

**SUSPENSION, DISMISSAL
AND NONREEMPLOYMENT OF INSTRUCTORS**

1. Definitions and Scope

- A. "Instructor" means a duly certified or licensed person who is employed to serve as a counselor, librarian, school nurse, or any instructional capacity. An administrator shall be considered an "instructor" only with regard to service in an instructional, non-administrative capacity.
- B. "Dismissal" means the discontinuance of the teaching service of an instructor during the term of a written contract.
- C. "Nonreemployment" means the nonrenewal of an instructor's contract upon expiration of the contract.
- D. "Suspension" means the temporary discontinuance of an instructor's services during the term of a contract pending dismissal or nonreemployment.
- E. "Career instructor" means an instructor who:
 - i. was employed by the technology center prior to the 2017-2018 school year and has completed three (3) or more consecutive complete school years in such capacity in the technology center under a written teaching contract; or
 - ii. was first employed by the technology center during or after the 2017-2018 school year under a written teaching contract and:
 - completed three (3) consecutive, complete school years in the district and has an evaluation rating of "superior" for at least two (2) of those years; or
 - completed four (4) consecutive, complete school years in the district with averaged ratings of "effective" or higher for the four (4) year period with ratings of at least "effective" for the last two (2) of the four (4) years; or
 - Although the law permits an employee to establish career status after completing four (4) consecutive, complete school years in the district with a board approved principal and superintendent recommendation, the board will not approve any of these recommendations.
 - iii. For purposes of the technology center's instructor evaluation procedures only, a "career instructor" may also include any instructor

meeting the requirements of i. or ii. at another school district who is now employed under a written continuing or temporary teaching contract, provided the board of education grants the instructor career status for evaluation purposes. This designation is limited solely to the technology center's evaluation procedures and does not confer career instructor status for any other purpose, including, but not limited to, the due process rights applicable in dismissal, non-reemployment, or termination proceedings.

Although the law permits the practice, the board of education will not grant career status to an instructor based on past employment status.

- F. "Probationary instructor" means an instructor who:
 - i. was employed by the district prior to the 2017-2018 school year and has completed fewer than three (3) consecutive, complete school years in such capacity in the technology center under a written teaching contract; or
 - ii. was employed by the district during or after the 2017-2018 school year under a written teaching contract and has not met the requirements to be a career instructor as described above.
- G. "Abandonment of contract" means an instructor's failure to report at the beginning of the contract term or otherwise perform the assigned duties when the instructor has accepted other employment or is performing work for another employer that prevents the instructor from fulfilling the obligations of the employment contract.
- H. This policy does not apply to:
 - i. substitute instructors,
 - ii. adult education instructors or instructors,
 - iii. nonrenewal of instructors employed on temporary contracts for a complete year;
 - iv. nonrenewal and dismissal of instructors employed on temporary contracts for less than a complete school year.
 - v. administrators, except with regard to service in an instructional, non-administrative position.
- I. This policy does apply to instructors employed in positions *fully funded* by federal or private categorical grants in regard to dismissals or suspensions during the term of employment under the grant, but not in regard to "nonreemployment" at the expiration of the grant.

2. Grounds for Dismissal or Nonreemployment

A. A career instructor may be dismissed or not reemployed for:

- i. willful neglect of duty,
- ii. repeated negligence in performance of duty,
- iii. incompetency,
- iv. unsatisfactory teaching performance,
- v. instructional ineffectiveness (starting in 2017-2018 this includes but is not limited to being evaluated as "needs improvement" or lower for 3 consecutive years,
- vi. mental or physical abuse to a child,
- vii. commission of an act of moral turpitude,
- viii. abandonment of contract,
- ix. criminal sexual activity or sexual misconduct (as those terms are defined by law) which has impeded the effectiveness of the instructor's performance of school duties,
- x. failure to meet local school board staff development requirements (non-reemployment only),
- xi. engaging in acts which could form the basis of criminal charges sufficient to result in denial/revocation of a teaching certificate,
- xii. knowing and willful failure to report suspected child abuse or neglect, or
- xiii. any other grounds hereafter allowed by law.

B. A career instructor shall be dismissed or not reemployed for

- i. conviction of a felony,
- ii. conviction of any sex offense subject to Oklahoma's Sex Offenders Registration Act or another state's or the Federal Sex Offender Registration Provisions, or
- iii. instructional ineffectiveness; starting in 2017-2018, this includes instructors with an ineffective rating for 2 consecutive school years.
- iv. Knowingly and willfully failing to report suspected abuse or neglect of a child in violation of OKLA. STAT. tit. 10A § 1-2-101.

Although the law permits the board to approve a superintendent's recommendation that ineffective instructors be retained, the board will not approve such recommendations.

- C. A probationary instructor may be dismissed or not reemployed for cause, including but not limited to engaging in acts which could form the basis of criminal charges sufficient to result in denial/revocation of a teaching certificate. Starting in 2017-2018, cause includes, but is not limited to, an ineffective rating for 2 consecutive school years or failure to obtain career status in 4 years.
- D. A probationary instructor shall be dismissed or not reemployed for
- i. conviction of a felony,
 - ii. conviction of any sex offense subject to Oklahoma's Sex Offenders Registration Act or another state's or the Federal Sex Offender Registration Provisions,
- E. A cause listed 2A(i) - (v) for a career instructor, or any cause related to inadequate teaching performance for a probationary instructor, shall not be a basis for a recommendation to dismiss or not reemploy an instructor unless corrective action procedures involving admonishment / plan for improvement have been followed. Dismissal or nonreemployment for any cause not listed in 2A(i) - (v) for a career instructor, or not related to inadequate teaching performance for a probationary instructor, shall not require corrective action procedures (i.e. admonishment) to be followed.
- F. Corrective Action – Admonishment / Plan for Improvement
- i. When an evaluator who has evaluated an instructor pursuant to technology center policy identifies poor performance, conduct or evaluation rating which the evaluator believes may lead to a recommendation for the instructor's dismissal or nonreemployment, the evaluator shall:
 - admonish the instructor, in writing, and make a reasonable effort to assist the instructor in correcting the poor performance or conduct; and
 - establish a reasonable time for improvement, not to exceed two (2) months, taking into consideration the rating on the evaluation or the nature and gravity of the instructor's performance or conduct.
 - ii. Whenever a member of the board of education, superintendent, or other administrator identifies poor performance or conduct that may lead to a recommendation for dismissal or nonreemployment of an instructor, the evaluator who has responsibility for evaluation of the instructor shall be informed and shall admonish the instructor as described above. If the

evaluator fails or refuses to admonish the instructor within ten (10) days after being informed of the problem, the board, superintendent or other administrator who identified the problem shall admonish the instructor.

- iii. If the instructor does not correct the poor performance or conduct cited in the admonition within the time specified, the admonishing official shall make a recommendation to the superintendent for the instructor's dismissal or nonreemployment. The superintendent shall furnish a copy of the recommendation to the board of education.
- iv. The technology center will not prohibit, or take disciplinary action against, an instructor for:
 - a. Disclosing public information to correct what the instructor reasonably believes evidences a violation of the Oklahoma Constitution or law or rule promulgated pursuant to law;
 - b. Reporting a violation of the Oklahoma Constitution, or state or federal law; or
 - c. Taking any of the above actions without giving prior notice to the instructor's supervisor or anyone else in the instructor's chain of command.

Reporting means providing a spoken or written account to a supervising instructor, administrator, school board member, representative from the State Department of Education, law enforcement official, district attorney and/or parent or legal guardian of a student directly impacted by the actions.

The technology center may discipline any instructor who violates a student or parent/legal guardian's confidentiality rights and protections pursuant to the Family Educational Rights and Privacy Act (FERPA) and any other state or federal law which requires confidentiality of information concerning students.

3. Procedures for Dismissal or Nonreemployment

A. Commencement of Action

- i. Whenever the superintendent determines that cause exists for an instructor's dismissal or nonreemployment, the superintendent shall submit a written recommendation to the board of education. The recommendation shall state the specific ground(s) (statutory grounds, in the case of a career instructor) and specify the underlying facts on which the recommended action is based.
- ii. In the absence of a recommendation from the superintendent pursuant to this section, or when the board of education chooses not to accept the superintendent's recommendation as to reemployment of an instructor, the board may initiate dismissal or nonreemployment action without a recommendation provided that it adheres to the other provisions of this policy and that the corrective action procedures, if applicable, have been followed.

B. Suspension

Whenever the superintendent believes cause exists for an instructor's dismissal and that the immediate suspension of the instructor would be in the best interests of students, the superintendent, or the board of education on the recommendation of the superintendent, may suspend the instructor without notice or hearing. The suspension shall not deprive the instructor of any teaching compensation or other benefits to which he/she would otherwise be entitled under the teaching contract or law. Within ten (10) days after the suspension becomes effective, the board of education shall initiate a hearing for dismissal pursuant to this policy. However, in a case involving a criminal charge or indictment, such suspension may extend to such time as the instructor's case is finally adjudicated, except such extension shall not include any appeal process.

C. Notice and Hearing

- i. Prior to taking action to dismiss or nonreemploy an instructor, the board clerk or designee shall deliver a copy of the recommendation (or comparable statement of the grounds and underlying facts if the board is acting on its own volition) and notice of hearing rights to the affected instructor. The notice shall contain the date, time, and location of the hearing and shall be delivered by (i) certified mail, restricted delivery, return receipt requested; (ii) personal delivery, with a signed acknowledgment of receipt from the instructor; or (iii) process server. Delivery must be made to the instructor prior to the first Monday in June for a nonreemployment. The hearing shall be held between 20 and 60 days from the instructor's receipt of the hearing notice.
- ii. The instructor hearing before the board of education shall be conducted pursuant to procedures established by the State Department of Education. In the absence of or to the extent not inconsistent with those procedures, the hearing shall be conducted as prescribed in the paragraphs below.
- iii. The hearing shall commence with a statement to the instructor of the instructor's rights at the hearing. Following this statement, the school administration shall present facts showing the cause for the instructor's dismissal or nonreemployment. The instructor shall then have the right to present the instructor's side of the matter. After both the school administration and the instructor have fully presented their respective positions, the board of education shall deliberate on the evidence regarding the instructor's dismissal or nonreemployment in executive session.
- iv. At the hearing, the instructor shall be entitled to be represented by counsel, to cross-examine witnesses presented by the school administration, to present witnesses on the instructor's behalf and to present any relevant evidence or statement which the instructor desires to offer. The burden of proof for any dismissal or nonreemployment

shall be on the superintendent (or designee), and the standard of proof shall be a preponderance of the evidence.

- v. After due consideration of the evidence and testimony presented at the instructor's hearing, the board shall vote, in open session, on the following: (1) findings of fact based on the evidence submitted and (2) whether to dismiss or nonreemploy the instructor. The decision shall be made by a majority of the board of education members present at the meeting and shall be final and nonappealable.

The motion to dismiss or nonreemploy the instructor should state the specific cause for dismissal or nonreemployment, although such cause need not be a statutory cause for a probationary instructor.

- vi. The instructor shall be sent notice of the board's decision by certified mail, restricted delivery, return receipt requested, or substitute process. The notice shall state the basis for the board's decision.
- vii. The instructor shall receive any compensation or benefits to which the instructor is entitled until such time as the board's decision is final. If the instructor's hearing is for nonreemployment, and not for dismissal, the instructor's compensation and benefits may continue only until the end of the instructor's current contract.

D. Criminal Matters

Whenever the superintendent (or board) makes a recommendation for an instructor's termination based on conduct which could form the basis of criminal charges sufficient to warrant the denial or revocation of the instructor's certificate for a reason set forth in 70 OKLA. STAT. § 3-104(6)(a), the technology center shall forward a copy of the recommendation to the Oklahoma State Board of Education and the instructor at the time the recommendation is made, regardless of whether the instructor resigns before or after the resignation is made. If an instructor resigns prior to due process proceedings, a report of such resignation, including any investigatory findings of the technology center, shall be forwarded to the State Board of Education.

4. Instructors with a Suspended Certificate

An instructor whose certificate has been suspended by the State Board of Education pursuant OKLA. STAT. tit. 70, Section 3-104 and OKLA. STAT. tit. 75, Sections 314 and 314.1 shall be placed on paid suspension while proceedings for revocation or other action are pending before the State Board of Education. During the time the instructor's certificate is suspended, the technology center may initiate due process procedures in accordance with OKLA. STAT. tit. 70, Section 6-101.20 *et. seq.*

Reference: OKLA. STAT. tit, 70, § 6-101 *et seq.* OAC § 210-1-5-8