

## **SUSPENSION, DISMISSAL AND NON-REEMPLOYMENT OF TEACHERS**

### **POLICY**

#### **I. Definitions and Scope**

- A. "Teacher" 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 a "teacher" only with regard to service in an instructional, non-administrative capacity.
- B. "Dismissal" means the discontinuance of the teaching service of a teacher during the term of a written contract.
- C. "Non-reemployment" means the non-renewal of a teacher's contract upon expiration of the contract.
- D. "Suspension" means the temporary discontinuance of a teacher's services during the term of a contract pending dismissal or non-reemployment.
- E. "Career teacher" means a teacher who
- i. was employed by the district prior to 2017-2018 school year and has completed three (3) or more consecutive complete school years in such capacity in the district under a written teaching contract; or
  - ii. was first employed by the district 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 rating 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, completed school years in the district with a board approved administrator recommendation, the board will not approve any of these recommendations.
- F. "Probationary teacher" means a teacher 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 district 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 teacher as described above.

G. "Abandonment of contract" means a teacher's failure to report at the beginning of the contract term or otherwise perform the assigned duties when the teacher has accepted other employment or is performing work for another employer that prevents the teacher from fulfilling the obligations of the employment contract.

H. This policy does not apply to:

1. Substitute teachers,
2. Adult education teachers or instructors,
3. Teachers employed on temporary contracts, and
4. Administrators, except with regard to service in an instructional, non-administrative position.

I. This policy does apply to teachers 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.

## **II. Grounds for Dismissal or Non-reemployment**

A. Cause

1. A career teacher may be dismissed or not reemployed for:
  - (a) willful neglect of duty,
  - (b) repeated negligence in performance of duty,
  - (c) incompetency,
  - (d) unsatisfactory teaching performance,
  - (e) instructional ineffectiveness, (starting in 2017-2018, this includes but is not limited to being evaluated as "needs improvement" or lower for 3 consecutive years).
  - (f) mental or physical abuse to a child,
  - (g) commission of an act involving moral turpitude,
  - (h) criminal sexual activity or sexual misconduct (as those terms are defined by law) which has impeded the effectiveness of the teacher's performance of school duties,
  - (i) failure to meet local school board staff development requirements,
  - (j) abandonment of contract,
  - (k) engaging in acts which could form the basis of criminal charges sufficient to result in denial/revocation of a teaching certificate
  - (l) any other grounds hereafter allowed by law.

2. A career teacher shall be dismissed or not reemployed for conviction of a felony, 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 instructional ineffectiveness. Starting in 2017-2018, this includes teachers with an ineffective rating for 2 consecutive school years.

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

3. A probationary teacher 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.

A probationary teacher shall be dismissed or not reemployed for conviction of a felony or conviction of any sex offense subject to Oklahoma's Sex Offenders Registration Act or another state's or the Federal Sex Offender Registration Provisions.

4. A cause listed in 1. (a) - (e) for a career teacher, or any cause related to inadequate teaching performance for a probationary teacher, shall not be a basis for a recommendation to dismiss or not reemploy a teacher unless corrective action procedures involving admonishment/plan for improvement have been followed. Dismissal or non-reemployment for any cause not listed in 1. (a) - (e) for a career teacher, or not related to inadequate teaching performance for a probationary teacher, shall not require corrective action procedures (i.e. admonishment) to be followed.

**B. Corrective Action – Admonishment / Plan for Improvement**

1. When the administrator who has evaluated a teacher pursuant to Technology Center policy identifies poor performance or conduct or an evaluation rating that the administrator believes may lead to a recommendation for the teacher's dismissal or non-reemployment,

the administrator shall:

- (a) admonish the teacher, in writing, and make a reasonable effort to assist the teacher in correcting the poor performance or conduct;

and

(b) establish a reasonable time for improvement, not to exceed two (2) months, taking into consideration the evaluation rating or nature and gravity of the teacher's performance or conduct.

2. 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 non-reemployment of a teacher, the administrator who has responsibility for evaluation of the teacher shall be informed and shall admonish the teacher as described above. If the administrator fails or refuses to admonish the teacher within ten (10) days after being informed of the problem, the board, superintendent or other administrator who identified the problem shall admonish the teacher.
3. If the teacher does not correct the poor performance or conduct cited in the admonishment within the time specified, the admonishing official shall make a recommendation to the superintendent for the dismissal or non-reemployment. The superintendent shall furnish a copy of the recommendation to the board of education.

### **III. Procedures for Dismissal or Nonreemployment**

#### **A. Commencement of Action**

- i. Whenever the superintendent determines that cause exists for a district teacher'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 teacher) and specify the underlying facts on which the recommendation 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 a teacher, 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 a teacher's dismissal and that the immediate suspension of the teacher would be in the best interests of students, the superintendent, or the board of education on the recommendation of the superintendent, may suspend the teacher without notice or hearing. The suspension shall not deprive the teacher 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 teacher'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 a teacher, 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 teacher. 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 acknowledgement of receipt from the teacher; or (iii) process server. Delivery must be made to the teacher prior to the first Monday in June for a nonreemployment. The hearing shall be held between 20 and 60 days from the teacher's receipt of the hearing notice.
- ii. The teacher 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 teacher of the teacher's rights at the hearing. Following this statement, the school administration shall present facts showing the cause for the teacher's dismissal or nonreemployment. The teacher shall then have the right to present the teacher's side of the matter. After both the school administration and the teacher have fully presented their respective positions, the board of education shall deliberate on the evidence regarding the teacher's dismissal or nonreemployment in executive session.
- iv. At the hearing, the teacher shall be entitled to be represented by counsel, to cross-examine witnesses presented by the school administration, to present witnesses on the
- v. teacher's behalf and to present any relevant evidence or statement which the teacher 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.
- vi. After due consideration of the evidence and testimony presented at the teacher's board 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 teacher. 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 teacher should state the specific cause for dismissal or nonreemployment, although, such cause need not be a statutory cause for a probationary teacher.

- vii. The teacher shall receive any compensation or benefits to which the teacher is entitled until such time as the board's decision is final. If the teacher's hearing is for nonreemployment, and not for dismissal, the teacher's compensation and benefits may continue only until the end of the teacher's current contract.

**D. Criminal Matters**

Whenever the superintendent (or board) makes a recommendation for a teacher's termination based on conduct which could form the basis of criminal charges sufficient to warrant revocation of the teacher's certificate, the superintendent shall forward a copy of the recommendation to the Oklahoma State Department of Education and the teacher at the conclusion of any due process provided to the teacher or upon acceptance of the teacher's resignation.

Reference: 70 O.S. §6-101, OAC 210-1-5-8