



JOY HOFMEISTER

STATE SUPERINTENDENT *of* PUBLIC INSTRUCTION
OKLAHOMA STATE DEPARTMENT *of* EDUCATION

MEMORANDUM

TO: The Honorable Members of the State Board of Education
FROM: Joy Hofmeister
DATE: January 28, 2021
SUBJECT: Administrative Rule Promulgation

The State Board of Education will be taking action at the January meeting on the following proposed rule changes pursuant to the *Oklahoma Administrative Procedures Act*, 75 O.S. § 250 *et seq.*:

- (1) Title 210. State Department of Education
Chapter 1. State Board of Education
Subchapter 5. Due Process
210:1-5-6. Suspension and/or revocation of certificates [AMENDED]

The proposed amendment to the administrative rule governing the suspension and revocation of teaching certificates explicitly recognizes violation of the Standards of Performance and Conduct for Teachers adopted pursuant to 70 O.S. § 6-101.21 as grounds for the revocation of a certificate. While the rule has historically included "willful violation of a rule or regulation of the State Board of Education" as grounds for revocation, and that provision will remain, the explicit inclusion of violating the Standards of Performance and Conduct as grounds for certificate revocation is intended to call attention to the importance of the Standards for certified educators. Violations of the Standards of Performance and Conduct have been cited in many teaching certificate revocation actions in recent years, often in combination with other violations of law or regulations.

- (2) Title 210. State Department of Education
Chapter 25. Finance
Subchapter 5. Budgeting and Business Management
210:25-5-4. Accounting [AMENDED]

This is the proposed permanent version of an emergency rule currently in effect. The administrative rule that addresses accounting guidelines for public schools is amended to add submission and review windows for required reports of school finance data. The new proposed subsection codifies due dates for the initial reporting of end-of-year revenues and expenditures for each fiscal year, to ensure any potential issues can be identified and corrected prior to the final certification of the data.

**TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 1. STATE BOARD OF EDUCATION
SUBCHAPTER 5. DUE PROCESS**

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

(a) **Application.** The rules and regulations of the State Board of Education governing the suspension and revocation of certificates apply to the following: superintendents of schools, principals, supervisors, librarians, school nurses, school bus drivers, visiting teachers, classroom teachers and other personnel performing instructional, administrative and supervisory services in the public schools. Except as otherwise specifically provided by law, the issuance or denial of a new certificate shall not be considered an individual proceeding subject to the process and procedures set forth in this Section.

(b) **Grounds for revocation.** A certificate shall be revoked only for:

- (1) A willful violation of a rule or regulation of the State Board of Education, or the United States Department of Education; or
- (2) A willful violation of any federal or state law, or
- (3) A conviction for any of the offenses or bases for revocation set forth in 70 O.S. §§ 3-104 or 3-104.1; or
- (4) For other proper cause, including but not limited to violation of the Standards of Performance and Conduct for Teachers at Chapter 20, Subchapter 29 of this Title.

(c) **Duty to report and refrain from illegal activity.** It shall be a violation of State Board of Education rules and regulations for any person holding a valid teaching certificate to be aware of and fail to report, or knowingly participate in any activity deemed illegal while participating in job-related activities of student organizations, athletic and scholastic competitions, fairs, stock shows, field trips, or any other activity related to the instructional program. Willful violation of (b)(1)-(b)(4) of this regulation or the failure to report or knowing participation in any activity deemed illegal may result in recommendation of revocation or suspension of the certificate, or such other penalty, as may be determined after due process by the State Board of Education.

(d) **Right to hearing on revocation of an existing certificate.** No certificate shall be revoked until the holder of the certificate has been provided with a copy of the application to revoke the certificate and opportunity for a hearing provided by the State Board of Education in accordance with the following procedures:

- (1) **Filing of application to revoke a certificate.** An individual proceeding to revoke a certificate shall be initiated by filing an application to revoke a certificate. An application to revoke a certificate shall be filed with the Secretary of the State Board of Education by the State Department of Education. The application shall name the holder of the certificate to be revoked as the respondent in the action, and shall contain:
 - (A) A statement of the legal authority and jurisdiction under which the applicant seeks to initiate the proceeding and the hearing is to be held;
 - (B) A reference to each particular statute and/or rule involved;
 - (C) A short and plain statement of the allegations asserted; and
 - (D) A statement of the facts alleged to give rise to the revocation. The application shall also state a proposed effective date for the relief requested (e.g., revocation), which shall be set no earlier than forty-five (45) calendar days from the date the complaint is filed.
- (2) **Informal disposition.** Informal disposition of the application to revoke a certificate may be made by stipulation, agreed settlement, consent order, or default, unless otherwise

precluded by law. Written notice signed by each party or counsel representatives shall be delivered to the Secretary of the State Board of Education prior to the time of the scheduled hearing.

(3) **Notice to parties.** Within three (3) business days of the date the application to revoke a certificate is filed with the Secretary of the State Board of Education, the Secretary shall send a copy of the application along with a notice of intent to revoke the certificate by certified or registered mail, restricted delivery with return receipt requested, to the holder of the certificate. It is the responsibility of every certificate holder to notify the State Department of Education upon a change of address, and the mailing address on file for each certificate holder shall be presumed to be a proper address for service of notice. Service of notice of intent to revoke a certificate shall be deemed complete upon certified or registered mailing of the notice to the certificate holder's last known address. In addition to the requirements of notice set forth at 75 O.S. § 309, the notice of intent to revoke the certificate shall include:

- (A) A statement setting forth the proposed effective date of revocation of the certificate; and
- (B) A statement advising the holder that if the holder fails to appear for a hearing and contest the revocation, the allegations in the application for revocation will be deemed confessed and the Board may issue a final order to effect revocation of the certificate as of the effective date proposed in the notice.

(e) **Emergency Action.** Pursuant to 75 O.S. § 314, in the event the State Board of Education finds that public health, safety, or welfare imperatively requires emergency action, the State Board of Education may issue an emergency order summarily suspending a certificate pending an individual proceeding for revocation or other action. Such proceedings shall be promptly instituted and determined. Such an order shall include specific findings of fact specifying the grounds for the emergency action. Within three (3) business days of the issuance of the order by the Board, a copy of the order shall be sent to the holder of the certificate via certified or registered mail, delivery restricted to the certificate holder, with return receipt requested.

(f) **Hearing procedures.**

(1) **Hearing and appointment of a hearing officer.** Upon filing the application with the Secretary of the Board, the Secretary shall set the matter for a hearing. The Board, at its discretion, may utilize a hearing officer to conduct the hearing. If utilized, the hearing officer shall be appointed by the Chairperson of the Board.

(2) **Attendance of witnesses.** If the complainant, or the holder of the certificate wants any person to attend the hearing and testify as a witness, he/she shall notify the Chairperson of the State Board of Education at least fifteen (15) calendar days prior to the hearing, in writing, giving the name and address of the desired witness, and the Chairperson shall thereupon subpoena, by mail, the desired witness to attend in accordance with the provisions of this subsection. Every person testifying at a revocation hearing shall be sworn to tell the truth. The parties to the hearing shall exchange witness and exhibit lists and any exhibits no later than fifteen (15) calendar days prior to the hearing.

(3) **Subpoenas.** Subpoenas and/or subpoenas duces tecum may be issued in accordance with the following procedures:

- (A) **Issuance of subpoenas.** Subpoenas for the attendance of witnesses, or for the production of books, records, papers, objects, or other evidence of any kind as may be necessary and proper for the purposes of a proceeding shall be issued by the Secretary of the Board at the direction of the Chairperson; upon order of the Board; or at the request

of any party to a proceeding before the Board. The signature of the Secretary shall be sufficient authentication for any subpoena.

(B) **Service of subpoenas.** Subpoenas shall be served in any manner prescribed for service of a subpoena in a civil action in the district courts of the State of Oklahoma.

(C) **Objections to and compliance with subpoenas.** Any party to the proceeding may move to quash a subpoena or subpoenas duces tecum issued in accordance with the provisions of this Section, provided that, prior to quashing a subpoena or subpoenas duces tecum the agency shall give notice to all parties. A subpoena or subpoenas duces tecum may not be quashed if any party objects.

(D) **Enforcement of subpoenas.** Upon the failure of any person to obey a subpoena, or upon the refusal of any witness to be sworn or make an affirmation or to answer a question put to her or him in the course of any individual proceeding or other authorized action of the Board, the Board as soon as convenient shall consider the issue of enforcement of the subpoena. By resolution, it may direct application to the district or superior court of the county of such person's residence or to any judge thereof for an order to compel compliance with the subpoena or the furnishing of information or the giving of testimony. Meanwhile, the hearing or other matters shall proceed, so far as is possible, but the Board at its discretion at any time may order a stay or continuance of the proceedings for such time as may be necessary to secure a final ruling in the compliance proceedings.

(E) **Costs of issuance and service of subpoenas.** The costs covering the issuance and service of subpoenas and all witness fees incurred on behalf of a party to the proceedings, other than the Board, shall be borne by the party on whose behalf they are incurred.

(4) **Right to representation.** Any party to the individual proceeding shall at all times have the right to representation by counsel, provided that such counsel must be duly licensed to practice law by the Supreme Court of Oklahoma, and provided further that counsel shall have the right to appear and act for and on behalf of the party represented.

(5) **Legal counsel to State Board of Education.** The attorney for the State Board of Education shall present evidence to the Board, in furtherance of the application. If deemed necessary by the Chairperson of the Board, a request may be made of the Attorney General to provide counsel to the Board to rule on questions of admissibility of evidence, competency of witnesses, and any other questions of law. In the event that counsel is not requested from the Attorney General the Chairperson of the Board will rule on the evidence, competency of the witness and other questions of law.

(6) **Disqualification of a Board member or hearing officer.** A Board member or hearing officer shall withdraw from any individual proceeding in which he or she cannot accord a fair and impartial hearing or consideration. Any party may request the disqualification on the ground of his or her inability to give a fair and impartial hearing by filing an affidavit promptly upon discovery of the alleged disqualification, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded. The issue shall be determined promptly by the Board, or if it affects a member of the Board, by the remaining members thereof, if a quorum. Upon the entry of an order of disqualification affecting a hearing officer, the Board shall either assign a replacement hearing officer, or conduct the hearing itself. Upon the entry of an order of disqualification affecting a Board member, the Governor immediately shall appoint a member pro tempore to sit in place of the disqualified member in that proceeding.

(7) **Notice of facts.** The Board shall give notice to all parties, prior to, or at the hearing, of any facts of which it proposes to take official notice. Any party or her/his attorney may request that official notice be taken of any fact qualified for such notice by the statutes of this state. If such official notice is taken, it shall be stated in the record, and all parties shall have opportunity to contest and give evidence in rebuttal or derogation of the official notice.

(8) **Presentation and consideration of evidence.** The State Board of Education shall consider only evidence upon the specific cause contained in the notice, and evidence will be heard for such cause. Questions of the admissibility of evidence shall be governed by the provisions of 75 O.S. § 310.

(9) **Order of procedure.** The order of procedure at the hearing shall be as follows:

- (A) Opening statements by legal counsel of both parties;
- (B) Presentation of evidence by both parties followed by cross-examination of witnesses, and questions by State Board members or the hearing officer;
- (C) Closing arguments by legal counsel of both parties; and
- (D) Submission of case to the Board or the hearing officer for decision.

(10) **Continuance of a hearing.** The Board or hearing officer may continue or adjourn the hearing at any time for a specified time by notice or motion. The Board or hearing officer may grant a continuance upon motion of a party for good cause shown if written request is filed and served on all parties of record and filed with the Secretary of the Board at least five (5) days prior to the date set for hearing. A respondent may be granted only one (1) continuance.

(g) **Deliberations and decisions.** Deliberations by the Board or the hearing officer in an individual proceeding may be held in executive session pursuant to the provisions of the Open Meeting Act set forth at 25 O.S. § 307.

(1) **Decision.** Decisions shall be issued in accordance with the following procedures:

- (A) After hearing all evidence, and all witnesses, the State Board of Education or, if applicable, the hearing officer, shall render its decision on whether the certificate shall be revoked.
- (B) The decision of the State Board of Education or a hearing officer presiding at the hearing shall be announced at the conclusion of the hearing and notification of that decision shall be by certified or registered mail, restricted delivery with return receipt requested to the holder of the certificate.
- (C) If the holder of the certificate fails to appear at the scheduled hearing without prior notification within the time frame to request a stay or continuance set forth in (f)(10) of this Section, demonstration of good cause, the Board or hearing officer shall hold the party in default and issue an order sustaining the allegations set forth in the application.
- (D) If the applicant fails to appear at the scheduled hearing without prior notification within the time frame to request a stay or continuance set forth in subsection (f)(10) of this Section, demonstration of good cause, or fails to prove the allegations by clear and convincing evidence, the application shall be dismissed.

(2) **Findings of fact and conclusions of law.** After the decision is announced, but before issuance of the final order, if the Board has not heard the case or read the record of the individual proceeding, the hearing officer shall provide the parties with an opportunity to prepare and submit proposed findings of fact and conclusions of law in accordance with the provisions of 75 O.S. § 311. After the parties have been given notice and an opportunity to file exceptions, present briefs and oral arguments to the proposed findings of fact and conclusions of law, the Board may take action to accept, reject, or modify the proposed

Findings and Conclusions of the hearing officer. The Board shall render findings of fact and conclusions of law. All findings of fact made by the Board shall be based exclusively on the evidence presented during the course of the hearing or previously filed briefs, (made a part of the record), of the testimony of witnesses taken under oath.

(3) **Final order.** As the final determination of the matter, the final order shall constitute the final agency order and shall comply with the requirements set forth at 75 O.S. § 312. If no motion for rehearing, reopening or reconsideration of the order is filed in accordance with (h) of this Section, the final agency order shall represent exhaustion of all administrative remedies by the State Board of Education. All final orders in an individual proceeding shall be in writing and made a part of the record. Final orders are to be issued by the Chairperson of the Board or the presiding officer for transmission to the parties by the Secretary of the Board. Within five (5) business days of the date of issuance of the final order, parties shall be notified of a final order either personally or by certified mail, return receipt requested. Upon request, a copy of the order shall be delivered or mailed to each party and the party's attorney of record, if any.

(4) **Communication with parties.** Unless required for the disposition of ex parte matters authorized by law, the Chairperson and the members of the Board, the hearing officer, or the employees or the agents of the Board shall not communicate, directly or indirectly, in connection with any issue of fact, with any person or party, nor, in connection with any issue of law, with any party or his or her representative except upon notice and opportunity for all parties to participate. The Chairperson and members of the Board or their employees may communicate with one another and have the aid and advice of one or more personal assistants. Advice may also be secured from the Attorney General's office.

(h) **Record of hearing.**

(1) The record of a hearing shall be set forth in such form and detail as the Chairperson or the Board may direct. The hearing may also be fully transcribed, and shall be placed on file in the Secretary's office. Parties to the proceeding may have the proceedings transcribed by a court reporter at their own expense. In accordance with the requirements of 75 O.S. § 309, the record shall include:

- (A) All pleadings, motions, and intermediate rulings;
- (B) Evidence received or considered during the individual proceeding;
- (C) A statement of matters officially noticed;
- (D) Questions and offers of proof, objections, and rulings thereon;
- (E) Proposed findings and exceptions;
- (F) Any decision, opinion, or report by the Board or a hearing officer presiding at the hearing; and
- (G) All other evidence or data submitted to the Board or hearing officer in connection with their consideration of the case.

(2) The State Board Secretary shall electronically record the proceedings, with the exception of the executive sessions. The recording shall be made and maintained in accordance with the requirements of 75 O.S. § 309, and a copy shall be provided to any party to the proceeding upon request. If the requesting party should desire the tape(s) to be transcribed by a court reporter, the requesting party shall bear the expense.

(i) **Rights to a rehearing, reopening or reconsideration.**

(1) A petition for rehearing, reopening or reconsideration of a final order must be filed with the Secretary of the State Board within ten (10) days from the entry of the order. It must be signed by the party or his or her attorney, and must set forth with particularity the statutory

grounds upon which it is based. However, a petition based upon fraud practiced by the prevailing party or upon procurement of the orders by perjured testimony or fictitious evidence may be filed at any time. All petitions for rehearing, reopening, or reconsideration will be considered and ruled upon as soon as the convenient conduct of the Board's business will permit.

(2) A petition for a rehearing, reopening, or reconsideration shall set forth the grounds for the request. The grounds for such a petition shall be either:

(A) Newly discovered or newly available evidence, relevant to the issues;

(B) Need for additional evidence adequately to develop the facts essential to proper decision;

(C) Probable error committed by the Agency in the proceeding or in its decision such as would be grounds for reversal on judicial review of the order;

(D) Need for further consideration of the issues and the evidence in the public interest; or

(E) A showing that issues not previously considered ought to be examined in order to properly dispose of the matter. The grounds which justify the rehearing shall be set forth by the State Board of Education which grants the order, or in the petition of the individual making the request for the hearing.

(3) It is the burden of the party requesting a rehearing to notify the opposing party of the appeal.

(4) Rehearing, reopening, or reconsideration of the matter may be heard by the State Board of Education or may be referred to a hearing officer. The hearing must be confined to those grounds on which the recourse was granted.

(j) **Judicial review.** Any person or party aggrieved or adversely affected by a final order in an individual proceeding is entitled to certain judicial review in accordance with the provisions of the Oklahoma Administrative Procedures Act, and the procedures set forth therein shall govern appeals.

(k) **Applications for reinstatement of a certificate.** After five (5) years of the effective date of revocation of a certificate, or after expungement of the offense(s) that formed the basis for the revocation by a court of competent jurisdiction, an individual may apply for reinstatement of the certificate in accordance with the application procedures set forth by the State Department of Education.

(l) **Notifications of suspension or revocation.** Upon the suspension or revocation of an individual's certificate, the State Board of Education shall notify the superintendent of the district that most recently employed the certified individual based upon the individual's certification number and the personnel reports currently on file with the State Department of Education. In addition, the State Board shall to the extent possible notify the superintendents of all Oklahoma school districts. Notification shall also be provided to the extent possible to certification officers in each state or territory of the United States.

RULE IMPACT STATEMENT 210:1-5-6

"Suspension and/or revocation of certificates" [AMENDED]

a. **What is the purpose of the proposed rule change?**

The proposed amendment to the administrative rule governing the suspension and revocation of teaching certificates explicitly recognizes violation of the Standards of Performance and Conduct for Teachers adopted pursuant to 70 O.S. § 6-101.21 as grounds for the revocation of a certificate. While the rule has historically included "willful violation of a rule or regulation of the State Board of Education" as grounds for revocation, and that provision will remain, the explicit inclusion of violating the Standards of Performance and Conduct as grounds for certificate revocation is intended to call attention to the importance of the Standards for certified educators. Violations of the Standards of Performance and Conduct have been cited in many teaching certificate revocation actions in recent years, often in combination with other violations of law or regulations.

b. **What classes of persons will be affected by the proposed rule change and what classes of persons will bear the costs of the proposed rule change?**

The rule change will affect individuals who hold teaching certificates and their employing school districts.

c. **What classes of persons will benefit from the proposed rule change?**

The rule change will benefit students and school communities by ensuring the Standards of Performance and Conduct for Teachers are clearly recognized as standards that may not be violated by certified educators.

d. **What is the probable economic impact of the proposed rule upon affected classes of persons or political subdivisions?**

The agency does not anticipate any economic impact upon political subdivisions or affected classes as a result of implementation of the proposed rule change at this time.

e. **What is the probable cost to the agency to implement and enforce the proposed rule change?**

The agency does not anticipate any cost to the agency to implement and enforce as a result of the proposed change in the rule at this time. Additional record keeping, if any, will be performed by existing staff.

f. **What is the economic impact on any political subdivision to implement the proposed rule change?**

The agency does not anticipate any economic impact on any political subdivision to implement the proposed rule change at this time.

- g. **Will implementing the rule change have an adverse effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act?**

The agency does not anticipate any adverse economic impact on small business as a result of the proposed rule change at this time.

- h. **Are there any other methods which are less costly, nonregulatory, or less intrusive to achieve the purpose of the proposed rule change?**

No.

- i. **Will the rule change impact the public health, safety, and environment, and is the change designed to reduce significant risks to the public health, safety, and environment? If so, explain nature of risk and to what extent the proposed rule change will reduce the risk.**

The agency does not anticipate any impact on public health, safety, or environment as a result of implementation of the proposed rule at this time.

- j. **What detrimental effect will there be on the public health, safety, and environment if the rule change is not implemented?**

The agency does not anticipate any detrimental effect on public health, safety, or environment as a result of failure to implement the proposed rule at this time.

- k. **Date Prepared:** December 4, 2020

STATUTORY AUTHORITY FOR 210:1-5-6

Oklahoma Statutes

Title 70. Schools

Chapter 1 - School Code of 1971

Article III - State Department of Education

Section 3-104 - State Board of Education - Powers and Duties

The supervision of the public school system of Oklahoma shall be vested in the State Board of Education and, subject to limitations otherwise provided by law, the State Board of Education shall:

1. Adopt policies and make rules for the operation of the public school system of the state;

6. Have authority in matters pertaining to the licensure and certification of persons for instructional, supervisory and administrative positions and services in the public schools of the state subject to the provisions of Section 6-184 of this title, and shall formulate rules governing the issuance and revocation of certificates for superintendents of schools, principals, supervisors, librarians, clerical employees, school nurses, school bus drivers, visiting teachers, classroom teachers and for other personnel performing instructional, administrative and supervisory services, but not including members of boards of education and other employees who do not work directly with pupils, and may charge and collect reasonable fees for the issuance of such certificates...

Oklahoma Statutes

Title 70. Schools

Chapter 1 - School Code of 1971

Teachers Due Process Act of 1990

Article VI - Teachers

Section 6-101.21 - Promulgation of Standards of Performance and Conduct for Teachers - Statutory Grounds for Dismissal and Nonreemployment of Career Teachers - Conflicts - Determination of Adequacy of Teacher's Professional Performance.

A. The State Board of Education shall promulgate standards of performance and conduct for teachers. A copy of such standards, any amendments to such standards and any standards adopted by the board of education of the school district shall be provided by the board of education of each school district to each teacher on or before April 10 of each year.

B. The State Board of Education shall include the statutory grounds for dismissal and nonreemployment of career teachers within this standards document.

C. Standards which may be adopted by the board of education of a school district shall not conflict with state or federal law or standards promulgated by the State Board of Education.

D. In determining whether or not the professional performance of a teacher is adequate, the standards adopted by the State Board of Education shall be considered. Consideration may be given to any written standards of performance which have been adopted by any other education-oriented organization or agency. Professional performance or conduct of a teacher which is in compliance with standards adopted by the State Board of Education or the local board of education pursuant to Section 71 of this act shall not be considered in support of any dismissal or nonreemployment action against the teacher.

**TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 25. FINANCE
SUBCHAPTER 5. BUDGETING AND BUSINESS MANAGEMENT
PART 1. IMPLEMENTATION**

210:25-5-4. Accounting

(a) The financial structure of an Oklahoma public school district consists of various classifications as referenced in Oklahoma Administrative Code (OAC) 210:25-7-1, (Oklahoma Cost Accounting System {(OCAS}). School District accounting systems shall be organized and operated on a basis that assures legal compliance by the recording and summarizing of financial transactions within funds, each of which is completely independent of any other. Each fund shall account for and continually maintain the identity of its revenues and expenditures. Financial transactions for purposes of this regulation and as referenced in 70 O.S. 2001, § 5-135.2 shall be defined as a detailed reporting of revenue within the Source of Revenue dimension. Revenue shall be reported to the bold codes within each of the following broad categories: District Source of Revenue, Intermediate Source of Revenue, State Source of Revenue, and Federal Source of Revenue. Expenditures shall be reported by the bold codes within the Function dimension as follows: Instruction, Support Services-Students, Support Services-Instructional Staff, Support Services-General Administration, Support Services-School Administration, Support Services-Central, Operation and Maintenance of Plant Services, Student Transportation Services, Child Nutrition Programs Operations, Community Services Operations and Facilities Acquisition and Construction Services. Additional dimensions for Revenue and Expenditures are coded to provide classification by Fiscal Year, Fund, Project Reporting, Object, Program, Subject, Job Classification, and Operational Unit, where applicable.

(b) Beginning July 1 but no later than September 1 of each year, every school district and charter school board of education shall prepare and submit to the State Department of Education, through the Oklahoma Cost Accounting System (OCAS), a statement of actual income and expenditures of the district or charter school for the fiscal year that ended the preceding June 30. The year-end financial report recording and summarizing all revenue and expenditure financial transactions will be completed and certified/locked on the due date or before September 1 of the applicable year. For purposes of the OCAS system, "locked" means that the data submitted has passed the system's initial edit checks and the district has finalized the submission. To assure the validity and accuracy of financial reporting and accounting, between September 1 and September 30 of each year, school districts and charter schools shall have the opportunity to review and make corrections to the data submitted. By September 30, the data submission shall be certified by the district superintendent or head of charter school. If the school district or charter school does not report any inaccuracies by September 30, the State Department of Education will rely on the data submitted and certified by the school district or charter school to be complete and closed. Upon good cause demonstrated, between October 1 and December 1, a school district or charter school may appeal, in writing, to the State Department of Education for additional changes to the data. For purposes of this Subsection, "good cause" means that a miscalculation was made or that relevant data was omitted from the previously certified submission. The State Department of Education will review the appeal and, if it is determined good cause has been demonstrated as defined in this Subsection, the identified changes to the previously certified data will be authorized. Nothing in this Section shall preclude the State Department of Education or the State Board of Education from conducting regular or periodic reviews of school district or

charter school financial records as authorized by law and ensuring a public school operates pursuant to the OCAS system.

~~(c)~~ The school district must inform the Financial Accounting Section of the State Department of Education of any changes made at the district level to any of the financial transactions already submitted to the State Department of Education. Further, none of the data submitted by Law can be changed or altered by either the school district or the Financial Accounting Section after December 15 of each year.

~~(d)~~ As referenced in 70 O.S. 2001, § 5-135.2-(B), the State Department of Education shall reduce the monthly payment of a district's State Aid funds if the district is not operating pursuant to said the OCAS system. Upon final determination, including but not limited to the process set forth in Subsection (b), the reduction of monthly payments shall begin with the first day that the school district or charter school was determined to not be operating in compliance with the OCAS system. The reduction may be waived by the State Board of Education if the school district or charter school can demonstrate that failure to operate pursuant to the OCAS system was due to circumstances beyond the control of the district or charter school, and that every effort is being made to operate in compliance with the OCAS system. Not operating pursuant to said system shall be defined as a district not:

- (1) accurately recording and reporting all revenue and expenditures by applicable OCAS bold code dimensions;
- (2) submitting OCAS financial records on time and as required, including as provided in Subsection (b), via the Web-based system of all recorded and reported revenue and expenditures by applicable OCAS bold code dimensions to the State Department of Education;
- (3) ascertaining that current and accurate applicable OCAS codes are being utilized as updated and maintained by the State Department of Education;
- (4) complying with regulations as outlined in OAC 210:25-3-7 (Financial information processing), OAC 210:25-5-10 (The encumbrance clerk), OAC 210:25-5-11 (The school district treasurer), or OAC 210:25-5-13 (School activity fund);
- (5) reconciling all recorded and reported revenue and expenditures by applicable OCAS bold code dimensions by balancing data with bank receipts and statements, purchase orders, warrant registers, investment ledgers, and all balance sheet accounts; and

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

~~(f)(e)~~ Upon the approval of the State Board of Education, school districts may make capital expenditures up to a maximum amount of \$50,000 (fifty thousand dollars) during the current fiscal year within the General Fund pursuant to 70 O.S. 2001, § 1-117, if the school district meets the established criteria as outlined in the Statutes. School districts shall be voting the maximum five (5) building fund mills. General Fund monies authorized by the State Board of Education for expenditures must be expended within the current fiscal year. Any such funds encumbered as of June 30th of the current fiscal year, but not expended by November 15th of the subsequent fiscal year, shall lapse and return to the original purpose of such funds.

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

~~(h)(g)~~ Inventory cards or data processing records shall be kept on all equipment and removable fixtures, showing purchase order number when known, date of purchase (when known, if not

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

Rule Impact Statement 210:25-5-4
"Accounting" [AMENDED]

a. **What is the purpose of the proposed rule change?**

This is the proposed permanent version of an emergency rule currently in effect. The administrative rule that addresses accounting guidelines for public schools is being amended to add submission and review windows for required reports of school finance data. Existing statute and rule provisions require school district and charter accounting systems to operate in compliance with the Oklahoma Cost Accounting System (OCAS), which includes specific reporting codes for different categories of revenues and expenditures. The new proposed subsection codifies due dates for the initial reporting of end-of-year revenues and expenditures for each fiscal year, to ensure any potential issues can be identified and corrected prior to the final certification of the data.

Under the new provisions, public school districts and charter schools have from July 1 through September 1 of each calendar year to submit the year-end financial report for the fiscal year that ended on June 30. Then, from September 1 through September 30, schools will have the opportunity to review and correct the previous fiscal year's revenue and expenditure data. By September 30, the school district superintendent or head of charter school must certify the data as finalized.

From October 1 to December 1, a school that can demonstrate good cause may appeal to the Oklahoma State Department of Education (OSDE) in writing for additional changes to the revenue and expenditure data. "Good cause" is defined for this purpose to mean that a miscalculation was made, or that relevant data was omitted from previously certified submissions. If a school is determined to have demonstrated good cause under these criteria upon review of the appeal by the OSDE, the changes to the data identified by the appeal will be authorized. This submission and review process for public school finance data will help schools verify they have reported their revenues and expenditures accurately, avoiding any statutory penalties that would have been associated with certifying inaccurate data.

b. **What classes of persons will be affected by the proposed rule change and what classes of persons will bear the costs of the proposed rule change?**

The rule change will affect public school districts and charter schools, and the OSDE Office of Financial Accounting.

c. **What classes of persons will benefit from the proposed rule change?**

The rule change will benefit public school districts and charter schools, by creating a dedicated period for schools to review their submitted year-end finance data and ensure the data is not certified as finalized while containing inaccuracies or other compliance issues.

d. **What is the probable economic impact of the proposed rule upon affected classes of persons or political subdivisions?**

The agency does not anticipate any economic impact upon political subdivisions or affected classes as a result of implementation of the proposed rule change at this time.

- e. **What is the probable cost to the agency to implement and enforce the proposed rule change?**

The agency does not anticipate any cost to the agency to implement and enforce as a result of the proposed change in the rule at this time. Additional record keeping, if any, will be performed by existing staff.

- f. **What is the economic impact on any political subdivision to implement the proposed rule change?**

The agency does not anticipate any economic impact on any political subdivision to implement the proposed rule change at this time.

- g. **Will implementing the rule change have an adverse effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act?**

The agency does not anticipate any adverse economic impact on small business as a result of the proposed rule change at this time.

- h. **Are there any other methods which are less costly, nonregulatory, or less intrusive to achieve the purpose of the proposed rule change?**

No.

- i. **Will the rule change impact the public health, safety, and environment, and is the change designed to reduce significant risks to the public health, safety, and environment? If so, explain nature of risk and to what extent the proposed rule change will reduce the risk.**

The agency does not anticipate any impact on public health, safety, or environment as a result of implementation of the proposed rule at this time.

- j. **What detrimental effect will there be on the public health, safety, and environment if the rule change is not implemented?**

The agency does not anticipate any detrimental effect on public health, safety, or environment as a result of failure to implement the proposed rule at this time.

- k. **Date Prepared:** December 4, 2020

STATUTORY AUTHORITY FOR 210:25-5-4

Oklahoma Statutes

Title 70. Schools

Chapter 1 - School Code of 1971

Article V - School Districts and Boards of Education

Section 5-135.2 - Report of Financial Transactions and Costs - Reduction of Monthly Payment of District's State Aid Funds

A. For the 1991-92 school year, school districts shall report financial transactions for all funds, except for the school activity fund, using the Oklahoma Cost Accounting System, as adopted by the State Board of Education pursuant to Section 5-135 of this title. Costs shall be reported by curricular subject area where applicable. For the 1992-93 school year and in each subsequent school year, school districts shall report financial transactions for all funds using the Oklahoma Cost Accounting System. Costs shall be reported by curricular subject area where applicable.

B. Beginning July 1, 1991, and in each subsequent school year, the State Department of Education shall reduce the monthly payment of a district's State Aid funds if, at the time of such payment, the district is not operating pursuant to the Oklahoma Cost Accounting System. The amount of the reduction shall be one percent (1%) for the first payment, two percent (2%) for the second payment, three percent (3%) for the third payment, four percent (4%) for the fourth payment, and five percent (5%) for each subsequent payment. The reduction may be waived by the State Board of Education if the district can demonstrate that failure to operate pursuant to such system was due to circumstances beyond the control of the district and that every effort is being made by the district to operate pursuant to such system as quickly as possible.

C. No later than September 1 each year, every district board of education shall prepare a statement of actual income and expenditures of the district for the fiscal year that ended on the preceding June 30. The statement of expenditures shall include functional categories as defined in rules adopted by the State Board of Education to implement the Oklahoma Cost Accounting System pursuant to Section 5-135 of this title.

D. No later than September 1 each year, every school district shall transmit a copy of the income and expenditures data required pursuant to subsection C of this section to the State Department of Education. The Department shall post the income and expenditure data on the Internet web site for the Department in a form that is accessible to the public.