



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:** February 25, 2016

**SUBJECT:** Administrative Rule Promulgation

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

Title 210. State Department of Education  
Chapter 1. State Board of Education  
Subchapter 3. Departmental Precepts  
**210:1-3-8.1. Student Data Accessibility, Transparency and Accountability Act [AMENDED]**

This is the permanent version of an emergency amendment currently in effect. The amendment eliminates language that had required the State Department of Education to redact aggregate (group level) student data reports for all data cells showing a number lower than ten (10). This change strikes the language that associated a specific number with the definition of "personally identifiable information" (PII), and still incorporates the *Family Educational Rights and Privacy Act* (FERPA) definition of PII. This protects student privacy while providing more flexibility and transparency in the presentation of public data reports.

Title 210. State Department of Education  
Chapter 15. Curriculum and Instruction  
Subchapter 27. Reading Sufficiency Act  
**210:15-27-1. Reading Sufficiency Plans and Summer Academy Reading Programs [AMENDED]**  
**210:15-27-2. Good cause exemptions for promotion under the Reading Sufficiency Act [AMENDED]**

**210:15-27-3. Standards for mid-year promotion of retained third graders  
[AMENDED]**

**210:15-27-4. Program of reading instruction [NEW]**

The Reading Sufficiency Act (RSA) rules must be updated to incorporate statutory changes made by Senate Bill 630 (2015). Changes include the addition of State Board-approved screening instruments as a means of demonstrating reading competency following completion of a Summer Academy Reading Program, and clarification that only scores from the reading comprehension and vocabulary portions of the third grade criterion-reference test shall be used in promotion and retention decisions. A new rule, "Program of reading instruction", outlines the duties of Student Reading Proficiency Teams.

Title 210. State Department of Education

Chapter 20. Staff

Subchapter 9. Professional Standards: Teacher Education and Certification

Part 9. Teacher Certification

**210:20-9-91. Application for new certificates [AMENDED]**

Senate Bill 20 (2015) directs the State Board to issue teaching certificates to persons who hold valid teaching certifications from other states. The certificate issued to an out-of-state applicant will only be for the subject areas and grade levels most closely aligned to those recognized on the out-of-state certificate. An out-of-state teacher with at least five (5) years of teaching experience will not be required to take any competency examinations, and an out-of-state teacher with fewer than five (5) years of experience will have to pass the same subject area competency examinations that are required for in-state applicants for a new certificate.

Title 210. State Department of Education

Chapter 20. Staff

Subchapter 9. Professional Standards: Teacher Education and Certification

Part 9. Teacher Certification

**210:20-9-102. Career development program for paraprofessionals  
[AMENDED]**

The amendment adds language to provide that the teaching experience that paraprofessional program participants are required to document may include teaching in either a public or accredited private school. The same teacher certification requirements that apply to public schools in Oklahoma apply to accredited private schools, so this teaching experience should appropriately apply toward the requirements of the paraprofessional program.

Title 210. State Department of Education  
Chapter 25. Finance  
Subchapter 5. Budgeting and Business Management  
**210:25-5-5. Auditing [AMENDED]**

The Auditing rule must be amended to reflect changes to federal regulations. Office of Management and Budget Circular A 133 has been replaced by the Uniform Administrative Requirements in 2 C.F.R. Part 200, and the rule is updated to incorporate the new reference. The proposed amendments also clarify that when submitting an annual audit report to the State Department of Education, a school district must include any written correspondence received from the auditor.

Title 210. State Department of Education  
Chapter 35. Standards for Accreditation of Elementary, Middle Level,  
Secondary, and Career and Technology Schools  
Subchapter 7. Additional Standards for Middle Level Schools  
**210:35-7-41. Staffing: pupil/professional staff ratio [AMENDED]**  
**210:35-9-41. Staffing: pupil/professional staff ratio [AMENDED]**

The amendments to the pupil/professional staff ratio rules provide that a teacher and school district may agree in writing to waive the minimum weekly teacher planning time established by the rules, as long as the teacher is compensated with a stipend. School districts must currently request exceptions to the minimum weekly planning time through the deregulation process, which requires applying directly to the State Board of Education.

**TITLE 210. STATE DEPARTMENT OF EDUCATION  
CHAPTER 1. STATE BOARD OF EDUCATION  
SUBCHAPTER 3. DEPARTMENTAL PRECEPTS**

**210:1-3-8.1. Student Data Accessibility, Transparency and Accountability Act**

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

(1) **"Personally Identifiable Information"** shall have the meaning set forth in 34 C.F.R. § 99.3;

(2) **"School official"** shall mean the officials within an educational agency or institution, including, but not limited to teachers, who are determined by the agency or institution to have legitimate educational interests in Personally Identifiable Information pursuant to the provisions of 34 C.F.R. § 99.31(a)(1);

(3) **"Student data"** shall have the meaning set forth in 70 O.S. § 3-168(A)(7).

(b) **Annual inventory of student data collection.** The State Board of Education shall create and/or update and publish a data inventory and dictionary or an index of individual student data elements with definitions of individual student data fields currently collected by the State Department of Education in its student data system.

(1) The inventory or index required to be created and published by this subsection shall include:

(A) Any student data required to be reported by state and federal education mandates;

(B) Any student data, if any, which have been proposed for inclusion in the student data system with a statement regarding the purpose or reason for the proposed collection; and

(C) Any student data, if any, that the State Department of Education collects or maintains with no current purpose or reason.

(2) The inventory or index required to be created and published by this subsection shall identify which student data elements were collected by the State Department of Education on or before July 1, 2013. All data elements identified as a student data element collected by the State Department of Education on or before July 1, 2013 shall be considered an "existing collection of student data" exempt from the provisions of (c) of this Section pertaining to collection of "new student data."

(c) **Collection of new student data - limits.** New collections of student data shall be subject to the following procedures:

(1) For purposes of this subsection, a "new collection of student data" shall mean any new data object (i.e., category of student data) added to the student information system.

(2) Any new collection of student data proposed for addition to the State Department of Education student data system shall be identified and submitted to the State Board of Education for approval no later than December 1 of the year prior to the school year for which the new data collection is proposed to be added.

(3) Any new collection of student data proposed for addition to the State Department of Education student data system shall be submitted to the Governor and the Legislature within one year from the date of approval by the State Board of Education, in accordance with the provisions of 70 O.S. § 3-168(C)(7). Until approved by the Governor and the Legislature, any proposed new data collection shall be considered provisional, provided that any proposed new data collection not approved by the Governor and the Legislature by the end of the next

legislative session shall be deemed to expire and shall no longer be required by the State Department of Education.

(d) **Disclosure or transfer of student data - limits.** All requests for disclosure and/or transfer of student data collected and maintained by the State Department of Education, including, but not limited to Open Records Act requests and research requests, are subject to the following procedures:

(1) **Confidentiality of student data.** All data which falls within the definition of "student data" set forth in 70 O.S. § 3-168(A)(7) is hereby deemed confidential pursuant to 70 O.S. § 3-168(C). Accordingly, "student data" are not subject to disclosure by the State Department of Education unless:

(A) The student data are aggregated and any Personally Identifiable Information has been removed in accordance with the procedures set forth in (3) of this subsection;

(B) The student data are otherwise approved for release, sharing, and/or disclosure by the State Board of Education in accordance with the procedures set forth in (4) of this subsection; or

(C) The student data does not have prior approval of the State Board of Education for release, sharing, and/or disclosure, but the release of requested data to the requester does not violate provisions of the Family Education Rights and Privacy Act (FERPA) at 20 U.S.C. § 1232g et seq. or accompanying regulations at 34 C.F.R. Part 99, and the release is limited to one of the following purposes:

(i) Facilitating a student transfer out of state, or assisting a school or school district with locating an out-of-state transfer;

(ii) Facilitating a student's application to an out-of-state institution of higher education or professional training program;

(iii) Registration for a national or multistate assessment taken by a student;

(iv) Facilitating a student's voluntary participation in a program for which transfer of that student's data are a condition and/or requirement of the student's participation;

(v) The Department enters into a contract that governs databases, assessments, special education, or instruction supports with an out-of-state vendor;

(vi) Compliance with federal reporting requirements for students classified as "migrants."

(2) **Authorized access to confidential student data.** Access to confidential student data in the State Department of Education student information system shall be restricted to:

(A) Employees of the State Department of Education who have been authorized by the Superintendent of Public Instruction to access confidential student data;

(B) Contractors of the State Department of Education who require such access to perform their assigned duties, including staff and contractors from the Information Services Division of the Office of Management and Enterprise Services (OMES) who have been assigned to the State Department of Education, provided that all such individuals shall comply with the terms set forth in the contract governing use and handling of student data;

(C) District administrators, teachers, personnel or other "school officials" under direct control of a school in which the student has been enrolled or in which the student has applied for transfer or enrollment and who require access to confidential student data in order to perform their assigned duties;

- (D) A student and/or parents or legal guardians of the student with rights to inspect a student's own records in accordance with rights afforded by state or federal law;
- (E) The authorized staff of any other State of Oklahoma agencies as authorized by law and in accordance with the terms of interagency data sharing agreements; and
- (F) The authorized staff of any other entity as necessary to fulfill the purposes set forth in 70 O.S. § 3-168(C)(3) or as otherwise approved by the State Board of Education to access or share student data in accordance with terms of interagency data-sharing agreements.

**(3) Requests for release of student data.** ~~All requests for release, disclosure, or transfer of confidential student data shall be reviewed in accordance with the following procedures:~~

~~(A) **Step one.** Prior to disclosure and/or transfer of information collected and maintained by the State Department of Education, any student data identified for potential disclosure and/or transfer in response to a request shall be screened for all information that meets the definition of "Personally Identifiable Information".~~

~~(i) For purposes of this subparagraph, student data shall be deemed to result in the identification of a specific student if the n-size of the dataset is fewer than ten (10) records, provided that the provisions of this paragraph shall not be interpreted to require disclosure of records of a higher n-size if the release would result in disclosure of potentially identifiable information of one or more students.~~

~~(ii) Removal, redaction, and/or suppression of Personally Identifiable Information in a dataset necessary to bring a dataset proposed for release into compliance with the requirements of (3)(D)(iii)(II) of this subsection may require suppression of additional subsets of records to ensure that the privacy of students in the fewer than 10 subgroup.~~

~~(D) **Step two.** In accordance with the provisions of 70 O.S. § 3-168(C)(2)(c), all requests for release, disclosure, and/or transfer, of confidential student data shall be denied unless the data or dataset requested for release meets one of the following conditions:~~

~~(iA) The request is from an individual or entity specifically authorized to access confidential student data pursuant to 70 O.S. § 3-168(C)(2)(a) or (d)(2) of this Section;~~

~~(iiB) The requested data or dataset has been approved for release to the requester by the State Board of Education in accordance with the policies and procedures set forth in (4) of this subsection; or~~

~~(iiiC) The requested data or dataset meets all of the following criteria:~~

~~(Hi) The requested data meets the definition of "aggregate data" set forth in 70 O.S. § 3-168(A)(4); and~~

~~(Hii) All data that falls within the definition of "Personally Identifiable Information" set forth in 34 C.F.R. 99.3 has been removed, suppressed, and/or redacted as necessary to ensure no Personally Identifiable Information is included in the student data requested for release;~~

**(4) Policies and procedures governing approval of release, sharing and/or disclosure of confidential student data by the State Board of Education.** The State Department of Education shall develop a detailed data security plan that complies with the provisions of 70 O.S. §3-168(C)(4) and includes internal policies and procedures governing agency responses to requests for release and/or sharing of confidential student data to persons not authorized to

access confidential student data in accordance with (2) of this subsection. Such internal policies and procedures shall meet all of the following requirements:

(A) The policies and procedures shall prohibit release of all data or datasets containing Personally Identifiable Information of one or more students unless all of the following conditions are met:

(i) The release complies with the provisions of the Family Education Rights and Privacy Act (FERPA) at 20 U.S.C. § 1232g et seq. and accompanying regulations at 34 C.F.R. Part 99; and

(ii) Approval for the release has been obtained from the State Board of Education.

(B) The policies and procedures shall set forth the requirements of all written agreements necessary to comply with the requirements of 34 C.F.R. § 99.31.

## RULE IMPACT STATEMENT

### TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 1. STATE BOARD OF EDUCATION SUBCHAPTER 3. DEPARTMENTAL PRECEPTS

- a. **What is the purpose of the proposed rule change?**  
This is the permanent version of an emergency amendment currently in effect. The amendment to 210:1-3-8.1 eliminates language in the Student Data Act rule that requires the State Department of Education to redact aggregate (group level) student data reports for all data cells showing a number lower than ten (10). This change strikes the language that associates a specific number with the definition of "personally identifiable information" (PII), and leaves the rule's incorporation of the *Family Educational Rights and Privacy Act* (FERPA) definition of PII intact. This protects student privacy while providing more flexibility and transparency in the presentation of public data reports.
- 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 proposed changes will affect the State Department of Education and members of the public accessing data reports.
- c. **What classes of persons will benefit from the proposed rule change?**  
The proposed changes will benefit members of the public accessing data reports.
- 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 affected classes of persons or political subdivisions 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:** January 4, 2016



**Mary Fallin**  
Governor

**NOTIFICATION FROM GOVERNOR MARY FALLIN  
REGARDING SUBMITTED AGENCY RULES**

On August 27, 2015, the Oklahoma State Board of Education, pursuant to its legal authority to adopt rules found at 70 O.S. §§ 3-104, 3-168, and 11-103.6f, adopted rules through emergency rulemaking.

On August 28, 2015, the rules and all necessary documentation required by Section 253 of Title 75 of the Oklahoma Statutes were submitted to the Office of the Governor for approval or disapproval.

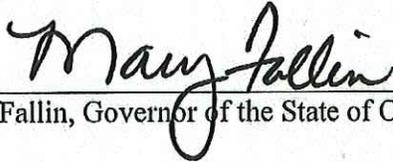
On September 14, 2015, I hereby approve the following rules submitted:

210:1-3-8.1

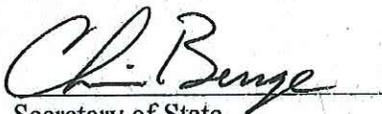
210:20-9-95

210:20-9-98

210:35-9-31.

  
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Mary Fallin, Governor of the State of Oklahoma

Attest:

  
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Secretary of State

**TITLE 210. STATE DEPARTMENT OF EDUCATION  
CHAPTER 15. CURRICULUM AND INSTRUCTION  
SUBCHAPTER 27. READING SUFFICIENCY ACT**

**210:15-27-1. Reading Sufficiency Plans and Summer Academy Reading Programs**

(a) Each public school district will develop a district reading sufficiency plan that includes a plan for each site. The district and site reading plans must be updated annually and electronically submitted to and approved by the Office of Instruction of the State Department of Education as part of the requirements for receiving accreditation, provided that electronic submission and approval of annual updates to the district plan shall not be required if:

- (1) The last plan submitted by the school district was approved; and
- (2) Expenditures for the district's reading program include only expenses relating to:
  - (A) Individual and small group tutoring;
  - (B) Purchase of and training in the use of screening and assessment measures;
  - (C) Summer school programs; or
  - (D) Saturday school programs.

(b) If any expenditure for the district's reading program is deleted or changed or if any other type of expenditure for the district's reading program is implemented, the school district shall be required to submit the latest annual update for approval. Notwithstanding the provisions of (a)(1) and (2) of this Section, if a district has one or more schools that are not achieving the annual improvement goals as outlined in the Reading Sufficiency Act, or if a district has one or more schools designated as a school in need of improvement, the district shall submit its district reading sufficiency plan for approval.

(c) Each school district and each school site shall submit to the State Department of Education the information to be used for the required Reading Sufficiency Act Annual Reading Report Card by the submission deadline to be determined by the Office of Instruction of the State Department of Education.

(d) Each school district will submit to the State Department of Education the number of students in kindergarten, first, second and third grades found to be in need of remediation in reading based on screening instruments approved by the State Board of Education by the submission deadline to be determined by the Office of Instruction of the State Department of Education.

(e) Pursuant to the Reading Sufficiency Act, each school district which has any schools that are not achieving the required annual reading goal set forth in 70 O.S. § 1210.508B shall submit to the State Department of Education its annual improvement goals necessary to progress from the baseline established September 1, 2005, to achieving the reading goal for all third-grade students set forth at 70 O.S. 1210.508B(D). These improvement goals shall be submitted to the State Board of Education by the submission deadline to be determined by the Office of Instruction of the State Department of Education.

(f) Contingent on the availability of appropriated funds designated for the Reading Sufficiency Act, the State Department of Education may allocate funds to public school districts in accordance with the provisions of 70 O.S. § 1210.508D.

(g) Reading sufficiency funds allocated pursuant to subsection (f) of this Section must be used for expenses relating to individual and small group tutoring, purchase of and and/or development of instructional training in the use of screening assessment measures, summer academy reading sufficiency plan programs, Saturday school programs, and any other reading program or

professional development training contemplated as necessary by the districts to perform the goals of the Reading Sufficiency Act for students in the kindergarten, first, second, and third grades who have been identified by the elementary site as in need of a program of reading instruction.

(h) Each district will submit the number of eligible students who may participate in an approved summer academy reading program based on results from an approved assessment as outlined in the Reading Sufficiency Act by the submission deadline to be determined by the Office of Instruction of the State Department of Education.

(ih) Summer academy reading programs for students shall be courses that:

- (1) provide at least four (4) weeks of tutoring a half (1/2) day each day for four days;
- (2) incorporate the content of a reading program that meets the criteria set forth in the Reading Sufficiency Act;
- (3) are taught by teachers who have successfully completed a professional development institute or program in reading as prescribed by the statutory provisions of the Reading Sufficiency Act; and
- (4) include only eligible students not reading at grade level based on results from an assessment approved by the State Board of Education.

(ji) School districts observing a continuous learning calendar may request to implement a summer academy reading program on an alternative schedule throughout the extended school year (e.g., during intersession breaks) by submitting a proposed alternative summer academy reading program schedule to the State Department of Education for approval prior to the deadline established by the Office of Instruction of the State Department of Education, provided that any proposed alternative schedule must meet the requirements set forth in (i) of this Section.

(kj) Superintendents of districts will sign and submit an assurance statement that their reading program(s) meet the requirements of the Reading Sufficiency Act prior to receipt of funding.

(lk) Upon completion of a Summer Academy Reading Program pursuant to 70 O.S. § 1210.508E, a student may demonstrate successful completion of the required competencies for reading necessary for promotion to fourth grade upon the student's completion of either:

- (1) A student portfolio in accordance with the criteria set forth in 210:15-27-2(b)(4); or
- (2) An acceptable level of performance on an alternative reading assessment in accordance with the criteria set forth in 210:15-27-2(b)(3)(A); or
- (3) An acceptable level of performance on one of the screening instruments approved by the State Board of Education.

#### **210:15-27-2. Good cause exemptions for promotion under the Reading Sufficiency Act**

(a) Beginning with the 2013-2014 school year, students who score at the Unsatisfactory level on the Reading portion of the third grade criterion-referenced test(s) may only be promoted to fourth grade if the student qualifies for a good cause exemption pursuant to 70 O.S. § 1210.508C. Only the scores from the reading comprehension and vocabulary portions of the third grade criterion-referenced test shall be used to determine the promotion and retention of third grade students pursuant to the Reading Sufficiency Act.

(b) Good cause exemptions shall be limited to the ~~six (6)~~ seven (7) statutory exemptions outlined in 70 O.S. § 1210.508C (K) as follows:

- (1) Students with limited English proficiency may be granted a good cause exemption for promotion to the fourth grade pursuant to 70 O.S. § 1210.508C(K)(1). To qualify for this exemption, the student must:

- (A) Be identified as Limited-English Proficient (LEP)/English Language Learner (ELL) on a screening tool approved by the Oklahoma State Department of Education Office of Bilingual/Migrant Education and have a Language Instruction Educational Plan (LIEP) in place prior to the administration of the third grade criterion referenced test; and
  - (B) The student must have had less than two (2) years of instruction in an English Language Learner (ELL) program that meets the definition of a "language instruction educational program" set forth in 20 U.S.C. §7011.
- (2) Students with disabilities who are assessed with alternate achievement standards (AA-AAS) under the Oklahoma School Testing Program (OSTP) with the Oklahoma Alternative Assessment Program (OAAP) qualify for the good cause exemption pursuant to 70 O.S. § 1210.508C(K)(2). To qualify for this exemption, the student must meet all of the following criteria:
- (A) The student must be identified as needing special education services prior to the administration of the third grade criterion referenced test;
  - (B) The student must have an Individualized Education Program (IEP) in place prior to the administration of the third grade criterion referenced test; and
  - (C) The student's IEP must direct that the student is to be assessed with alternate achievement standards through the Oklahoma Alternative Assessment Program (OAAP) based upon the OSDE Criteria Checklist for Assessing Students with Disabilities on State Assessments.
- (3) Students who demonstrate an acceptable level of performance on an alternative standardized reading assessment may be granted a good cause exemption for promotion to the fourth grade pursuant to 70 O.S. § 1210.508C(K)(3). To promote a student using an alternative standardized reading assessment, the following criteria shall apply:
- (A) The student must score an acceptable level of performance on an approved alternative standardized reading assessment. The following are approved alternative standardized reading assessments that may be used to justify a good cause promotion pursuant to 70 O.S. § 1210.508C(K)(3). The listed score constitutes an acceptable level of performance, and the student must score at or above the following percentiles:
    - (i) Stanford Achievement Test, Tenth Edition, (SAT 10) - 45th Percentile
    - (ii) Iowa Test of Basic Skills (ITBS) Complete Battery Form A, C or E, Level 9, Reading Comprehension - 45th Percentile
    - (iii) Iowa Test of Basic Skills (ITBS) Core Battery, Form A, C, or E, Level 9, Reading Comprehension - 45th Percentile
    - (iv) TerraNova, Third Edition Complete Battery Level 13, Reading - 45th Percentile
  - (B) Alternative standardized reading assessments may only be administered following the administration of the Reading portion of the third grade criterion-referenced test(s). The spring test form of the exam shall be administered.
  - (C) An approved alternative standardized reading assessment may be administered at any time prior to the start of the next academic year, if there are at least twenty (20) calendar days between administrations and different test forms are administered.
- (4) Students who can demonstrate evidence through a student portfolio that the student has mastered state standards beyond the retention level and that the student is reading on grade level or higher may be granted a good cause exemption pursuant to 70 O.S. § 1210.508C(K)(4). To promote a student through the use of a student portfolio, the following criteria shall apply:

(A) The student portfolio shall include evidence demonstrating the student's mastery of the Oklahoma state standards in reading equal to grade level performance on the Reading portion reading comprehension and vocabulary portions of the statewide third grade criterion-referenced test(s). Such evidence shall be documented through an organized collection of work representing the student's mastery of such standards, including a demonstration of mastery of all of the following essential components of reading:

- (i) Phonological/Phonemic awareness;
- (ii) Phonics (i.e., The student demonstrates awareness of letter-sound correspondence for consonants, vowels, and consonant digraphs, syllable types, and two to three syllable words);
- (iii) Vocabulary (i.e., The student demonstrates ability to determine the meaning of general academic-specific and domain-specific words and phrases in a text relevant to a grade three topic or subject area);
- (iv) Automaticity/Fluency/Reading fluency (i.e., The student demonstrates timed letter and word identification, sight words, modeled paragraph reading);
- (v) Vocabulary (i.e., The student demonstrates ability to determine the meaning of general academic-specific and domain-specific words and phrases in a text relevant to a grade three topic or subject area); and
- (vi) Comprehension (i.e., The student demonstrates ability to read and comprehend informational text independently and proficiently); and,
- (vii) Spelling/Writing (i.e., The student demonstrates proficiency in spelling and writing through spelling tests and writing samples).

(B) The student portfolio shall include clear evidence that the standards assessed by the Reading portion reading comprehension and vocabulary portions of the statewide third grade criterion-referenced test(s) have been met. Clear evidence must include multiple choice items and passages that are 50% literary text and 50% expository text that are between 200-600 words, with an average of 350 words. Such evidence could consist of:

- (i) Chapter or unit tests from the district's adopted core reading curriculum that are aligned with the Oklahoma State Standards; or
- (ii) Teacher-prepared assessments.

(C) Each standard and objective assessed by the Reading portion reading comprehension and vocabulary portions of the third grade criterion-referenced test(s) must include a minimum of four (4) work samples of mastery whereby the student attained a grade of 70% or above. Demonstrating mastery of each objective for each standard is required.

(D) The student portfolio shall include copies of the screening assessments and benchmark/progress monitoring assessments administered pursuant to 70 O.S. 1210.508C(B) and (C), as well as a copy of the student's Academic Progress Plan.

(E) The student portfolio shall be signed by the certified classroom teacher responsible for the student's Reading instruction and the principal of the school, attesting that:

- (i) The portfolio is an accurate assessment of the student's reading achievement level;
- (ii) The portfolio includes only work that has been independently produced by the student in the third grade, including programs of reading instruction provided after regular school hours, on Saturdays, and during the summer following the student's third grade year; and

- (iii) The student possesses required reading skills to be promoted to fourth grade.
- (5) Students with disabilities who participate in the statewide criterion-referenced test and have an IEP may qualify for a good cause exemption pursuant to 70 O.S. § 1210.508C(K)(5). To qualify for this exemption, the student must meet the following criteria:
- (A) The student must have been previously retained in pre-kindergarten for academic reasons, kindergarten, first grade, second grade, or third grade; and
  - (B) The student's IEP must:
    - (i) Identify Reading as an area of education need for the student or identify some type of special education service in the area of Reading; and
    - (ii) Reflect that the student has received intensive remediation for more than two (2) years. Intensive remediation may include any type of program offering intensive reading instruction that is identified as appropriate by the IEP team.
- (6) Students who demonstrate a reading deficiency and have been previously retained may qualify for a good cause exemption pursuant to 70 O.S. § 1210.508C(K)(6). To qualify for this exemption, the student must meet the following criteria:
- (A) The student must have been previously retained in pre-kindergarten for academic reasons, kindergarten, first grade, second grade, or third grade for a total of two (2) years; and
  - (B) The student must have received intensive reading instruction for two (2) or more years.
- (7) Students who have been granted an exemption for medical emergencies by the State Department of Education may qualify for a good cause exemption pursuant to 70 O.S. § 1210.508C(K)(7). To qualify for this exemption, the student must have been granted a medical emergency exemption pursuant to 70 O.S. § 1210.508-2 and 210:10-13-23, applicable to the testing window during which the reading comprehension and vocabulary portions of the third grade criterion reference test were administered to the student's class.
- (c) Each student completion of a transitional grade between kindergarten and third grade shall be considered a previous retention for purposes of 70 O.S. § 1210.508C(K). A transitional grade consists of subject area curriculum selected from two consecutive grade levels to provide differentiated instruction needed for a student to master appropriate skills required for promotion.
- (d) Documentation shall be maintained in the student record of any student promoted on the basis of a good cause exemption listed in 70 O.S. § 1210.508C(K). Documentation shall include the student's criterion-referenced test score and any documentation relied upon to grant a good cause exemption or exemption pursuant to (b) of this Section.
- (e) Any student promoted on the basis of a good cause exemption listed in 70 O.S. 1210.508C(K) should continue to receive intensive reading instruction and intensive instructional services and supports through the continued implementation of an Academic Progress Plan (APP) to remedy the reading deficiency.
- (f) Each student's APP required under this section shall be documented on a form approved by the Office of Instruction of the State Department of Education, and shall include, but not be limited to, the following information:
- (1) Identification of assessments used for diagnostic purposes and periodic progress monitoring;
  - (2) The results of the assessment(s) used to identify the reading deficiency;

- (3) A list of the developmental reading skill areas targeted for improvement (i.e., ~~comprehension, phonics, phonological/phonemic awareness, spelling, phonics, reading fluency, or vocabulary, or comprehension~~);
- (4) A description of the supplemental and/or remedial services and supports provided to the student in accordance with the provisions of 70 O.S. § 1210.508C(N)(2);
- (5) A description of parental involvement strategies; and
- (6) Identification of any collaborative services provided to the child in order to facilitate the APP (i.e., Title I, IDEA, ELL/Title III).

(g) For purposes of the Reading Sufficiency Act, a "program of reading instruction" shall be based upon a three-tiered Response to Intervention ("RtI") model, and shall include:

- (1) For students identified for Tier I intervention, a minimum of ninety (90) minutes of uninterrupted daily scientific research-based reading instruction;
- (2) For students identified for Tier II intervention, at least thirty (30) to forty-five (45) minutes of additional uninterrupted daily scientific research-based reading instruction in addition to the ninety (90) minutes of uninterrupted daily reading instruction provided under Tier I; and
- (3) For students identified for Tier III intervention, at least forty-five (45) to sixty (60) minutes of additional uninterrupted daily scientific research-based reading instruction in addition to the ninety (90) minutes of uninterrupted daily reading instruction provided under Tier I.

### **210:15-27-3. Standards for mid-year promotion of retained third graders**

- (a) District school boards of education shall adopt and implement a policy for the mid-year promotion of any student retained in third grade due to a reading deficiency as required by 70 O.S. § 1210.508C. Such mid-year promotions of retained third grade students must occur during the first semester of the academic year, and must occur prior to November 1 of that academic year.
- (b) To be eligible for mid-year promotion, a student must demonstrate by reasonable expectation that he or she:
  - (1) Is a successful and independent reader as demonstrated by reading at or above grade level;
  - (2) Has progressed sufficiently to master appropriate fourth grade reading skills; and
  - (3) Has met any additional requirements, such as satisfactory achievement in other curriculum areas, as determined by the policies of the district school board.
- (c) Standards that provide a reasonable expectation that the student has met the requirements of (b) of this Section include demonstrating a level of proficiency required to score above the Unsatisfactory level on the Grade 3 criterion referenced test(s) and mastery of reading skills, consistent with the month of promotion to fourth grade, as presented in the scope and sequence of the school district's core reading program. Evidence of demonstrated mastery shall be shown by the following:
  - (1) Successful completion of portfolio elements that meet state criteria in (d) of this Section; or
  - (2) Satisfactory performance on a subsequent alternative standardized assessment as specified in (e) of this Section.
- (d) To promote a student mid-year using a student portfolio as provided for in (c)(1) of this Section, there must be evidence of the student demonstrating a level of proficiency required to

score above the Unsatisfactory level on the Oklahoma state standards as assessed by the Reading portion reading comprehension and vocabulary portions of the Grade 3 criterion-referenced test(s), and mastery of the Oklahoma state standards as assessed by the Reading portion reading comprehension and vocabulary portions of the Grade 4 criterion-referenced test(s), as specified in (b) of this Section. The student portfolio must meet the following requirements:

- (1) Consist only of work selected by the certified classroom teacher responsible for the student's Reading instruction;
  - (2) Be an accurate representation of the student's reading achievement level, and only include work that has been independently produced by the student in the classroom of the certified classroom teacher responsible for the student's Reading instruction;
  - (3) Include evidence demonstrating a level of proficiency required to score above the Unsatisfactory level on the standards assessed by the Reading portion reading comprehension and vocabulary portions of the Grade 3 criterion-referenced test(s) by meeting all requirements set forth in 210:15-27-2(b)(4);
  - (4) Include evidence of beginning mastery of fourth grade state standards that are assessed by the Grade 4 Reading portion reading comprehension and vocabulary portions of the criterion-referenced test(s). Clear evidence must include multiple choice items and passages that are 50% literary text and 50% expository text that are between 200-600 words, with an average of 350 words. Such evidence could consist of:
    - (A) Chapter or unit tests from the district's adopted core reading curriculum that are aligned with the Oklahoma State Standards; or
    - (B) Teacher-prepared assessments;
  - (5) Each standard and objective assessed by the Grade 4 Reading portion reading comprehension and vocabulary portions of the criterion-referenced test(s) must include a minimum of three (3) work samples of mastery whereby the student attained a grade of 70% or above. Demonstrating mastery of each objective for each standard is required; and
  - (6) Be signed by the certified classroom teacher responsible for the student's reading instruction and the principal of the school, both attesting that the portfolio is an accurate assessment of the student's ability and that the student possesses the required reading skills to be promoted to fourth grade.
- (e) To promote a student mid-year using an alternative standardized assessment as provided for in (c)(2) of this Section, there must be evidence that the student scored at or above grade level on the reading portion of an alternative standardized reading assessment listed in OAC 210:15-27-2(b)(3)(A), as demonstrated by standard scores or percentiles consistent with the month of promotion to the fourth grade. Alternative assessments administered for the purpose of determining a student's eligibility for mid-year promotion must also comply with the requirements of 210:15-27-2(b)(3)(B)-(C) and the school district's policy for mid-year promotion, provided that alternative assessments administered for this purpose may be administered until November 1 of the school year.
- (f) The Academic Progress Plan (APP) for any retained third grade student who has been promoted mid-year to fourth grade must continue to be implemented for the entire academic year.
- (g) A mid-year promotion shall only occur upon agreement of the parent or legal guardian of the student, and the principal of the school. Such decision should be made in consultation with the student's third and fourth grade teachers.

**210:15-27-4. Program of reading instruction [NEW]**

**(a) Eligible students.** Each student enrolled in kindergarten, first, second, and third grade in the public schools of Oklahoma shall be assessed at the beginning and end of each school year using a screening instrument approved by the State Board of Education. Any student found not to be reading at grade level shall be provided a program of reading instruction designed to enable the student to acquire the appropriate grade level reading skills. Diagnostic assessment shall be provided if determined appropriate, and progress monitoring shall continue throughout the year.

**(b) Student Reading Proficiency Team.** For students found not to be reading at the corresponding grade level upon completion of an approved screening instrument, a Student Reading Proficiency Team shall be created. The following guidelines apply to Student Reading Proficiency Teams:

(1) For a student not reading at the corresponding grade level in first grade or second grade as identified by an approved screening instrument, the Student Reading Proficiency Team shall develop an individualized program of reading instruction. The team shall be composed of:

(A) The student's parent(s) or guardian(s);

(B) The teacher assigned responsibility for the student's reading instruction in that academic year;

(C) A teacher assigned responsibility for reading instruction in the student's next grade level; and

(D) A certified reading specialist, if available.

(2) For a third grade student who is not eligible for automatic promotion and who scores at the unsatisfactory or limited knowledge levels on the reading portion of the third-grade statewide criterion-referenced test, a Probationary Promotion Reading Proficiency Team may evaluate the student for probationary promotion. Upon the unanimous recommendation of the Probationary Promotion Reading Proficiency Team and approval of the school principal and district superintendent, a student recommended for probationary promotion shall be promoted to fourth grade. The Probationary Promotion Reading Proficiency Team shall be composed of:

(A) The student's parent(s) or guardian(s);

(B) The teacher assigned responsibility for the student's reading instruction in that academic year;

(C) A teacher assigned responsibility for reading instruction in the student's next grade level; and

(D) A certified reading specialist.

**(c) Program requirements.** Each program of reading instruction shall include provisions of the READ Initiative adopted by the school district as provided for in 70 O.S. § 1210.508C. For purposes of the Reading Sufficiency Act, a "program of reading instruction" shall be based upon a three-tiered Response to Intervention ("RtI") model, and shall include:

(1) For students identified for Tier I intervention, a minimum of ninety (90) minutes of uninterrupted daily scientific-research-based reading instruction;

(2) For students identified for Tier II intervention, at least an amount of uninterrupted scientific-research-based reading instructional time that is:

(A) Based on specific student needs;

(B) Reflects the needed intensity and/or frequency as identified on a screening tool, diagnostic assessment, and/or progress monitoring instrument; and

(C) Is determined by the classroom teacher, reading specialist (if available), and building principal.

(3) For students identified for Tier III intervention, at least forty-five (45) to sixty (60) minutes of additional uninterrupted daily scientific-research-based reading instruction in addition to the ninety (90) minutes of uninterrupted daily reading instruction provided under Tier I.

(d) **District review of program.** Each district shall conduct a review of the program of reading instruction for all students who score below the proficient level on the reading comprehension and vocabulary portions of the third grade statewide criterion-referenced tests and do not qualify for a good-cause exemption under 70 O.S. § 1210.508C(K). For each student retained under the provisions of the Reading Sufficiency Act, the school district shall require a student portfolio to be completed. The district review of each retained student's program of reading instruction shall address additional supports and services needed to remediate the identified areas of reading deficiency, which may include but not limited to:

- (1) Small group instruction;
- (2) Reduced teacher-student ratios;
- (3) More frequent progress monitoring;
- (4) Tutoring or mentoring;
- (5) Transition classes containing third and fourth grade students;
- (6) Extended school day, week, or year; and
- (7) Summer reading academies as provided for in 70 O.S. § 1210.508E, if available.

(e) **Transition to ACE remediation for students approved for probationary promotion.** For a student who is approved for probationary promotion, the Probationary Promotion Reading Proficiency Team shall continue to review the student's reading performance and repeat the evaluation and recommendation process described in 1210.508C(H)(4) each academic year until the student demonstrates grade-level proficiency on an approved screening instrument or transitions to remediation provided under the Achieving Classroom Excellence Act (ACE).

## RULE IMPACT STATEMENT

### TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 15. CURRICULUM AND INSTRUCTION SUBCHAPTER 27. READING SUFFICIENCY ACT

- a. **What is the purpose of the proposed rule change?**  
The Reading Sufficiency Act (RSA) rules must be updated to incorporate statutory changes made by Senate Bill 630 (2015). Proposed changes to the rules include the addition of State Board-approved screening instruments as a means of demonstrating reading competency following completion of a Summer Academy Reading Program, and clarification that only scores from the reading comprehension and vocabulary portions of the third grade criterion-reference test shall be used in promotion and retention decisions. An additional good cause exemption for promotion is added for students who have been granted a medical emergency exemption during the testing window when the student's class takes the third grade criterion-referenced test. A new rule, "Program of reading instruction", outlines the duties of Student Reading Proficiency Teams.
- 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 proposed changes will affect school districts, students in kindergarten through third grade, and some students who receive services under the RSA beyond fourth grade.
- c. **What classes of persons will benefit from the proposed rule change?**  
The proposed changes will benefit students in kindergarten through third grade, and some students who receive services under the RSA beyond fourth grade.
- 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 affected classes of persons or political subdivisions 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:** January 4, 2016

# An Act

ENROLLED SENATE  
BILL NO. 630

By: Ford, Mazzei, Pittman,  
Sharp and Jolley of the  
Senate

and

Casey, Cockroft, Inman and  
Condit of the House

An Act relating to schools; amending 70 O.S. 2011, Section 1210.508C, as last amended by Section 35 of Enrolled Senate Bill No. 831 of the 1st Session of the 55th Oklahoma Legislature, which relates to the Reading Sufficiency Act; requiring certain assessment to be administered at the end of the year; modifying certain reading program; providing for intensive remediation of students in certain grades found not reading at grade level; providing for development of remediation plan by certain team; removing language regarding establishment of certain committee; clarifying reference to certain students; removing language regarding automatic promotion of certain students; extending years in which probationary promotion may be used; modifying criteria for probationary promotion in certain years; modifying membership of certain team; modifying conditions for promotion after certain date; directing use of certain portions of certain test for certain purpose; modifying information required in certain report; modifying contents of certain notice; modifying criteria for midyear promotion; providing an effective date; and declaring an emergency.

SUBJECT: Reading sufficiency

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 70 O.S. 2011, Section 1210.508C, as last amended by Section 35 of Enrolled Senate Bill No. 831 of the 1st Session of the 55th Oklahoma Legislature, is amended to read as follows:

Section 1210.508C. A. 1. Each student enrolled in kindergarten in a public school in this state shall be screened for reading skills including, but not limited to, ~~phonological~~ phonemic awareness, letter recognition, and oral language skills as identified in the subject matter standards adopted by the State Board of Education. A screening instrument approved by the State Board shall be utilized for the purposes of this section.

2. For those kindergarten children at risk for reading difficulties, teachers shall emphasize reading skills as identified in the subject matter standards adopted by the State Board of Education, monitor progress throughout the year and measure year-end reading progress.

3. Classroom assistants, which may include parents, grandparents, or other volunteers, shall be provided in kindergarten classes to assist with the screening of students if a teacher aide is not already employed to assist in a kindergarten classroom.

B. 1. Each student enrolled in kindergarten, first, second and third grade of the public schools of this state shall be assessed at the beginning and end of each school year using a screening instrument approved by the State Board of Education for the acquisition of reading skills including, but not limited to, ~~phonological~~ phonemic awareness, phonics, ~~spelling~~, reading fluency, vocabulary, and comprehension.

2. Any student who is assessed and found not to be reading at the appropriate grade level shall be provided a program of reading instruction designed to enable the student to acquire the appropriate grade level reading skills. Beginning with students entering the first grade in the 2011-2012 school year, the program of reading instruction shall include provisions of the READ

Initiative adopted by the school district as provided for in subsection O of this section.

3. Throughout the year progress monitoring shall continue, and diagnostic assessment, if determined appropriate, shall be provided. Year-end reading skills shall be measured to determine reading success.

C. The State Board of Education shall approve screening instruments for use at the beginning and end of the school year, for monitoring of progress, and for measurement of reading skills at the end of the school year as required in subsections A and B of this section; provided, at least one of the screening instruments shall meet the following criteria:

1. Assess for ~~phonological~~ phonemic awareness, phonics, reading fluency, and comprehension;

2. Document the validity and reliability of each assessment;

3. Can be used for diagnosis and progress monitoring;

4. Can be used to assess special education and limited-English-proficient students; and

5. Accompanied by a data management system that provides profiles for students, class, grade level and school building. The profiles shall identify each student's instructional point of need and reading achievement level. The State Board shall also determine other comparable reading assessments for diagnostic purposes and for periodic and post assessments to be used for students at risk of reading failure. The State Board shall ensure that any assessments approved are in alignment with the subject matter standards adopted by the State Board of Education.

D. 1. The program of reading instruction required in subsection B of this section shall align with the subject matter standards adopted by the State Board of Education, and shall include provisions of the READ Initiative adopted by the school district as provided for in subsection O of this section ~~beginning with students entering the first grade in the 2011-2012 school year and.~~ A program of reading instruction may include, but is not limited to:

1. ~~Sufficient~~

- a. sufficient additional in-school instructional time for the acquisition of ~~phonological~~ phonemic awareness, phonics, ~~spelling~~, reading fluency, vocabulary, and comprehension,

2. ~~If~~

- b. if necessary, tutorial instruction after regular school hours, on Saturdays and during summer; however, such instruction may not be counted toward the one-hundred-eighty-day or one-thousand-eighty-hour school year required in Section 1-109 of this title, and

3. ~~Assessments~~

- c. assessments identified for diagnostic purposes and periodic monitoring to measure the acquisition of reading skills including, but not limited to, ~~phonological~~ phonemic awareness, phonics, ~~spelling~~, reading fluency, vocabulary, and comprehension, as identified in the student's program of reading instruction.

2. A student enrolled in first or second grades who has been assessed as provided for in subsection B of this section and found not to be reading at the corresponding grade level, shall be entitled to individualized remediation in reading until the student is determined by the results of a screening instrument to be reading on grade level. The program of reading instruction for each student shall be developed by a Student Reading Proficiency Team and shall include individualized remediation. Each team shall be composed of:

- a. the parent or guardian of the student,
- b. the teacher assigned to the student who had responsibility for reading instruction in that academic year,

- c. a teacher who is responsible for reading instruction and is assigned to teach in the next grade level of the student, and
- d. a certified reading specialist, if one is available.

E. The program of reading instruction shall continue until the student is determined by the results of approved reading assessments to be reading on grade level.

F. 1. Every school district shall adopt, and implement a district reading sufficiency plan which has had input from school administrators, teachers, and parents and if possible a reading specialist, and which shall be submitted electronically to and approved by the State Board of Education. The plan shall be updated annually. School districts shall not be required to electronically submit the annual updates to the Board if the last plan submitted to the Board was approved and expenditures for the program include only expenses relating to individual and small group tutoring, purchase of and training in the use of screening and assessment measures, summer school programs and Saturday school programs. If any expenditure for the program is deleted or changed or any other type of expenditure for the program is implemented, the school district shall be required to submit the latest annual update to the Board for approval. The district reading sufficiency plan shall include a plan for each site which includes an analysis of the data provided by the Oklahoma School Testing Program and other reading assessments utilized as required in this section, and which outlines how each school site will comply with the provisions of the Reading Sufficiency Act.

~~2. Each school site shall establish a committee, composed of educators, which if possible shall include a certified reading specialist, to develop the required programs of reading instruction. A parent or guardian of the student shall be included in the development of the program of reading instruction for that student.~~

~~3. The State Board of Education shall adopt rules for the implementation and evaluation of the provisions of the Reading Sufficiency Act. The evaluation shall include, but not be limited to, an analysis of the data required in subsection S of this section.~~

G. For any third-grade student found not to be reading at grade level as determined by reading assessments administered pursuant to this section, a new program of reading instruction, including provisions of the READ Initiative adopted by the school district as provided for in subsection O of this section, shall be developed and implemented as specified in this section. If possible, a fourth-grade teacher shall be involved in the development of the program of reading instruction. In addition to other requirements of the Reading Sufficiency Act, the plan may include specialized tutoring.

H. 1. Any first-grade, second-grade or third-grade student who demonstrates proficiency in reading at the third-grade level through a screening instrument which meets the acquisition of reading skills criteria pursuant to subsection B of this section shall not be subject to the retention guidelines found in this section. Upon demonstrating the proficiency through the screening, the district shall provide notification to the parent(s) and/or guardian(s) of the student that they have satisfied the requirements of the Reading Sufficiency Act and will not be subject to retention pursuant to this section.

2. If a third-grade student is identified at any point of the academic year as having a significant reading deficiency, which shall be defined as scoring below proficient on a screening instrument which meets the acquisition of reading skills criteria pursuant to subsection B of this section, the district shall immediately begin a student reading portfolio as provided by subsection K of this section and shall provide notice to the parent of the deficiency pursuant to subsection I of this section.

3. a. ~~If a student has not yet satisfied the proficiency requirements of this section prior to the completion of third grade, the student may qualify for automatic promotion to the fourth grade upon scoring at the "limited knowledge" level on the reading portion of the statewide third-grade criterion-referenced test.~~

b. ~~Prior to promotion, however, the district shall provide notice to the parent(s) and/or guardian(s) of the child that the child is not yet reading at grade level in reading and provide the parent(s) and/or~~

~~guardian(s) of the child the option for retention should they so desire. The notice shall contain, at a minimum, the most recently identifiable grade level on which the student is actually proficient, the opportunities for summer reading programs, school and/or community based reading tutoring, vendors which provide reading tutoring and the rights to the continuing intensive remediation pursuant to this paragraph.~~

~~e. A student so promoted shall be entitled to intensive remediation in reading until the student is able to demonstrate proficiency in reading at the grade level in which the student is enrolled. An intensive remediation plan shall be developed by a "Student Reading Proficiency Team" composed of:~~

- ~~(1) the parent(s) and/or guardian(s) of the student,~~
- ~~(2) the teacher assigned to the student who had responsibility for reading instruction in that academic year,~~
- ~~(3) a teacher in reading who teaches in the subsequent grade level,~~
- ~~(4) the school principal, and~~
- ~~(5) a certified reading specialist, if one is available.~~

4. If a student has not yet satisfied the proficiency requirements of this section prior to the completion of third grade and still has a significant reading deficiency, as identified based on assessments administered ~~that meet the acquisition of reading skills criteria pursuant to~~ as provided for in subsection B of this section, has not accumulated evidence of third-grade proficiency through a student portfolio as provided in subsection K, or is not subject to a good cause exemption as provided in subsection K, then the student shall not be eligible for automatic promotion to fourth grade.

5.

4. a. For the ~~2013-14 and 2014-15~~ 2015-2016 school ~~years~~ year, a student not ~~qualified~~ eligible for automatic promotion as provided for under paragraph 4 3 of this subsection and who scores at the unsatisfactory level on the reading portion of the third-grade statewide criterion-referenced test may be evaluated for "probationary promotion" by a "the Student Reading Proficiency Team". For the 2016-2017 and 2017-2018 school years, a student not eligible for automatic promotion as provided for under paragraph 3 of this subsection and who scores at the unsatisfactory or limited knowledge levels on the reading portion of the third-grade statewide criterion-referenced test may be evaluated for "probationary promotion" by the Student Reading Proficiency Team. The Student Reading Proficiency Team shall be composed of:

- (1) the parent(s) and/or guardian(s) of the student,
- (2) the teacher assigned to the student who had responsibility for reading instruction in that academic year,
- (3) a teacher in reading who teaches in the subsequent grade level, and
- (4) ~~the school principal, and~~
- ~~(5)~~ a certified reading specialist.

b. The student shall be promoted to the fourth grade if the team members unanimously recommend "probationary promotion" to the school principal and the school district superintendent and the principal and superintendent approves approve the recommendation that promotion is the best option for the student. If a student is allowed a "probationary promotion", the team shall continue to review the reading performance of the student and repeat the requirements of this paragraph each academic year until the student

demonstrates grade-level reading proficiency, as identified through a screening instrument which meets the acquisition of reading skills criteria pursuant to subsection B of this section, for the corresponding grade level in which the student is enrolled or transitions to the requirements set forth by the Achieving Classroom Excellence Act.

~~6.~~ 5. Beginning with the ~~2015-16~~ 2016-2017 school year, students who score ~~at the unsatisfactory~~ below the proficient level on the reading portion of the statewide third-grade criterion-referenced test ~~and~~, who are not subject to a good cause exemption as provided in subsection K of this section, and who do not qualify for promotion or "probationary promotion" as provided in this subsection, shall be retained in the third grade and provided intensive instructional services and supports as provided for in subsection N of this section.

~~7.~~ 6. Each school district shall annually report to the State Department of Education the number of students promoted to the fourth grade pursuant to ~~paragraphs 1 and 3~~ of this subsection. Following the ~~2013-14 and 2014-15~~ 2015-2016, 2016-2017 and 2017-2018 school years, each school district shall report the number of students promoted to a subsequent grade pursuant to the provisions in paragraph ~~5~~ 4 of this subsection. The State Department of Education shall publicly report the aggregate and district specific number of students promoted on their website and shall provide electronic copies of the report to the Governor, Secretary of Education, President Pro Tempore of the Senate, Speaker of the House of Representatives, and to the respective chairs of the committees with responsibility for common education policy in each legislative chamber.

~~8.~~ 7. Nothing shall prevent a school district from applying the principles of paragraphs ~~4~~ 3 and ~~5~~ 4 of this subsection in grades kindergarten through second grade.

8. To determine the promotion and retention of third-grade students pursuant to the Reading Sufficiency Act, the State Board of Education shall use only the reading comprehension and vocabulary scores portion of the statewide third-grade criterion-referenced

test and shall not use the other language arts scores portions of the test.

I. The parent of any student who is found to have a reading deficiency and is not reading at the appropriate grade level and has been provided a program of reading instruction as provided for in subsection B of this section shall be notified in writing of the following:

1. That the student has been identified as having a substantial deficiency in reading;

2. A description of the current services that are provided to the student pursuant to a conjoint measurement model such that a reader and a text are placed on the same scale;

3. A description of the proposed supplemental instructional services and supports that will be provided to the student that are designed to remediate the identified area of reading deficiency;

4. That the student will not be promoted to the fourth grade if the reading deficiency is not remediated by the end of the third grade, unless the student is otherwise promoted as provided for in subsection H of this section or is exempt for good cause as set forth in subsection K of this section;

5. Strategies for parents to use in helping their child succeed in reading proficiency;

6. The grade-level performance scores of the student;

7. That while the results of the statewide criterion-referenced tests administered pursuant to Section 1210.508 of this title are the initial determinant, they are not the sole determiner of promotion and that portfolio reviews and assessments are available; and

~~7.~~ 8. The specific criteria and policies of the school district for midyear promotion implemented as provided for in paragraph 4 of subsection N of this section.

J. No student may be assigned to a grade level based solely on age or other factors that constitute social promotion.

K. For those students who do not meet the academic requirements for promotion and who are not otherwise promoted as provided for in subsection H of this section, a school district may promote the student for good cause only. Good-cause exemptions for promotion shall be limited to the following:

1. Limited-English-proficient students who have had less than two (2) years of instruction in an English language learner program;

2. Students with disabilities whose individualized education program (IEP), consistent with state law, indicates that the student is to be assessed with alternate achievement standards through the Oklahoma Alternate Assessment Program (OAAP);

3. Students who demonstrate an acceptable level of performance on an alternative standardized reading assessment approved by the State Board of Education;

4. Students who demonstrate, through a student portfolio, that the student is reading on grade level as evidenced by demonstration of mastery of the state standards beyond the retention level;

5. Students with disabilities who participate in the statewide criterion-referenced tests and who have an individualized education program that reflects that the student has received intensive remediation in reading for more than two (2) years but still demonstrates a deficiency in reading and was previously retained in prekindergarten for academic reasons, kindergarten, first grade, second grade, or third grade;

6. Students who have received intensive remediation in reading through a program of reading instruction for two (2) or more years but still demonstrate a deficiency in reading and who were previously retained in prekindergarten for academic reasons, kindergarten, first grade, second grade, or third grade for a total of two (2) years; and

7. Students who have been granted an exemption for medical emergencies by the State Department of Education.

L. A student who is otherwise promoted as provided for in subsection H of this section or is promoted for good cause as provided for in subsection K of this section shall be provided intensive reading instruction during an altered instructional day that includes specialized diagnostic information and specific reading strategies for each student. The school district shall assist schools and teachers to implement reading strategies for the promoted students that research has shown to be successful in improving reading among low-performing readers.

M. Requests to exempt students from the retention requirements based on one of the good-cause exemptions as described in subsection K of this section shall be made using the following process:

1. Documentation submitted from the teacher of the student to the school principal that indicates the student meets one of the good-cause exemptions and promotion of the student is appropriate. In order to minimize paperwork requirements, the documentation shall consist only of the alternative assessment results or student portfolio work and the individual education plan (IEP), as applicable;

2. The principal of the school shall review and discuss the documentation with the teacher and, if applicable, the other members of the team as described in subsection H of this section. If the principal determines that the student meets one of the good-cause exemptions and should be promoted based on the documentation provided, the principal shall make a recommendation in writing to the school district superintendent; and

3. After review, the school district superintendent shall accept or reject the recommendation of the principal in writing.

N. ~~Beginning with the 2011-2012 school year, each~~ Each school district shall:

1. Conduct a review of the program of reading instruction for all students who score ~~at the unsatisfactory~~ below the proficient level on the reading portion of the statewide criterion-referenced test administered pursuant to Section 1210.508 of this title and did not meet the criteria for one of the good-cause exemptions as set

forth in subsection K of this section. The review shall address additional supports and services, as described in this subsection, needed to remediate the identified areas of reading deficiency. The school district shall require a student portfolio to be completed for each retained student;

2. Provide to students who have been retained as set forth in subsection H of this section with intensive interventions in reading, intensive instructional services and supports to remediate the identified areas of reading deficiency, including a minimum of ninety (90) minutes of daily, uninterrupted, scientific-research-based reading instruction. Retained students shall be provided other strategies prescribed by the school district, which may include, but are not limited to:

- a. small group instruction,
- b. reduced teacher-student ratios,
- c. more frequent progress monitoring,
- d. tutoring or mentoring,
- e. transition classes containing third- and fourth-grade students,
- f. extended school day, week, or year, and
- g. summer reading academies as provided for in Section 1210.508E of this title, if available;

3. Provide written notification to the parent or guardian of any student who is to be retained as set forth in subsection H of this section that the student has not met the proficiency level required for promotion and was not otherwise promoted and the reasons the student is not eligible for a good-cause exemption. The notification shall include a description of proposed interventions and intensive instructional supports that will be provided to the student to remediate the identified areas of reading deficiency;

4. Implement a policy for the midyear promotion of a retained student who can demonstrate that the student is a successful and

independent reader, is reading at or above grade level, and is ready to be promoted to the fourth grade. Tools that school districts may use in reevaluating any retained student may include subsequent assessments, alternative assessments, and portfolio reviews, in accordance with rules of the State Board of Education. Retained students may only be promoted midyear prior to November 1 and only upon demonstrating a level of proficiency required to score ~~above the unsatisfactory~~ at the proficient level on the statewide third-grade criterion-referenced test, or upon demonstrating proficiency in reading at the third-grade level through a screening instrument administered pursuant to subsection B of this section, and upon showing progress sufficient to master appropriate fourth-grade-level skills, as determined by the school. A midyear promotion shall be made only upon agreement of the parent or guardian of the student and the school principal;

5. Provide students who are retained with a high-performing teacher who can address the needs of the student, based on student performance data and above-satisfactory performance appraisals; and

6. In addition to required reading enhancement and acceleration strategies, provide students who are retained with at least one of the following instructional options:

- a. supplemental tutoring in scientific-research-based reading services in addition to the regular reading block, including tutoring before or after school,
- b. a parent-guided "Read at Home" assistance plan, as developed by the State Department of Education, the purpose of which is to encourage regular parent-guided home reading, or
- c. a mentor or tutor with specialized reading training.

0. Beginning with the 2011-2012 school year, each school district shall establish a Reading Enhancement and Acceleration Development (READ) Initiative. The focus of the READ Initiative shall be to prevent the retention of third-grade students by offering intensive accelerated reading instruction to third-grade students who failed to meet standards for promotion to fourth grade

and to kindergarten through third-grade students who are exhibiting a reading deficiency. The READ Initiative shall:

1. Be provided to all kindergarten through third-grade students at risk of retention as identified by the assessments administered pursuant to the Reading Sufficiency Act. The assessment used shall measure phonemic awareness, phonics, fluency, vocabulary, and comprehension;

2. Be provided during regular school hours in addition to the regular reading instruction; and

3. Provide a state-approved reading curriculum that, at a minimum, meets the following specifications:

- a. assists students assessed as exhibiting a reading deficiency in developing the ability to read at grade level,
- b. provides skill development in phonemic awareness, phonics, fluency, vocabulary, and comprehension,
- c. provides a scientific-research-based and reliable assessment,
- d. provides initial and ongoing analysis of the reading progress of each student,
- e. is implemented during regular school hours,
- f. provides a curriculum in core academic subjects to assist the student in maintaining or meeting proficiency levels for the appropriate grade in all academic subjects,
- g. establishes at each school, where applicable, an Intensive Acceleration Class for retained third-grade students who subsequently score ~~at the unsatisfactory~~ below the proficient level on the reading portion of the statewide criterion-referenced tests. The focus of the Intensive Acceleration Class shall be to increase the reading level of a child at least two

grade levels in one (1) school year. The Intensive Acceleration Class shall:

- (1) be provided to any student in the third grade who scores ~~at the unsatisfactory~~ below the proficient level on the reading portion of the statewide criterion-referenced tests and who was retained in the third grade the prior year because of scoring ~~at the unsatisfactory~~ below the proficient level on the reading portion of the statewide criterion-referenced tests,
  - (2) have a reduced teacher-student ratio,
  - (3) provide uninterrupted reading instruction for the majority of student contact time each day and incorporate opportunities to master the fourth-grade state standards in other core subject areas,
  - (4) use a reading program that is scientific-research-based and has proven results in accelerating student reading achievement within the same school year,
  - (5) provide intensive language and vocabulary instruction using a scientific-research-based program, including use of a speech-language therapist,
  - (6) include weekly progress monitoring measures to ensure progress is being made, and
  - (7) provide reports to the State Department of Education, in the manner described by the Department, outlining the progress of students in the class at the end of the first semester,
- h. provide reports to the State Board of Education, upon request, on the specific intensive reading interventions and supports implemented by the school district. The State Superintendent of Public

Instruction shall annually prescribe the required components of the reports, and

- i. provide to a student who has been retained in the third grade and has received intensive instructional services but is still not ready for grade promotion, as determined by the school district, the option of being placed in a transitional instructional setting. A transitional setting shall specifically be designed to produce learning gains sufficient to meet fourth-grade performance standards while continuing to remediate the areas of reading deficiency.

P. In addition to the requirements set forth in this section, each school district board of education shall annually report to the parent or guardian of each student in the district the progress of the student toward achieving state and district expectations for proficiency in reading, writing, science, and mathematics. The school district board of education shall report to the parent or guardian of each student the results on statewide criterion-referenced tests. The evaluation of the progress of each student shall be based upon classroom work, observations, tests, district and state assessments, and other relevant information. Progress reporting shall be provided to the parent or guardian in writing.

Q. 1. Each school district board of education shall annually publish on the school website, and report in writing to the State Board of Education by September 1 of each year, the following information on the prior school year:

- a. the provisions of this section relating to public school student progression and the policies and procedures of the school district on student retention and promotion,
- b. by grade, the number and percentage of all students in grades three through ten performing at the unsatisfactory below the proficient level on the reading portion of the statewide criterion-referenced tests,

- c. by grade, the number and percentage of all students retained in grades three through ten,
- d. information on the total number and percentage of students who were promoted for good cause, by each category of good cause as specified above, and
- e. any revisions to the policies of the school district on student retention and promotion from the prior year.

2. The State Department of Education shall establish a uniform format for school districts to report the information required in this subsection. The format shall be developed with input from school districts and shall be provided not later than ninety (90) days prior to the annual due date. The Department shall annually compile the information required, along with state-level summary information, and report the information to the public, the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives.

R. The State Department of Education shall provide technical assistance as needed to aid school districts in administering the provision of the Reading Sufficiency Act.

S. On or before December 1 of each year, the State Department of Education shall issue to the Governor and members of the Senate and House of Representatives Education Committees a Reading Report Card for the state and each school district and elementary site which shall include, but is not limited to, trend data detailing three (3) years of data, disaggregated by student subgroups to include economically disadvantaged, major racial or ethnic groups, students with disabilities, and English language learners, as appropriate for the following:

1. The number and percentage of students in kindergarten through third grade determined to be at risk for reading difficulties compared to the total number of students enrolled in each grade;

2. The number and percentage of students in kindergarten who continue to be at risk for reading difficulties as determined by the year-end measurement of reading progress;

3. The number and percentage of students in kindergarten through third grade who have successfully completed their program of reading instruction and are reading on grade level as determined by the results of approved reading assessments;

4. The number and percentage of students scoring at each performance level on the reading portion of the statewide third-grade criterion-referenced test;

5. The amount of funds for reading remediation received by each district;

6. An evaluation and narrative interpretation of the report data analyzing the impact of the Reading Sufficiency Act on students' ability to read at grade level; and

7. Any recommendations for improvements or amendments to the Reading Sufficiency Act.

The State Department of Education may contract with an independent entity for the reporting and analysis requirements of this subsection.

T. Copies of the results of the assessments administered shall be made a part of the permanent record of each student.

SECTION 2. This act shall become effective July 1, 2015.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

**TITLE 210. STATE DEPARTMENT OF EDUCATION  
CHAPTER 20. STAFF  
SUBCHAPTER 9. PROFESSIONAL STANDARDS: TEACHER EDUCATION  
AND CERTIFICATION  
PART 9. TEACHER CERTIFICATION**

**210:20-9-91. Application for new licenses/certificates**

The application processes for individuals seeking new licenses/certificates are described separately for individuals completing requirements at an in-state college or an out-of-state college.

(1) **Graduates of Oklahoma colleges and universities.** The application process for graduates of Oklahoma colleges and universities is as follows:

(A) The completed application may be submitted to the director of teacher education at the recommending college or sent directly to the State Department of Education along with an official up-to-date transcript(s) and the appropriate processing fee. See 210:20-9-9 (d)

(B) The signature of the director of teacher education verifies that the applicant has met the requirements of the institution's approved teacher education program for the license/certificate sought and that the applicant possesses the character and general fitness to be a teacher. Application approval by the State Department of Education verifies that the applicant has met an approved program.

(i) Vocational license/certificate applicants: The director of teacher education at the recommending institution or the applicant will forward the application to the appropriate state supervisor at the ~~State~~Oklahoma Department of Vocational-Technical Education Career and Technology Education. After approving the application the state supervisor will send it, along with supporting documents, to the State Department of Education.

(ii) Nonvocational license/certificate applicants: The director of teacher education at the recommending institution mayshall forward the approved application, along with supporting documents, to the State Department of Education.

(2) **Graduates of out-of-state colleges and universities.** The application process for graduates of out-of-state colleges and universities is as follows:

(A) The applicant will submit the following items to the State Department of Education as part of the application process:

(i) the completed application form

(ii) official up-to-date transcripts of all college course work

(iii) a copy of a valid out-of-state teaching certificate in the area soughtdocumentation the applicant has completed an accredited teacher preparation program

(iv) verification of out-of-state teaching experience

(iv) the appropriate processing fee for each class of certificate sought. See 210:20-9-9 (d)

(B) For vocational license/certificate applications, the applicant will submit all items in (2) (A) of this section directly to the State Department of Education.

~~(C) All teachers certified out-of-state after submitting requested items in (2) (A) of this section as well as out-of-state applicants who have held a certificate and hold a master's~~

degree and have accumulated an additional 15 or more semester hours in a teaching field may obtain certification through one of the following options:

(i) Option I—have a current certificate issued by the National Board for Professional Teaching Standards.

(ii) Option II—receive a two-year certificate allowing the applicant to meet requirements I and II for Standard Certification:

(I) Meet the following requirements: successfully complete the residency program as a licensed teacher, if applicable; and successfully complete one year of employment in an Oklahoma accredited school or, if not subject to the Residency program, employment may be in an accredited college or university. An administrator will provide supervision and a teacher or appropriate colleague will provide assistance as needed. Ultimately, certification is contingent on the district or college/university-level evaluation of the candidate.

(II) Meet requirements of section (a) of 210:20-9-10.1, ". . . shall pass the applicable state competency examination(s)."

**(3) Applicants who are certified out-of-state.** The following provisions apply to applicants for Oklahoma teaching certificates who already hold certificates issued by another state:

(A) The State Board of Education shall issue a certificate to an applicant who submits a valid out-of-state teaching certificate, and has on file with the State Department of Education a current Oklahoma criminal history record check from the Oklahoma State Bureau of Investigation and a national criminal history record check as defined in 74 O.S. § 150.9. The applicant shall be responsible for the costs of the criminal history record checks. The Oklahoma certificate shall be valid only for the subject areas and grade levels most closely aligned to those recognized on the applicant's out-of-state certificate.

(B) An applicant who submits documentation of five (5) years or more of successful teaching experience as a certified teacher in an accredited school shall not be required to take any competency examinations in the subject areas and grade levels most closely aligned to those recognized on the applicant's out-of-state certificate. An applicant with fewer than five (5) years of successful teaching experience as a certified teacher in an accredited school must attain a passing score on the Oklahoma Subject Area Test (OSAT) for each area in which certification is sought.

## RULE IMPACT STATEMENT

### TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 20. STAFF SUBCHAPTER 9. PROFESSIONAL STANDARDS: TEACHER EDUCATION AND CERTIFICATION PART 9. TEACHER CERTIFICATION

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

The rule governing the issuance of new teaching certificates must be amended to incorporate statutory changes. Senate Bill 20 (2015) directs the State Board of Education to issue teaching certificates to persons who hold valid teaching certifications from other states. The certificate issued to an out-of-state applicant will only be for those subject areas and grade levels most closely aligned to the subject areas and grade levels recognized on the out-of-state certificate. An out-of-state teacher with at least five (5) years of teaching experience will not be required to take any competency examinations, and an out-of-state teacher with fewer than five (5) years of experience will have to pass the same subject area competency examinations that are required for in-state applicants for a new certificate.
- 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 proposed changes will affect teachers certified in other states who apply for certification in Oklahoma.
- c. **What classes of persons will benefit from the proposed rule change?**

The proposed changes will benefit school districts and teachers certified in other states who apply for certification in Oklahoma.
- 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 affected classes of persons or political subdivisions 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:** January 6, 2016

# An Act

ENROLLED SENATE  
BILL NO. 20

By: Sharp of the Senate

and

Henke, Kern, Derby, and  
Condit of the House

An Act relating to teacher certification; amending 70 O.S. 2011, Section 6-190, as amended by Section 17, Chapter 124, O.S.L. 2014 (70 O.S. Supp. 2014, Section 6-190), which relates to qualifications for certification; directing the State Board of Education to issue a certificate to teach to persons with out-of-state certificates who meet certain requirements; exempting such persons from certain examinations; requiring such persons to submit certain criminal history records; providing an effective date; and declaring an emergency.

SUBJECT: Teacher certification

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 70 O.S. 2011, Section 6-190, as amended by Section 17, Chapter 124, O.S.L. 2014 (70 O.S. Supp. 2014, Section 6-190), is amended to read as follows:

Section 6-190. A. The board of education of each school district shall employ and contract in writing, as required in Section 6-101 of this title, only with persons certified to teach by the State Board of Education in accordance with the Oklahoma Teacher Preparation Act, except as otherwise provided for by Section 6-101 of this title and by other law.

B. The Board shall issue a certificate to teach to any person who:

1. Has successfully completed the teacher education program required by the Oklahoma Commission for Teacher Preparation;

2. Has graduated from an accredited institution of higher education that has approval or accreditation for teacher education;

3. Has met all other requirements as may be established by the Board;

4. Has made the necessary application and paid the competency examination fee in an amount and as prescribed by the Commission;

5. Has successfully completed the competency examination required in Section 6-187 of this title; and

6. Beginning November 1, 2001, has on file with the Board a current Oklahoma criminal history record from the Oklahoma State Bureau of Investigation as well as a national criminal history record check as defined in Section 150.9 of Title 74 of the Oklahoma Statutes. Upon receipt of the Oklahoma criminal history record, the Board may issue a temporary certificate which shall be effective until receipt of the national fingerprint-based criminal history record. The person applying for a certificate shall be responsible for the cost of the criminal history records.

C. The Board shall issue a certificate to teach to any person who:

1. Holds an out-of-state certificate and meets ~~standards set by the Board~~ the requirements set forth in subsection F of this section; or

2. Holds certification from the National Board for Professional Teaching Standards.

D. Beginning July 1, 2004, any person applying for initial Oklahoma certification shall have on file with the Board a current Oklahoma criminal history record from the Oklahoma State Bureau of Investigation as well as a national criminal history record check as

defined in Section 150.9 of Title 74 of the Oklahoma Statutes. Upon receipt of the Oklahoma criminal history record, the Board may issue a temporary certificate which shall be effective until receipt of the national fingerprint-based criminal history record. The person applying for a certificate shall be responsible for the cost of the criminal history records.

E. Any person holding a valid certificate, issued prior to January 1, 1997, shall be a certified teacher for purposes of the Oklahoma Teacher Preparation Act, subject to any professional development requirements prescribed by the Oklahoma Teacher Preparation Act or by the State Board of Education.

F. 1. The Board shall issue a certificate to teach to a person who holds a valid out-of-state certificate. The certificate to teach shall only be for those subject areas and grade levels most closely aligned to the subject areas and grade levels recognized on the out-of-state certificate.

2. A person who meets the requirements of paragraph 1 of this subsection and who has five (5) years of successful teaching experience as a certified teacher in an accredited school shall not be required to take any competency examinations in those subject areas and grade levels most closely aligned to the subject areas and grade levels recognized on the out-of-state certificate.

3. A person who meets the requirements of paragraph 1 of this subsection shall have on file with the Board a current Oklahoma criminal history record check from the Oklahoma State Bureau of Investigation as well as a national criminal history record check as defined in Section 150.9 of Title 74 of the Oklahoma Statutes. Upon receipt of the Oklahoma criminal history record check, the Board may issue a temporary certificate which shall be effective until receipt of the national fingerprint-based criminal history record check. The person applying for a certificate shall be responsible for the cost of the criminal history record checks.

SECTION 2. This act shall become effective July 1, 2015.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

**TITLE 210. STATE DEPARTMENT OF EDUCATION**  
**CHAPTER 20. STAFF**  
**SUBCHAPTER 9. PROFESSIONAL STANDARDS: TEACHER EDUCATION**  
**AND CERTIFICATION**  
**PART 9. TEACHER CERTIFICATION**

**210:20-9-102. Career development program for paraprofessionals**

(a) **Paraprofessional credential.** The State Department of Education shall issue a paraprofessional credential to an applicant who meets all of the following requirements:

- (1) Has a high school diploma or a General Educational Development (GED) Diploma;
- (2) Has met a career development paraprofessional program approved by the State Board of Education; and
- (3) Has on file with the Board a current Oklahoma criminal history record from the Oklahoma State Bureau of Investigation as well as a national fingerprint-based criminal history record provided by the Federal Bureau of Investigation. Upon receipt of the Oklahoma criminal history record, the Board may issue a temporary credential which shall be effective until receipt of the national fingerprint-based criminal history record. The person applying for a credential shall be responsible for the cost of the criminal history records.

(b) **Provisional teaching certificates - paraprofessional.** The State Department of Education shall issue a one-year provisional teaching certificate, renewable for up to three years, in early childhood, elementary education, or special education to a paraprofessional who meets all of the following requirements:

- (1) Has been employed for one full school year (i.e., two consecutive semesters, three consecutive trimesters, or four consecutive quarters) with an accredited public or private school as a paraprofessional in the area for which a license certificate is being pursued. For purposes of this paragraph, experience obtained while teaching with a non-traditional certification in special education issued in accordance with the provisions of 210:20-9-105 shall not count toward the one year experience requirement;
- (2) Has earned at least a bachelor's degree from a college or university whose accreditation is recognized by the Oklahoma State Regents for Higher Education and has attained a cumulative grade point average of not less than 2.5 on a 4.0 scale;
- (3) Has passed all of the following teacher competency examinations adopted by the Oklahoma Commission for Teacher Preparation prior to July 1, 2014, or adopted by the Commission for Educational Quality and Accountability on and after July 1, 2014:
  - (A) The Oklahoma General Education Test (OGET);
  - (B) The Oklahoma Subject Area Test (OSAT) in Early Childhood, Elementary Education, or Special Education; and
  - (C) The Oklahoma Professional Teaching Exam (OPTE) (PK-8);
- (4) Has on file with the State Board of Education a current Oklahoma criminal history record from the Oklahoma State Bureau of Investigation as well as a national fingerprint-based criminal history record provided by the Federal Bureau of Investigation. Upon receipt of the Oklahoma criminal history record, the Board may issue a temporary credential which shall be effective until receipt of the national fingerprint-based criminal history record. The person applying for a credential shall be responsible for the cost of the criminal history records;
- (5) Has made application to the Oklahoma State Department of Education.

(c) **Standard teaching certificate - paraprofessional.** The State Department of Education shall issue a standard teaching certificate to individuals who have met all of the requirements of

(b) of this section and met all of the following requirements:

(1) The applicant has successfully completed at least one (1) full school year (i.e., two consecutive semesters, three consecutive trimesters, or four consecutive quarters) of teaching service in a public or private school accredited by the State Board of Education or a private school accrediting organization approved by the Board;

(2) The applicant provides at least two (2) favorable recommendations for granting a standard teaching certificate to the applicant from:

(A) A school district board of education; and

(B) The chair or director of the accredited teacher preparation program in which the applicant completed the coursework requirements set forth in (3) of this subsection.

(3) Within three (3) years of initial issuance of the provisional teaching certificate in accordance with the provisions of (b) of this Section, the applicant has successfully completed twelve (12) semester hours of professional education coursework from an institution of higher education whose accreditation is recognized by the Oklahoma State Regents for Higher Education. The twelve (12) hours of coursework required by this paragraph shall consist of coursework that:

(A) Is offered in a teacher preparation program that has been accredited by the Oklahoma Commission for Teacher Preparation prior to July 1, 2014 or accredited by the Commission for Educational Quality and Accountability on and after July 1, 2014;

(B) Is related to the area of teacher certification sought;

(C) Includes a minimum of three (3) semester hours in reading instruction.

(d) **Reporting.** Any individual who has been issued a provisional certificate in accordance with the provisions of (b) of this Section shall be reported on the certified personnel report and be considered as any other certified employee.

## RULE IMPACT STATEMENT

### TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 20. STAFF SUBCHAPTER 9. PROFESSIONAL STANDARDS: TEACHER EDUCATION AND CERTIFICATION PART 9. TEACHER CERTIFICATION

- a. **What is the purpose of the proposed rule change?**  
The rule governing the paraprofessional career development program provides that a person seeking a provisional or standard teaching certificate through the paraprofessional program must complete one full school year of relevant employment at a public school. The proposed amendment adds language to provide that the teaching experience applicants are required to document may include teaching in either a public or accredited private school. The same teacher certification requirements that apply to public schools in Oklahoma apply to accredited private schools, so this teaching experience should appropriately apply toward the requirements of the paraprofessional program.
- 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 proposed changes will affect paraprofessionals seeking teacher certification through the career development program for paraprofessionals.
- c. **What classes of persons will benefit from the proposed rule change?**  
The proposed changes will benefit school districts and paraprofessionals seeking teacher certification.
- 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 affected classes of persons or political subdivisions 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:** January 6, 2016

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

**210:25-5-5. Auditing**

(a) The statutes of the State of Oklahoma require the board of education of each school district to cause an annual audit of the district's financial activity. The audit must be made in accordance with State Statutes, State Board of Education Regulations and Federal Office of Management and Budget (OMB) Circular A-133, the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 C.F.R. Part 200). The State Board of Education shall examine each audit report and demand corrections of any existing deficiencies. It is mandatory that State Aid payments be withheld during noncompliance with the "School Audit Law" at 70 O.S. § 22-101 et seq.

(b) Auditing is process of examining documents, reports, systems of internal control, accounting and financial procedures, and other evidence to ascertain:

(1) That the statements prepared from the accounts present fairly the financial position and results of financial operations of each of the school's funds;

(2) That the school administration has properly complied with statutory requirements and the rules and regulations of the State Board of Education in the conduct of its financial transactions;

(3) That the school's financial transactions have been conducted with mathematical accuracy and have been properly recorded;

(4) That the school has complied with the terms of grants and special agreements;

(5) That adequate stewardship has been exercised by the school board, its officers and employees in the conduct of their duties in the administration of school assets.

(c) The audit must encompass all of the school district's funds. The requirements in (b) of this Section form the basis for the reporting of the school's general, special revenue, capital projects and debt service funds. School activity funds, including school lunch funds, and other trust or fiduciary funds must also be included in the audit report.

(d) The accounting principles by which all audits will be performed are as follows:

(1) The school district's accounting system must conform with the laws of the State of Oklahoma and the rules and regulations of the State Board of Education.

(2) The school district's accounting system shall make it possible to demonstrate compliance with legal provisions.

(3) The school district's accounting system shall clearly reflect the financial operations of the school district.

(4) If accounting principles, procedures, or standards conflict with legal or regulatory provisions, the legal or regulatory provisions shall take precedence.

(5) The accounting system shall be kept in the manner prescribed by the State Board of Education or in the manner of an accounting system approved by the State Board of Education.

(6) The school district shall establish the funds prescribed or authorized by law and necessitated by sound financial judgment. The classification of funds shall be faithfully followed in the Estimate of Needs, Accounting System, and Financial Reports, and Audits.

- (7) A complete self-balancing group of accounts shall be established for each fund. Each such group will include all the accounts necessary to set forth the financial operations of the fund and to reflect compliance with legal and regulatory provisions.
  - (8) If a fixed asset fund is maintained, the accounts shall be kept on the basis of original cost, or the estimated cost if the original cost is not available, or in the case of gifts, the appraised value at the time received.
  - (9) The accounting system shall provide for budgetary control for both revenues and expenditures, and the financial statements will reflect, among other things, budgetary information.
  - (10) The accounts, except activity funds, shall be maintained on a modified cash basis in accordance with the laws of the State of Oklahoma or a school district may elect to file an application with the State Board of Education to convert to Generally Accepted Accounting Principles (GAAP) accounting. The State Board of Education will approve or reject the application based on the district's ability to implement the practice.
  - (11) Revenue and expenditures shall be classified in accordance with State Board of Education regulations in order to provide uniform accounting and consistent statistics.
  - (12) A cost accounting system is required. Cost accounting is in addition to a required financial accounting system, however, and must not be allowed to interfere with its uniform application. Although depreciation is not included in a required accounting system, it should be considered in determining unit cost when a cost accounting system is used.
  - (13) A common terminology and classification based upon that prescribed by State Board of Education rules and regulations, shall be used consistently throughout the estimate of needs, accounts, and financial reports.
- (e) Primary audit procedures will consist of the following:
- (1) Each Local Education Agency (LEA) will engage an independent auditor, approved by the Oklahoma State Auditor and Inspector, to examine its financial statements. Each LEA superintendent shall notify the State Board of Education, prior to the end of the fiscal year to be audited, of the independent auditor who has been engaged to conduct the audit.
  - (2) Where there are differences in state and federal standards due to the statutory and regulatory requirements in both levels of government, the LEA and the auditor will examine and adhere to both in order to be in total compliance.
  - (3) The Oklahoma State Department of Education will establish and maintain a monitoring system to assure that federal and state audit requirements are met. The Oklahoma State Department of Education will review each audit report and notify the appropriate federal program administrator of any deficiencies reported by the independent auditor regarding federal programs. The administrator will implement the procedures deemed necessary to resolve the exceptions noted by the auditor. The final result of the action taken will be filed with the audit report no later than 90 days after the program administrator has been advised of the auditor's findings.
  - (4) The State Board of Education may make inquiries and request additional documentation and response related to exceptions, recommendations or comments noted by an auditor.
- (f) Audit report requirements are as follows:
- (1) Audit reports may be presented in the following formats:
    - (A) Schools which have obtained prior approval from the State Board of Education to use generally accepted accounting principles (GAAP), must use a straight GAAP Governmental Accounting Standards Board (GASB) No. 34 compliant presentation.

- (B) Schools using the regulatory basis of accounting as defined by Oklahoma Statutes may use GASB 34 compliant audit report presentations.
- (C) Schools using the regulatory basis of accounting as defined by Oklahoma Statutes may use another comprehensive basis of accounting as prescribed by the Oklahoma State Department of Education. An example of a school district single audit report presented in conformity with another comprehensive basis of accounting as prescribed by the Oklahoma State Department of Education is available in the Financial Accounting Section, State Department of Education. Schools need only present the funds and note disclosures that apply to the specific district. The example is not intended to take precedence over professional reporting standards and requirements.
- (2) Informational statements will specify
- (A) Board members and officers
  - (B) Statutory bonds
  - (C) Other fidelity or honesty bonds
  - (D) Insurance coverage
  - (E) Other desirable statements
- (3) Size of audit report will conform to the specified dimensions:
- (A) Length = Maximum, 11"
  - (B) Width = Maximum, 8 1/2"
- (4) Each audit report shall be presented to and reviewed with the local board of education in a public meeting as required by law. Each audit report must contain a signed Acknowledgement Page on a form supplied by the State Department of Education. The Acknowledgement Page will verify who presented the audit to the school board, the date the audit was reviewed with the local school board as well as the school board's acknowledgement that as the governing body of the district responsible for the district's financial and compliance operations the audit findings, and exceptions, and any written correspondence from the auditor relating to the audit have been presented to them.
- (g) Requirements specific to Federal programs must be included in each audit.
- (1) Federal regulations (OMB Circular A-133, Uniform Administrative Requirements at 2 C.F.R. Part 200 and OMB Compliance Supplement) require a financial and compliance audit of programs receiving federal funds. These regulations (in accordance with P.L. 98-502) ensure that audits be made on an organization-wide basis rather than a grant-by-grant basis and according to the standards and procedures expressed therein. The Oklahoma State Department of Education shall serve as the recipient agency for A-133 these purposes for the local education agencies. Overclaim assessments may be levied where necessary when there has been a lack of compliance and treated as a current expenditure.
- (2) This rule and the adoption of the standards and regulations for audits of local boards of education does not limit the authority of federal or state agencies to make audits of programs in the local education agencies, and is in keeping with OMB Circular A-133 Uniform Administrative Requirements, 2 C.F.R. Part 200. Some state and local governmental units in Oklahoma prepare their financial statements in conformity with a comprehensive basis of accounting other than generally accepted accounting principles. A-133 The Uniform Administrative Requirements does do not prohibit such practice; nonetheless, it they requires require, as do generally accepted auditing standards, that auditors state in their report the departures from generally accepted accounting principles. However, any additional audit work must build on the work already done.

(3) The auditor should clearly understand that A-133 Uniform Administrative Requirements audits require the expression of opinions and inclusion of comments in audit reports which go beyond the standard opinions and comments usually presented. Specifically, the audit report shall include:

- (A) Financial statements, including footnotes, of the recipient organization.
- (B) The auditors' comments on the financial statements which should:
  - (i) Identify the statements examined, and the period covered.
  - (ii) Identify the various programs under which the organization received Federal funds, and the amount of the awards received.
  - (iii) Identify by a schedule showing receipts and disbursements for each grant program.
  - (iv) State that the audit was done in accordance with the "General Accounting Office Standards for Audit of Governmental Organizations, Programs, Activities, and Functions," the "Guidelines for Financial and Compliance Audits of Federally Assisted Programs," any compliance supplements approved by OMB, and generally accepted auditing standards established by the American Institute of Certified Public Accountants.
  - (v) Express an opinion as to whether the financial statements are fairly presented in accordance with generally accepted accounting principles. If an unqualified opinion cannot be expressed, state the nature of the qualification.
- (C) The auditors' comments on compliance and internal control should:
  - (i) Include comments on weaknesses in and noncompliance with the systems of internal control, separately identifying material weaknesses.
  - (ii) Identify the nature and impact of any noted instances of noncompliance with the terms of agreements and those provisions of Federal law or regulations that could have a material effect on the financial statements and reports.
  - (iii) Contain an expression of positive assurance with respect to compliance with requirements for tested items, and negative assurance for untested items.
- (D) Comments on the accuracy and completeness of financial reports and claims submitted to state or federal agencies for federal fund advances or reimbursements.
- (E) Comments on corrective action taken or planned by the recipient.
- (F) Comments as to whether the indirect cost rates are appropriately calculated and applied.
- (G) Audit findings should be reported in accordance with 2 C.F.R. § 200.516, "Audit findings."

(4) These requirements are common to nearly all state and local funds and federal programs:

- (A) Funds disbursed by other governments were received and properly identified.
- (B) Interest earned on idle funds was credited to the proper funds.
- (C) Unexpended funds or unearned federal funds advanced or overpaid were correctly accounted for.
- (D) A system of encumbrance accounting was maintained which reported the amount obligated, disbursed, remaining unobligated balance, and outstanding unliquidated obligations for each fund and program.
- (E) Obligations reported were actually incurred during the fiscal year or approved program period, and, upon liquidation, were properly adjusted.

- (F) Payments reported: Were actually made to the vendors, contractors and employees; were supported by adequate evidence of delivery of goods or performance of services; and conformed to applicable laws and regulations, including procurement requirements.
- (G) Refunds, discount, etc., were properly applied as reductions of the gross expenditures of the specific funds or programs.
- (H) Costs, direct and indirect, were correctly prorated to the proper funds or programs.
- (I) The same expenditure was not claimed under more than one program or reported as an expenditure for two fiscal or program years.
- (J) Inventory requirements for materials and equipment purchased with federal funds were maintained.

## RULE IMPACT STATEMENT

### TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 25. FINANCE SUBCHAPTER 5. BUDGETING AND BUSINESS MANAGEMENT

- a. **What is the purpose of the proposed rule change?**  
The Auditing rule must be amended to reflect changes to federal regulations. Office of Management and Budget Circular A 133 has been superseded by the Uniform Administrative Requirements in 2 C.F.R. Part 200, and the rule is updated to incorporate the new reference for districts' convenience. The proposed amendments also clarify that when submitting an annual audit report to the State Department of Education, a school district must include any written correspondence from the auditor.
- 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 proposed changes will affect school districts.
- c. **What classes of persons will benefit from the proposed rule change?**  
The proposed changes will benefit school districts.
- 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 affected classes of persons or political subdivisions 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:** January 6, 2016

**OFFICE OF MANAGEMENT AND BUDGET**
**2 CFR Chapter I, and Chapter II, Parts 200, 215, 220, 225, and 230**
**Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards**
**AGENCY:** Executive Office of the President, Office of Management and Budget (OMB).

**ACTION:** Final guidance.

**SUMMARY:** To deliver on the promise of a 21st-Century government that is more efficient, effective and transparent, the Office of Management and Budget (OMB) is streamlining the Federal government's guidance on Administrative Requirements, Cost Principles, and Audit Requirements for Federal awards. These modifications are a key component of a larger Federal effort to more effectively focus Federal resources on improving performance and outcomes while ensuring the financial integrity of taxpayer dollars in partnership with non-Federal stakeholders. This guidance provides a governmentwide framework for grants management which will be complemented by additional efforts to strengthen program outcomes through innovative and effective use of grant-making models, performance metrics, and evaluation. This reform of OMB guidance will reduce administrative burden for non-Federal entities receiving Federal awards while reducing the risk of waste, fraud and abuse.

This final guidance supersedes and streamlines requirements from OMB Circulars A-21, A-87, A-110, and A-122 (which have been placed in OMB guidances); Circulars A-89, A-102, and A-133; and the guidance in Circular A-50 on Single Audit Act follow-up. Future reform efforts may eventually seek to incorporate the Cost Principles for Hospitals in Department of Health and Human Services regulations. Copies of the OMB Circulars that are superseded by this guidance are available on OMB's Web site at [http://www.whitehouse.gov/omb/circulars\\_default/](http://www.whitehouse.gov/omb/circulars_default/). The final guidance consolidates the guidance previously contained in the aforementioned citations into a streamlined format that aims to improve both the clarity and accessibility. This final guidance is located in Title 2 of the Code of Federal Regulations.

This final guidance does not broaden the scope of applicability from existing government-wide requirements,

affecting Federal awards to non-Federal entities including state and local governments, Indian tribes, institutions of higher education, and nonprofit organizations. Parts of it may also apply to for-profit entities in limited circumstances and to foreign entities as described in this guidance and the Federal Acquisition Regulation. This guidance does not change or modify any existing statute or guidance otherwise based on any existing statute. This guidance does not supersede any existing or future authority under law or by executive order or the Federal Acquisition Regulation.

**DATES:** *Effective Date:* This guidance is effective December 26, 2013.

*Applicability Date:* This guidance is applicable for Federal agencies December 26, 2013 and applicable for non-Federal entities as described in this guidance.

**FOR FURTHER INFORMATION CONTACT:** OMB will host an informational webcast with the Council on Financial Assistance Reform and key stakeholders. Please visit [www.cfo.gov/cofar](http://www.cfo.gov/cofar) for further information on the time and date of the webcast and on the Council on Financial Assistance Reform. For general information, please contact Victoria Collin or Gil Tran at the OMB Office of Federal Financial Management at (202) 395-3993.

**SUPPLEMENTARY INFORMATION:**
**I. Objectives and Background**
**A. Objectives**

The goal of this reform is to deliver on the President's directives to (1) streamline our guidance for Federal awards to ease administrative burden and (2) strengthen oversight over Federal funds to reduce risks of waste, fraud, and abuse. Streamlining existing OMB guidance will increase the efficiency and effectiveness of Federal awards to ensure best use of the more than \$500 billion expended annually.

This reform builds on two years of work by the Federal government and its non-Federal partners: state, and local governments, Indian tribes, institutions of higher education, nonprofit organizations, and the audit community to rethink and reform the rules that govern our stewardship of Federal dollars. The revised rules set standard requirements for financial management of Federal awards across the entire Federal government.

These reforms complement targeted efforts by OMB and a number of Federal agencies to reform overall approaches to grant-making by implementing innovative, outcome-focused grant-making designs and processes in

collaboration with their non-Federal partners, in accordance with OMB guidance in M-13-17 "Next Steps in the Evidence and Innovation Agenda". This new guidance plays an important role in fostering these and other innovative models and cost-effective approaches by including many provisions that strengthen requirements for internal controls while providing administrative flexibility for non-Federal entities. These provisions include mechanisms such as "fixed amount awards" which rely more on performance than compliance requirements to ensure accountability, and allow Federal agencies some additional flexibility to waive some requirements (in addition to the longstanding option to apply to OMB to waive requirements) that impede their capacity to achieve better outcomes through Federal awards. This guidance will provide a backbone for sound financial management as Federal agencies and their partners continue to develop and advance innovative and effective practices.

This reform of OMB guidance will improve the integrity of the financial management and operation of Federal programs and strengthen accountability for Federal dollars by improving policies that protect against waste, fraud, and abuse. At the same time, this reform will increase the impact and accessibility of programs by minimizing time spent complying with unnecessarily burdensome administrative requirements, and so reorients recipients toward achieving program objectives. Through close and sustained collaboration with Federal and non-Federal partners, OMB has developed ideas that will ensure that discretionary grants and cooperative agreements are awarded based on merit; that management increases focus on performance outcomes; that rules governing the allocation of Federal funds are streamlined, and that the Single Audit oversight tool is better focused to reduce waste, fraud, and abuse.

As set forth in Executive Order 13563 of January 18, 2011, on Improving Regulation and Regulatory Review (76 FR 3821; January 21, 2011; <http://www.gpo.gov/fdsys/pkg/FR-2011-01-21/pdf/2011-1385.pdf>), each Federal agency must "tailor its regulations to impose the least burden on society, consistent with regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations." To that end, it is important that Federal agencies identify those "rules that may be outmoded, ineffective, insufficient, or excessively burdensome," and "modify,

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

**SUBCHAPTER 7. ADDITIONAL STANDARDS FOR MIDDLE LEVEL SCHOOLS  
PART 9. STANDARD V: THE SCHOOL STAFF**

**210:35-7-41. Staffing: pupil/professional staff ratio**

(a) For the purpose of computing and paying state-appropriated funds, if a school district groups its grades as grades 1 through 5, grades 6 through 8, and grades 9 through 12, then as to such district the class size provisions for grades 7 through 9 in 70: O.S. § 18-113.3 shall apply to grade 6. ~~[Reference: 70:18-113.1 (D)]~~

(b) No teacher who is counted in class size computation for grades 6, 7, 8, and 9 shall be responsible for the instruction of more than one hundred forty (140) students on any given 6 hour full length school day. ~~[Reference: 70:18-113.3 (C)]~~

(c) Classes in Physical Education, Chorus, Band, Orchestra, and other similar music classes shall not be subject to the class size limitations. ~~[Reference: 70:18-113.1 (C)]~~

(d) To enhance the safety of students enrolled in industrial arts/technology education classes, other than drafting, consideration should be given to the facilities and only the number of students equal to the work stations shall be enrolled. No more than twenty-five (25) students shall be assigned to any class.

(e) A minimum of two hundred (200) minutes of scheduled time shall be provided each week for each classroom teacher for individual planning and/or preparation and consultation, unless otherwise voluntarily agreed in writing between the teacher and the school district, with a stipend being provided to any teacher who forgoes planning time.

**SUBCHAPTER 9. ADDITIONAL STANDARDS FOR SECONDARY SCHOOLS  
PART 9. STANDARD V: THE SCHOOL STAFF**

**210:35-9-41. Staffing: pupil/professional staff ratio**

(a) No teacher who is counted in class size computation for grades 9, 10, 11, and 12 shall be responsible for the instruction of more than one hundred forty (140) students on any given 6 hour full length school day. ~~[70:18-113.3 (C)]~~

(b) Classes in Physical Education, Chorus, Band, Orchestra, and other similar music classes shall not be subject to the class size limitations. ~~[Reference: 70:18-113.1 (C)]~~

(c) To enhance the safety of students enrolled in industrial arts/technology education classes, other than drafting, consideration should be given to the facilities and only the number of students equal to the work stations shall be enrolled. No more than twenty-five (25) students shall be assigned to any class.

(d) A minimum of two hundred twenty-five (225) minutes of scheduled time shall be provided each week for each classroom teacher for individual planning and/or preparation and consultation during the instructional day, unless otherwise voluntarily agreed in writing between the teacher and the school district, with a stipend being provided to any teacher who forgoes planning time.

## RULE IMPACT STATEMENT

**TITLE 210. STATE DEPARTMENT OF EDUCATION  
CHAPTER 35. STANDARDS FOR ACCREDITATION OF ELEMENTARY, MIDDLE  
LEVEL, SECONDARY, AND CAREER AND TECHNOLOGY SCHOOLS  
SUBCHAPTER 7. ADDITIONAL STANDARDS FOR MIDDLE LEVEL SCHOOLS  
SUBCHAPTER 9. ADDITIONAL STANDARDS FOR SECONDARY SCHOOLS  
PART 9. STANDARD V: THE SCHOOL STAFF**

- a. **What is the purpose of the proposed rule change?**  
The proposed amendments to the pupil/professional staff ratio rules provide that a teacher and school district may agree in writing to waive the minimum weekly teacher planning time established by the rules, as long as the teacher is compensated with a stipend. School districts must currently request exceptions to the minimum weekly planning time through the deregulation process, which requires applying directly to the State Board of Education. Providing for the mutually agreed exception directly in the rules will reduce the administrative burden on school districts and the State Board, as well as the State Department of Education offices that process deregulation applications.
- 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 proposed changes will affect school districts and teachers who choose to forgo weekly planning time in exchange for a stipend.
- c. **What classes of persons will benefit from the proposed rule change?**  
The proposed changes will benefit school districts and teachers who choose to forgo weekly planning time in exchange for a stipend.
- 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 affected classes of persons or political subdivisions 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 7, 2015