procedures for assessing violations, making the complaint to the school district and any response become part of the complaint given to the agency. • The agency rejects the suggestion that there should be no punishment beyond corrective action. The rule focuses on helping schools with compliance, providing clearer limits than most past rules by linking punitive action to willful noncompliance while focusing only on corrective action for violations that are not willful. However, in the face of willful noncompliance of a school district to protect children from pornography or sexualized materials or to adequately consult parents, the Board is willing and able to use its authority.
<p>4 commenters strongly oppose the rule as the definition of “sexualized content” would include the Bible.</p>	<ul style="list-style-type: none"> • The agency disagrees that the Bible contains excessive sexual material relative to its educational value. While the Bible certainly includes topics which are not appropriate for all ages, it does not contain graphic visual illustrations, and its educational value throughout history is indisputable.

<p>Commenter supports the rule and asks that any library materials that include profane or graphic content be removed.</p>	<p>N/A</p>
<p>Commenter opposes the rules as they would limit knowledge and constitute censorship. Believes the rules would inadvertently include the Bible and other classic works of literature.</p>	<ul style="list-style-type: none"> • The agency disagrees that the Bible contains excessive sexual material relative to its educational value. While the Bible certainly includes topics which are not appropriate for all ages, it does not contain graphic visual illustrations, and its educational value throughout history is indisputable. • Neither the First Amendment nor the similar clause of the Oklahoma Constitution protects speech offered in an official capacity. Accordingly, neither clause would protect the offering of books or other materials in the manner addressed by this rule.
<p>111 commenters "have concerns" regarding the agency's authority to promulgate rules in any area where express authority has not been granted by the Legislature. Feel that librarians already ensure age-appropriateness of materials, and that the reporting requirement is cumbersome and unnecessary. Some commenters ask that more specifics be developed regarding the provision to "alter the accreditation status" of a noncompliant district.</p>	<ul style="list-style-type: none"> • The agency disagrees that the Board lacks authority to adopt this rule. The Oklahoma Constitution vests the Board with the executive authority over schools. In addition, the Oklahoma Legislature has provided that the Board shall make rules for the operation of the public school system of the state, including accreditation rules that adhere to legislative standards and directions. The language on pornography is also taken directly from state law. Implementing the rules is consistent with both sources of the Board's authority. • School library programs should already have some form of active list denoting materials available to students. The rule simply requires this list be provided to the agency or maintained online and certified as accurate. Neither option is burdensome. Vague allegations that some school districts maintain disorganized libraries with no catalog, without more concrete examples, are not a basis to reject the rule. • The agency agrees with the comments requesting greater specificity regarding Board action on school district accreditation status and will add language to detail how status would be impacted in response to willful noncompliance.

8 commenters feel the rule is unnecessary and offensive to school librarians.	<ul style="list-style-type: none"> • School library programs should already have some form of active list denoting materials available to students. The rule simply requires this list be provided to the agency or maintained online and certified as accurate. Neither option is burdensome. Vague allegations that some school districts maintain disorganized libraries with no catalog, without more concrete examples, are not a basis to reject the rule.
Commenter believes rule would stymie the advancement of human civilization.	<ul style="list-style-type: none"> • The agency disagrees that the rule would deter the progress of civilization. On the contrary, the right of parents to educate their children to become successful adults and responsible citizens is the foundation of civilization, and it is this right the rule will protect.
Commenter states she will remain anonymous in providing comment until her retirement in September of this year, "just like all other librarians and English teachers in the State who fear retaliation". Commenter states that her students choose what books they want to read and that they do not chose "old-dead-white-guy-literature", while listing books her students had read recently. Commenter alleges the books listed would all be "burned" should the rule be adopted.	<ul style="list-style-type: none"> • The agency disagrees with the overwrought assertion. The rule will simply protect children from pornography or sexualized materials while ensuring parents are adequately consulted.
13 commenters believe rule is ill-advised/flawed as it would prohibit generic "sexuality education". Commenters feel the rule will contribute to unplanned teen pregnancies.	<ul style="list-style-type: none"> • The agency disagrees that the rule would prohibit sex education, which by definition does not contain excessive sexual material in light of its educational purpose.
Commenter laments the degree to which topics of sex and sexuality have seeped into children's' literature, particularly books found in public libraries. Asks that the agency stands up for the innocence of children and adopts the rule.	N/A

<p>35 commenters oppose the rule and says the State should not determine what books are in school libraries.</p>	<ul style="list-style-type: none"> • The agency agrees that local boards are best positioned to protect minor students from pornographic material. The rule acknowledges this view by tasking local districts with developing a policy for reviewing age-appropriateness rather than a one-size-fits-all approach. However, the agency will not allow districts to remain complacent or inactive on issues of student safety.
<p>Commenter supports the rule as she is in favor of preventing young people from being subjected to the negative effects of earlier exposure to obscene materials, which impacted her own childhood.</p>	<p>N/A</p>
<p>Commenter alleges adoption of the rule will return the State of Oklahoma to the Dark Ages by prohibiting materials that are inappropriate for minor children. Commenter believes the decision regarding appropriateness of materials remains between students and their parents.</p>	<ul style="list-style-type: none"> • While the agency agrees that the rule would prohibit schools from intentionally exposing children to obscene materials, it disagrees with the overwrought assertions. • While the agency agrees that appropriateness of materials should ultimately be decided between children and their parents, the agency does not believe the primacy of parents is a valid justification for exposing children to graphic sexual content. The proposed rule properly recognizes that school districts have obligations of restraint in what they offer to minors while also focusing enforcement on parent complaints in order to endorse parental primacy.
<p>Commenter thanks the agency for proposing a rule that will restore the due authority of parents in the education of their children. She states that library associations do not represent the values of this state and asks that they be resisted.</p>	<p>N/A</p>
<p>12 commenters oppose the rule as they believe the result will be censorship. Believe that definitions of "pornography" are too nebulous and don't allow for nuance.</p>	<ul style="list-style-type: none"> • School districts already have required policies concerning allowable materials, and this is not a new provision in this rule. However, state statute does provide a definition of pornography much of which is incorporated in this rule. The definition of "pornographic" in the rule addresses content that a reasonable person would find to be lacking in educational value. This addresses the commenter's assertion that there be nuance in application.

<p>Commenter states the rule will result in the removal of books such as "the bluest eye", which detail sexual assault and that this is will negatively impact our ability to read and understand "challenging material".</p>	<ul style="list-style-type: none"> • While the agency cannot comment whether the book in question would violate the rule without further inspection, graphic depictions of sexual assault are unlikely to be proper material for education minors, and such "challenging material" is best left to students and their parents.
<p>Commenter agrees with the rule as there should not be obscene materials in school libraries. Commenter was shocked to find obscene materials were being kept in a local middle school library.</p>	<p>N/A</p>
<p>6 commenters oppose the rule on the basis that the "average person" standard is too vague.</p>	<ul style="list-style-type: none"> • The "average person standard" is a common legal standard found throughout federal law, Oklahoma law and administrative code.
<p>Commenter alleges the rule indicate a lack of trust in public schools and should be opposed.</p>	<ul style="list-style-type: none"> • The agency disagrees that the rule indicates a lack of trust in school. Instead, the rule is an assurance to parents that their children will not be exposed to obscene material as had occurred in some districts.
<p>Commenter states she, is a young person, is appalled by what is currently being allowed in some school libraries. She asks the agency to adopt the rule to protect future generations.</p>	<p>N/A</p>
<p>Commenter disagrees that minor students can choose their sexuality or gender in a deliberate way and states that any materials suggesting otherwise should not be made available to those under the age of 18. Children should be protected from making any life altering decisions during the period of uncertainty that comes with adolescence. Commenter supports the rule.</p>	<p>N/A</p>
<p>Commenter views it as the agency's duty to protect students by adopting the rule.</p>	<p>N/A</p>
<p>Commenter alleges the rule fails to adhere to enforce the OSDE media program mission of assisting students and teachers in becoming effective users of information.</p>	<ul style="list-style-type: none"> • The agency disagrees with the assertion that the rule does not support the mission of effective media programs because there is nothing that suggests obscene material and pornography is conducive to becoming "effective users of information."

<p>Commenter asks that the rule be amended to conform the HB3092, requiring school media programs conform to "community standards".</p>	<ul style="list-style-type: none"> • The proposed rule already incorporates community standards and calls for a local board policy, which does not conflict with the mentioned legislation.
<p>Commenter states that as a school librarian he must select books based on school district policy that specifies that books cannot be denied for approval dues to "religion, sexuality, gender, race and more" and that he fears the rule would run in conflict with this local selection policy.</p>	<ul style="list-style-type: none"> • The agency agrees that the vague and open-ended selection policy existing at the commenter's school district could allow for the selection of a book that would qualify as pornographic according to the "average person standard." The proposed rule would supplement, not conflict, with that selection policy because neither the definition of pornographic nor the definition of sexualized content defines material in such broad terms.
<p>Commenter opposes the rules as they will infringe on Oklahoma student' rights to access "holistic, accurate, and age-appropriate information" and would attempt to "erase diversity in humanity". Believes the rule will limit the presence of books with "an LGBTQIA+ character or topic" and thus limit opportunities for students to learn about others.</p>	<ul style="list-style-type: none"> • The agency disagrees that the rule would prohibit what the commenter alludes to as sex education, which by definition does not contain excessive sexual material in light of its educational purpose. • Additionally, the rule does not prohibit discussion regarding topics of sexuality as they pertain to general sex education, provided of course parents are provided the proper notice to opt-out their student should they so choose. • The agency disagrees that the rule would result in any decrease in books featuring any kind of characters or topics so long as those books are not pornographic and do not contain sexualized content.
<p>Commenter states the following concerns regarding the rule:</p> <ul style="list-style-type: none"> • The newly proposed language 210:35-3-121: Definitions for "Library" extends rulemaking oversight beyond Library Media Programs and therefore appears to be beyond the agency's oversight and authority associated with 70 O.S. § 3-104.4. • The newly proposed language 210:35-3-121: Definitions (c)(d) for "Pornographic" and "Sexualized Content" are vague and will inevitably lead to inconsistent interpretations of the 	<ul style="list-style-type: none"> • The agency agrees with the first comment. The definition has been revised to make clear that it does not address the textbooks within the jurisdiction of the State Textbook Committee. • The definition of "pornographic" in the rule addresses content that a reasonable person would find to be lacking in educational value. The "average person standard" is a common legal standard found throughout Oklahoma law and administrative code. In addition, the definitions of Pornographic and Sexualized Content intentionally leave discretion to local school districts. If the definitions were more restrictive, commenters would likely complain that the rule fails to give sufficient local

<p>rule by school districts seeking to adhere to it, staff at the agency charged with providing oversight of the administrative rule, and the agency in making determinations regarding the accreditation status of Oklahoma schools.</p> <ul style="list-style-type: none"> • The newly proposed language 210:35-3-126. "Collection," which now includes a title change to include "Requirements and Penalty for Noncompliance," mirrors the requirements outlined in a bill, HB1149, proposed but not passed in the 2022 legislative session. Therefore, this addition in the proposed administrative rule changes appears to circumvent the legislative process to enact such changes. 	<p>control over decisions. The agency believes that the definitions strike the appropriate balance of providing some guidance while leaving room for local control. In addition, the definition of Pornographic is taken directly from state law, and suggestions that the language is vague are misguided.</p> <ul style="list-style-type: none"> • The commenter appears to be referring to SB 1149, not HB 1149. The proposed legislation would have required the documentation and uploading of all materials, and the rule contains no such language. The commenter's frustrations with SB 1149 have no relevance to this rule, and the general existence of proposed legislation regarding libraries has no impact on the Board's authority under the Oklahoma Constitution and under other statutes or rules.
<p>Commenter opposes the proposed rule as local administrators, parents, and teachers should make these determinations. Existing local policies already contain curriculum and book selection methods and policies, and those determinations are made by local committees of parents, teachers, and administrators. Regulation of school libraries and a determination of what materials are appropriate or inappropriate should be done locally by parents and educators and not via edict handed down by centralized state regulators.</p>	<ul style="list-style-type: none"> • The agency agrees that local boards are best positioned to protect minor students from pornographic material. The rule acknowledges this view by tasking local districts with developing a policy for reviewing age-appropriateness rather than a one-size-fits-all approach. However, the agency will not allow districts to remain complacent or inactive on these issues. • The agency agrees that parents should be the final arbiters of what content their children review. The rule acknowledges this approach because it does not affect books that students bring from home.
<p>Commenter is concerned that "contemporary community standards" are too vague and will lead to too much variation in determination of appropriateness.</p>	<ul style="list-style-type: none"> • The "average person standard", as it pertains to contemporary community standards, is a common legal standard found throughout federal law, Oklahoma law, and administrative code.

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**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 19. STANDARD X: SCHOOL FACILITIES**

210:35-3-186. Site and buildings: size and space; accessibility; maintenance; health and safety [AMENDED]

(a) **General requirements for school facilities.** All school facilities shall meet the following requirements:

(1) The site and building(s) shall be properly sized and equipped for the number of occupants and grades served in accordance with the requirements of 70 O.S. § 5-131.

(2) Adequate space shall be provided for classrooms, specialized instructional areas, support facilities and other areas as needed, these areas being grouped and arranged in such manner to provide optimum instructional function and class control.

(b) **Accessibility requirements for school facilities.** The site and building(s) shall be readily accessible, and shall meet all requirements of state and federal law, including those relating to ~~in~~ providing access for students with disabilities.

(c) **Capital improvement plans.** Each school district shall develop and adopt a four-year capital improvement plan for all public schools in the district that meets the requirements of 70 O.S. 18-153 and 210:30-1. School facilities shall be able to accommodate changes in curriculum and/or equipment within a program.

(d) **Maintenance of school facilities and equipment.** Programs for preventive and corrective maintenance shall be developed and implemented to ensure that the site and building(s) will be clean, in good repair, and maintained with consideration for function and aesthetic values. Equipment, furnishings, and supplies in proper quantity and quality shall be maintained; and a system shall be developed and implemented for inventory, issue, usage, storage, repair, and replacement.

(e) **Health and safety.** The site and building(s) shall ensure that the health and safety of all school students, school personnel, and school visitors are properly safeguarded.

(1) **Building code compliance.** Where required, the facility shall have utility systems, plumbing systems, electrical systems, mechanical systems, emergency systems, building interiors and building envelope designed, built, and maintained to all federal, state, and local standards, codes and/or other legal requirements.

(2) **Loading and unloading zones.** The site shall be as free as possible from hazards, provide a safe area for (un)loading of vehicles, with adequate lighting, signage and drainage.

(3) **Hazardous materials.** Appropriate programs pertaining to hazardous materials, hazardous waste, asbestos, underground storage tanks, lead contamination, and other applicable life, health, and/or safety matters shall be developed and implemented in accordance with federal, state, and local statutes, regulations, and codes.

(4) **Emergency warning and prevention systems.** Proper precautions shall be taken to prevent injuries. All equipment and facility safety features shall be in place and properly maintained, including, but not limited to safety goggles in accordance with the

requirements of 70 O.S. §24-117 and respirators in accordance with the requirements of 70 O.S. §24-118.

(f) **School safety inspections.** The school's administration shall ensure that qualified personnel conduct a safety/emergency/disaster procedure review at least annually and safety inspections of site, building(s), and equipment regularly.

(g) **School safety drills.** Each public school district shall adopt policies and procedures for each type of safety drill required by this subsection. All safety drills shall conform to the written plans and procedures adopted by the district for protecting against natural and man-made disasters and emergencies as required by Title 63 O.S. § 681 and 70 O.S. §§ 5-148 and 5-149.

(1) **Compliance documentation.** Each public school district shall document compliance with the requirements of this subsection by each school site in writing as follows:

(A) The records for each fire drill shall be preserved for at least three (3) years and shall be made available to the State Fire Marshal or the designated agent of the State Fire Marshal upon request. In addition, one copy of the fire drill compliance report shall remain at each school site and one copy shall be filed with the school district's administrative office;

(B) In addition to the fire drill documentation required by (1)(A) of this subsection, each public school district shall document all other required safety drills in writing by school site. One copy of the safety drill compliance report shall remain at each school site and one copy shall be filed with the school district's administrative office. Each school district shall also submit documentation in writing for each school site to the Oklahoma Office of Homeland Security Oklahoma School Security Institute in accordance with the Institute's established forms, policies and/or procedures; and

(C) Each school district shall make all of its safety compliance reports required by this subsection available to the Regional Accreditation Officer during the accreditation process.

(2) **Safety drill types and requirements.** Each school district shall ensure that every public school within the district shall conduct no fewer than ten (10) safety drills per school year at each school site. All students and teachers at the public schools shall participate. Safety drills conducted in accordance with this subsection shall meet all of the following requirements:

(A) **Fire drills.** Each public school shall conduct a minimum of two (2) fire drills per school year. Each fire drill shall be conducted within the first fifteen (15) days of the beginning of each semester. The fire drills shall include the sounding of a distinctive audible signal designated as the fire alarm signal.

(B) **Tornado drills.** Each public school shall conduct a minimum of two (2) tornado drills per school year, in which all students and school employees participate. At least one (1) tornado drill shall be conducted in the month of September and at least one (1) tornado drill shall be conducted during the month of March.

(C) **Security drills.** Each public school shall conduct a minimum of four (4) security drills per school year, with two (2) security drills conducted per semester. One security drill shall be conducted within the first fifteen (15) days

of each semester. No security drill shall be conducted at the same time of day as a previous security drill conducted in the same school year. Security drills shall be conducted for the purpose of securing school buildings to prevent or mitigate injuries or deaths that may result from a threat around or in the school.

(D) **Additional safety drills.** The principal of each public school shall, at the direction of the district superintendent, utilize the remaining two (2) required safety drills for one or more of the following purposes:

- (i) To conduct additional drills of any of the types provided in this subsection;
- (ii) To conduct one or more drill(s) developed by the district that is consistent with the risks assessed for the school facility; or
- (iii) To conduct one or more drills in accordance with recommendations submitted by the Safe School Committee as authorized by the provisions of 70 O.S. § 24-100.5 or any assisting fire or law enforcement department.

(h) Restrooms and Changing Areas.

(1) Definitions. For purposes of this subsection (h):

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

(B) "Multiple occupancy restroom or changing area" means an area in a public school or public charter school building designed or designated to be used by more than one individual at a time, where individuals may be in various stages of undress in the presence of other individuals. The term may include but is not limited to a school restroom, locker room, changing room, or shower room.

(C) "School" means any public school and public charter school that serves students in prekindergarten through twelfth grades in this state.

(D) "Individual" means any student, teacher, staff member, or other person on the premises of a School.

(2) Designation of Multiple Occupancy Restroom or Changing Areas. Each School shall require every multiple occupancy restroom or changing area to be designated as follows:

(A) For the exclusive use of the male Sex; or

(B) For the exclusive use of the female Sex.

(3) Reasonable Accommodation. Each School shall provide access to a single-occupancy restroom or changing room to an Individual who does not wish to utilize the multiple occupancy restroom or changing area designated for their Sex.

(4) District Policies. Each school district board of education and public charter school governing board shall adopt a policy to provide disciplinary action for Individuals who refuse to:

(A) Use the multiple occupancy restroom or changing area designated for their Sex;

(B) Designate multiple occupancy restrooms or changing areas for the exclusive use of one Sex; or

(C) Provide access to a single-occupancy restroom or changing room to an Individual who does not wish to utilize the multiple occupancy restroom or

changing area designated for their Sex, provided that such Individual is authorized to be on the School premises.

(5) Monitoring and Complaints.

(A) Schools will be evaluated by the Regional Accreditation Officer during the accreditation process to ensure compliance with the provisions of 70 O.S. § 1-125 and this Rule. Failure to comply with 70 O.S. § 1-125 and this Rule may result in adverse accreditation action.

(B) Students, parents, teachers, school staff, and members of the public may file a complaint with the State Board of Education alleging a violation of 70 O.S. § 1-125 and/or this Rule. A copy of such complaint shall be submitted to the general counsel for the State Department of Education.

(6) Response by School.

(A) Within fifteen (15) days of observing or obtaining information suggesting ~~that~~ that a School may be in violation of 70 O.S. § 1-125 and/or this Rule or receiving a complaint pursuant to subsection (h)(4)(C), the State Department of Education shall notify, in writing, the board of education or governing board of the School involved. Simultaneously, the State Department of Education shall provide a copy of the written notification to the State Board of Education.

(B) Upon receipt of the notification, the board of education or governing board of the School shall have fifteen (15) days to request an opportunity to appear before the State Board of Education and/or submit a written response. ~~Any such request will be granted if timely submitted.~~ If the board of education or governing board of the School fails to request an opportunity to appear, the State Board of Education shall proceed without further notice or delay, to conclude the matter.

(7) Noncompliance.

(A) Upon a finding of noncompliance with the provisions of subsections B and C of 70 O.S. § 1-125 by the State Board of Education, the noncompliant school district or public charter school shall receive a five percent (5%) decrease in state funding for the school district or public charter school for the fiscal year following the year of noncompliance. State funding shall mean State Aid funding as contemplated in 70 O.S. § 18-101 et seq.

(B) If the State Board of Education makes a finding of non-compliance, the five percent reduction shall be withheld from the school district or public charter school's periodic distributions over the course of the fiscal year following the year of noncompliance.

(C) Prior to making a finding of noncompliance, the State Board of Education may, if mitigating factors are present, provide a probationary period for a school district or public charter school to come into compliance with subsections B and C of 70 O.S. § 1-125.

~~(i) Panic Button Alert System. Each public school district shall have and implement a panic button alert system. The panic button alert system shall:~~

~~(1) Connect the caller with 911 while simultaneously notifying designated on-site personnel;~~

~~(2) Directly integrate into the existing statewide Smart911 system such that a school district may provide and manage floor plans and other documents to assist emergency responders when they automatically display during a 911 call; and~~

(3) Be available for use as a smartphone application and have a mechanism for panic notifications to be triggered by non-smartphone wireless callers and landline callers.

**TITLE 210. STATE DEPARTMENT OF EDUCATION
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**SUBCHAPTER 3. STANDARDS FOR ELEMENTARY, MIDDLE LEVEL,
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PART 19. STANDARD X: SCHOOL FACILITIES**

210:35-3-186. Site and buildings: size and space; accessibility; maintenance; health and safety [AMENDED]

(a) **General requirements for school facilities.** All school facilities shall meet the following requirements:

(1) The site and building(s) shall be properly sized and equipped for the number of occupants and grades served in accordance with the requirements of 70 O.S. § 5-131.

(2) Adequate space shall be provided for classrooms, specialized instructional areas, support facilities and other areas as needed, these areas being grouped and arranged in such manner to provide optimum instructional function and class control.

(b) **Accessibility requirements for school facilities.** The site and building(s) shall be readily accessible, and shall meet all requirements of state and federal law, including those relating to ~~in~~ providing access for students with disabilities.

(c) **Capital improvement plans.** Each school district shall develop and adopt a four-year capital improvement plan for all public schools in the district that meets the requirements of 70 O.S. 18-153 and 210:30-1. School facilities shall be able to accommodate changes in curriculum and/or equipment within a program.

(d) **Maintenance of school facilities and equipment.** Programs for preventive and corrective maintenance shall be developed and implemented to ensure that the site and building(s) will be clean, in good repair, and maintained with consideration for function and aesthetic values. Equipment, furnishings, and supplies in proper quantity and quality shall be maintained; and a system shall be developed and implemented for inventory, issue, usage, storage, repair, and replacement.

(e) **Health and safety.** The site and building(s) shall ensure that the health and safety of all school students, school personnel, and school visitors are properly safeguarded.

(1) **Building code compliance.** Where required, the facility shall have utility systems, plumbing systems, electrical systems, mechanical systems, emergency systems, building interiors and building envelope designed, built, and maintained to all federal, state, and local standards, codes and/or other legal requirements.

(2) **Loading and unloading zones.** The site shall be as free as possible from hazards, provide a safe area for (un)loading of vehicles, with adequate lighting, signage and drainage.

(3) **Hazardous materials.** Appropriate programs pertaining to hazardous materials, hazardous waste, asbestos, underground storage tanks, lead contamination, and other applicable life, health, and/or safety matters shall be developed and implemented in accordance with federal, state, and local statutes, regulations, and codes.

(4) **Emergency warning and prevention systems.** Proper precautions shall be taken to prevent injuries. All equipment and facility safety features shall be in place and properly maintained, including, but not limited to safety goggles in accordance with the requirements of 70 O.S. §24-117 and respirators in accordance with the requirements of 70 O.S. §24-118.

(f) **School safety inspections.** The school's administration shall ensure that qualified personnel conduct a safety/emergency/disaster procedure review at least annually and safety inspections of site, building(s), and equipment regularly.

(g) **School safety drills.** Each public school district shall adopt policies and procedures for each type of safety drill required by this subsection. All safety drills shall conform to the written plans and procedures adopted by the district for protecting against natural and man-made disasters and emergencies as required by Title 63 O.S. § 681 and 70 O.S. §§ 5-148 and 5-149.

(1) **Compliance documentation.** Each public school district shall document compliance with the requirements of this subsection by each school site in writing as follows:

(A) The records for each fire drill shall be preserved for at least three (3) years and shall be made available to the State Fire Marshal or the designated agent of the State Fire Marshal upon request. In addition, one copy of the fire drill compliance report shall remain at each school site and one copy shall be filed with the school district's administrative office;

(B) In addition to the fire drill documentation required by (1)(A) of this subsection, each public school district shall document all other required safety drills in writing by school site. One copy of the safety drill compliance report shall remain at each school site and one copy shall be filed with the school district's administrative office. Each school district shall also submit documentation in writing for each school site to the Oklahoma Office of Homeland Security Oklahoma School Security Institute in accordance with the Institute's established forms, policies and/or procedures; and

(C) Each school district shall make all of its safety compliance reports required by this subsection available to the Regional Accreditation Officer during the accreditation process.

(2) **Safety drill types and requirements.** Each school district shall ensure that every public school within the district shall conduct no fewer than ten (10) safety drills per school year at each school site. All students and teachers at the public schools shall participate. Safety drills conducted in accordance with this subsection shall meet all of the following requirements:

(A) **Fire drills.** Each public school shall conduct a minimum of two (2) fire drills per school year. Each fire drill shall be conducted within the first fifteen (15) days of the beginning of each semester. The fire drills shall include the sounding of a distinctive audible signal designated as the fire alarm signal.

(B) **Tornado drills.** Each public school shall conduct a minimum of two (2) tornado drills per school year, in which all students and school employees participate. At least one (1) tornado drill shall be conducted in the month of September and at least one (1) tornado drill shall be conducted during the month of March.

(C) **Security drills.** Each public school shall conduct a minimum of four (4) security drills per school year, with two (2) security drills conducted per semester. One security drill shall be conducted within the first fifteen (15) days of each semester. No security drill shall be conducted at the same time of day as a previous security drill conducted in the same school year. Security drills shall be conducted for the purpose of securing school buildings to prevent or mitigate injuries or deaths that may result from a threat around or in the school.

(D) **Additional safety drills.** The principal of each public school shall, at the direction of the district superintendent, utilize the remaining two (2) required safety drills for one or more of the following purposes:

- (i) To conduct additional drills of any of the types provided in this subsection;
- (ii) To conduct one or more drill(s) developed by the district that is consistent with the risks assessed for the school facility; or
- (iii) To conduct one or more drills in accordance with recommendations submitted by the Safe School Committee as authorized by the provisions of 70 O.S. § 24-100.5 or any assisting fire or law enforcement department.

(h) Restrooms and Changing Areas.

(1) Definitions. For purposes of this subsection (h):

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

(B) "Multiple occupancy restroom or changing area" means an area in a public school or public charter school building designed or designated to be used by more than one individual at a time, where individuals may be in various stages of undress in the presence of other individuals. The term may include but is not limited to a school restroom, locker room, changing room, or shower room.

(C) "School" means any public school and public charter school that serves students in prekindergarten through twelfth grades in this state.

(D) "Individual" means any student, teacher, staff member, or other person on the premises of a School.

(2) Designation of Multiple Occupancy Restroom or Changing Areas. Each School shall require every multiple occupancy restroom or changing area to be designated as follows:

(A) For the exclusive use of the male Sex; or

(B) For the exclusive use of the female Sex.

(3) Reasonable Accommodation. Each School shall provide access to a single-occupancy restroom or changing room to an Individual who does not wish to utilize the multiple occupancy restroom or changing area designated for their Sex.

(4) District Policies. Each school district board of education and public charter school governing board shall adopt a policy to provide disciplinary action for Individuals who refuse to:

(A) Use the multiple occupancy restroom or changing area designated for their Sex;

(B) Designate multiple occupancy restrooms or changing areas for the exclusive use of one Sex; or

(C) Provide access to a single-occupancy restroom or changing room to an Individual who does not wish to utilize the multiple occupancy restroom or changing area designated for their Sex, provided that such Individual is authorized to be on the School premises.

(5) Monitoring and Complaints.

(A) Schools will be evaluated by the Regional Accreditation Officer during the accreditation process to ensure compliance with the provisions of 70 O.S. § 1-125 and this Rule. Failure to comply with 70 O.S. § 1-125 and this Rule may result in adverse accreditation action.

(B) Students, parents, teachers, school staff, and members of the public may file a complaint with the State Board of Education alleging a violation of 70 O.S. § 1-125 and/or this Rule. A copy of such complaint shall be submitted to the general counsel for the State Department of Education.

(6) Response by School.

(A) Within fifteen (15) days of observing or obtaining information suggesting that a School may be in violation of 70 O.S. § 1-125 and/or this Rule or receiving a complaint pursuant to subsection (h)(4)(C), the State Department of Education shall notify, in writing, the board of education or governing board of the School involved. Simultaneously, the State Department of Education shall provide a copy of the written notification to the State Board of Education.

(B) Upon receipt of the notification, the board of education or governing board of the School shall have fifteen (15) days to request an opportunity to appear before the State Board of Education and/or submit a written response. Any such request will be granted if timely submitted. If the board of education or governing board of the School fails to request an opportunity to appear, the State Board of Education shall proceed without further notice or delay, to conclude the matter.

(7) Noncompliance.

(A) Upon a finding of noncompliance with the provisions of subsections B and C of 70 O.S. § 1-125 by the State Board of Education, the noncompliant school district or public charter school shall receive a five percent (5%) decrease in state funding for the school district or public charter school for the fiscal year following the year of noncompliance. State funding shall mean State Aid funding as contemplated in 70 O.S. § 18-101 et seq.

(B) If the State Board of Education makes a finding of non-compliance, the five percent reduction shall be withheld from the school district or public charter school's periodic distributions over the course of the fiscal year following the year of noncompliance.

(C) Prior to making a finding of noncompliance, the State Board of Education may, if mitigating factors are present, provide a probationary period for a school district or public charter school to come into compliance with subsections B and C of 70 O.S. § 1-125.

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 19. Standard X: school facilities

**210:35-3-186. Site and buildings: size and space; accessibility; maintenance; health
and safety [AMENDED]**

Summary of Public Comment	Agency Response
<p>Commenter commends the agency for proposing a rule that is common sense, productive, and that will promote better outcomes in public schools.</p>	<p>N/A</p>
<p>Commenter requested the following amendments to the rule:</p> <ul style="list-style-type: none"> • Revise section using word “refuse” to ensure refusal to comply with district policy means action rather than free speech. • Delete language authorizing action on accreditation status of noncompliant districts and only reflect provisions of SB615 (2022). • Add language ensuring a district’s request for a State Board hearing will be granted. • Provide a non-exhaustive list of the term “mitigating factors” for clarity. • Delete language referring to Panic Button Alert System requirement to have smartphone application capability since RAVE system does not have this capability. 	<ul style="list-style-type: none"> • The agency disagrees with the first change because the agency believes that the refusal in context refers to conduct, not speech. A person who speaks refusal and then uses the correct restroom would not violate the rule. Likewise, the conduct of refusal would violate the rule regardless of whether any speech occurred. • The agency rejects the second change. Accreditation is the proper enforcement method available to the State Board of Education. Comments that a rule should not be enforced as an accreditation standard are truly just comments that the rule should not be enforced. Because the rule is appropriate, it should have an enforcement mechanism. • The agency largely agrees with the third change. The request is in line with the intent of the rule, but the proposed language is excessively wordy. A revised version is adopted. • The agency declines the fourth change because the mitigating factors are fact-specific. The agency cannot describe the factors in an unknown situation, and the commenter did not suggest any factors for inclusion. • The language addressed in the fifth comment

	was removed in response to another comment.
<p>Commenter states that the provisions of the rule relating to the "Panic Button Alert System" would violate both the Central Purchasing Act (CPA) and the Administrative Procedures Act (APA) on the grounds that the rule negates the possibility of a bid for proposal (CPA) and that rules cannot be imposed via executive order (APA). Requests this portion of the rule be stricken.</p>	<ul style="list-style-type: none"> • The agency agrees that the language might be construed to favor a specific vendor and has removed the language in question.
<p>Commenter supports the proposed rule as it "preserves safe, intimate spaces for women and girls so that they can thrive at school". It also provides compassion and respect to all students, regardless of gender identity, by providing appropriate accommodations. Commenter cites numerous legal cases where the courts found the forced sharing of restrooms and lockers rooms caused women and girls undue emotional discomfort in addition to humiliation. Commenter cites former Supreme Court Justice Ginsburg who agreed that sex-separate spaces are not only constitutionally permissible, but in some cases required to preserve the right to privacy.</p>	N/A
<p>Commenter recommends removal of language that could be construed to apply to a specific vender such as to ensure open bidding process by school districts.</p>	<ul style="list-style-type: none"> • The agency agrees with the comment and has removed the language in question.

