



GENTNER DRUMMOND
ATTORNEY GENERAL

ATTORNEY GENERAL OPINION
2025-17

The Honorable Melissa Provenzano
Oklahoma House of Representatives, District 79
2300 N. Lincoln Boulevard, Room 543
Oklahoma City, OK 73105

December 11, 2025

Dear Representative Provenzano:

This office has received your request for an official Attorney General Opinion in which you ask, in effect, the following questions:

- 1. Does the Superintendent of Public Instruction possess the statutory or constitutional authority to require only out-of-state teachers¹ to pass an additional competency examination—beyond what is required under Oklahoma law—as a condition for certification or employment² within the State of Oklahoma?**
- 2. Would the implementation of such a testing requirement for out-of-state teachers conflict with any existing provisions of state or federal law governing teacher certification, licensure, reciprocity, or employment practices?**

I.
SUMMARY

The Superintendent of Public Instruction (“State Superintendent”) does not possess any authority under Oklahoma law to require out-of-state teachers to pass an additional examination as a condition for certification. The State Board of Education (“State Board”) has express authority over licensure and certification matters, including issuing certificates to individuals who otherwise meet certification requirements. To meet certification requirements in most instances, an applicant for a teaching license must pass a competency examination adopted by the Commission for

¹ You ask about out-of-state *teachers* but do not specify whether the individual is currently certified by the resident state. Accordingly, to be fully responsive, this office answers your question under both scenarios—out-of-state certification and no out-of-state certification.

² The answer to your question regarding employment is clear. Subject to limitations not relevant here, local school district boards of education—not the State Superintendent—have authority to contract with, fix the duties of, and compensate their personnel certified and in good standing under title 70 of the Oklahoma Statutes. *See* 70 O.S.2021, § 5-117; *see also Indep. Sch. Dist. No. 12 v. State*, 2024 OK 39, ¶ 38, 565 P.3d 23, 37 (citing *Ritter v. State*, 2022 OK 73, ¶ 17, 520 P.3d 370, 380).

Educational Quality and Accountability (“CEQA”).³ In some instances, the Legislature either (1) does not require passing a competency examination or (2) vests the State Board with the authority to establish certification requirements. However, while the State Superintendent is a member of the State Board, the Superintendent has no express or implied authority to unilaterally require a competency examination as a condition of certification. Because the answer to the first question is no, it is unnecessary to address the second question.

II. BACKGROUND

Oklahoma’s educational system rests on four pillars. First, the Legislature must “establish and maintain a system of free public schools wherein all the children of the State may be educated.” OKLA. CONST. art. XIII, § 1. Second, the Constitution vests supervision of instruction in Oklahoma public schools with the State Board, “whose powers and duties shall be prescribed by law.” OKLA. CONST. art. XIII, § 5. Third, the State Superintendent is an elected executive officer who is the president of the State Board and who “shall perform such duties as may be designated in this Constitution or prescribed by law.” OKLA. CONST. art. VI, § 1; *see also* OKLA. CONST. art. XIII, § 5. Fourth, and finally, decisions on discretionary matters concerning the daily operations and affairs in the public schools belong to locally elected boards of education. *Ritter v. State*, 2022 OK 73, ¶ 17, 520 P.3d 370, 380 (“The school system is designed to strengthen and encourage local responsibility for control of public education, with the maximum public autonomy and responsibility remaining at the local level.”). These four principles mean that, in effect, the public school system is collaboratively administered by the State Board, State Department of Education (“State Department”), State Superintendent, boards of education of school districts, and superintendents of local school districts. 70 O.S.Supp.2025, § 3-104; 70 O.S.2021, § 1-115. Turning back to your question, you ask whether Oklahoma law grants the State Superintendent unilateral authority to require an out-of-state applicant for a teaching certificate to pass a competency examination. In accordance with the longstanding and well-established framework described above, and as explained in more detail below, the answer is no.

III. DISCUSSION

A. **The State Superintendent does not have unilateral authority to require out-of-state teachers to pass an additional competency examination as a condition for teacher certification.**

Consistent with its charge of establishing and maintaining a state system of public school education, the Legislature enacted the Oklahoma School Code (“School Code”) in 1949, as a mechanism of organizing, operating, and supporting that system. *Oklahoma Farm Bureau v. State Bd. of Educ.*, 1968 OK 98, ¶ 3, 444 P.2d 182, 184; 70 O.S.2021, §1-102. Under the School Code,

³ The Legislature created the CEQA in 2012, establishing certain powers and duties, and effectively replacing the Commission for Teacher Preparation. Senate Bill 1797, 2012 Okla. Sess. Laws ch. 223, §§ 1-20.

the State Board serves as the supervisory body and “governing board of the public school system.”⁴ 70 O.S.2021, § 1-105; 70 O.S.Supp.2025, § 3-104. To fulfill this charge, the State Board has numerous powers and duties, both general and specific. These powers and duties broadly include, among others:

1. [a]dopt[ing] policies and mak[ing] rules for the operation of the public school[s] . . . ;
2. Perform[ing] all duties necessary to the administration of the public school system . . . as specified in the . . . School Code;
3. provid[ing] for the health and safety of school children and school personnel while under the jurisdiction of school authorities; and
4. perform[ing] . . . those duties not specifically mentioned . . . [in the School Code] if not delegated by law to any other agency or official.

70 O.S.Supp.2025, § 3-104(A)(1), (17), (20).

Additionally, and relevant here, the State Board has “authority in matters pertaining to the licensure and certification of persons for instructional, supervisory, and administrative positions and services” 70 O.S.Supp.2025, § 3-104(A)(6).

With regard to certification, and assuming the individual meets all otherwise applicable requirements, the School Code mandates that the State Board “shall”⁵ issue and grant a certificate to teach in at least the following seven instances: (1) a candidate graduates from an accredited institution of higher education and completes an accredited teacher education program; (2) a candidate has a college degree but not from an accredited teacher education program (“Alternative Certificate”)⁶; (3) a school district demonstrates a need and applies to the State Board for an emergency certificate; (4) a candidate has certification from the National Board for Professional Teaching Standards; (5) a candidate has been accepted into the Teach for America Program; (6) a candidate successfully completes a competency examination used by a majority of other states; and, (7) an out-of-state candidate who is certified by another state.⁷ 70 O.S.Supp.2025, §§ 6-190(B), 6-187(G), 6-190(G)–(H), 6-190(C)(1); 70 O.S.Supp.2024, § 6-122.3, 70 O.S.2021, § 6-122.4.

⁴ Fundamentally, by statutory enactment, the Legislature establishes state policy relating to education, which is then implemented by the State Board and the State Department. *Oklahoma Educ. Ass’n v. State ex rel. Okla. Legislature*, 2007 OK 30, ¶ 20, 158 P.3d 1058, 1065; OKLA. CONST. art. V, §§ 1, 36. The Legislature may also delegate authority to the State Board to determine facts and promulgate rules within prescribed legislative standards. *Western Heights Indep. Sch. Dist. v. State*, 2022 OK 79, ¶ 77, 518 P.3d 531, 554 (citing *Oklahoma Farm Bureau*, 1968 OK 98, ¶ 22, 444 P.2d at 187).

⁵ The Oklahoma Supreme Court construes statutes using the word “shall” by “giv[ing] [shall] its common meaning of ‘must.’ It is interpreted as implying a command or mandate.” *Sneed v. Sneed*, 1978 OK 138, ¶ 3, 585 P.2d 1363, 1364.

⁶ The availability of an Alternative Certificate is “based upon the premise that the applicant completed a college degree in a particular . . . field and was able to complete the curriculum examination but had not taken teacher preparation courses which would qualify [the applicant] for a traditional certificate.” 1999 OK AG 63, ¶ 15.

⁷ See also 70 O.S.2021, § 6-122.3(D)–(E) (authorizing the State Board to grant exceptions to the requirements for certification and to the subject area examination requirement).

In the first three situations, the School Code conditions certification on the individual also successfully completing a competency examination required under title 70, section 6-187 of the Oklahoma Statutes. *See* 70 O.S.Supp.2024, § 6-122.3; 70 O.S. Supp.2025, §§ 6-190(B), 6-187(G). A cursory review of section 6-187 yields one reading: the CEQA adopts the competency examination. Regarding the Teach for America certification pathway, Teach for America establishes any prerequisite examination. 70 O.S.2021, § 6-122.4. Concerning an applicant who successfully completes a competency exam used in a majority of other states, the candidate is not required to take any Oklahoma exam. As long as the candidate passes the competency examination used by a majority of other states and has a criminal history record check on file with the State Board, the State Board issues a certificate. 70 O.S.Supp.2025, § 6-190(H). Because the School Code vests the State Board with authority over certification and, separately but relatedly, directs it to issue certificates to qualifying candidates, the State Board is the entity that determines whether a competency examination is used in a majority of other states. *Id.*; 70 O.S.Supp.2025, §§ 6-187(G), 3-104. Finally, with regard to out-of-state candidates who seek reciprocal certification under the seventh scenario listed above, the Legislature expressly exempts the individual from any competency examination. 70 O.S.Supp.2025, §§ 6-190(G)(2), 6-190.3.⁸

If the Legislature intended to grant to the State Superintendent the separate and independent authority to require a competency examination as a condition of certification, it would have said so. It did not. Nowhere in the Constitution or in statute is the State Superintendent given express authority to establish, adopt, or require a competency examination as a condition of state certification. With that being the case, this office is unable to read into the law what is not there. *Cox v. State*, 2004 OK 17, ¶ 26, 87 P.3d 607, 617 (“This Court does not read exceptions into a statute nor may we impose requirements not mandated by the Legislature.”). *See also Jackson v. Indep. Sch. Dist. No. 16*, 1982 OK 74, ¶ 4, 648 P.2d 26, 29 (“The fundamental rule of statutory construction is to ascertain and, if possible, give effect to the intention and purpose of the Legislature as expressed in the statute.”); *Liddell v. Heavner*, 2008 OK 6, ¶ 16, 180 P.3d 1191, 1200 (When the [statutory] text is not ambiguous, the court may not look for a meaning outside its bounds.”); *Signature Leasing v. Buyer’s Grp.*, 2020 OK 50, ¶ 18, 466 P.3d 544, 549 (“We presume the legislative intent is expressed in the text of the statute and that the legislature ‘intended that which it expressed.’” (citation omitted)).

This is not to say that the State Superintendent lacks any implied powers. The Oklahoma Supreme Court has held that “[a] statute creating an express power in the nature of an express affirmative duty normally creates an implied power necessary to fulfill that express affirmative duty.” *Western Heights Indep. Sch. Dist. v. State*, 2022 OK 79, ¶ 32, 518 P.3d 531, 543. In the context of certification, the Oklahoma Supreme Court previously acknowledged that the State Board’s express power to revoke a certificate permits the Board to impose a less severe form of discipline as a lesser implied power. *Id.* Also, the court approved the appointment of an interim superintendent as a lesser implied power to the express power of placing a school district on probation because it ensured the students’ opportunity to attend an accredited school. *Id.* at ¶ 87,

⁸ Section 6-190.3 is the Interstate Teacher Mobility Compact Act and exempts a qualified individual from a competency exam on initial certification and recognizes that a member state may, but is not required to, establish state specific requirements at the time of renewing the certificate. “State specific requirements” is defined as “coursework or examination that includes the content of unique interest to the state.” *Id.* Oklahoma does not currently have any such requirements under section 6-190.3.

518 P.3d at 557. Accordingly, this office must examine the State Superintendent’s express powers and determine whether he or she has implied powers with regard to teaching examinations.

Constitutionally, the State Superintendent is the President of the State Board. OKLA. CONST. art. VI, § 1. However, without some delegation of authority, the Board acts as a body and not unilaterally through one person. OKLA. ADMIN. CODE § 210:1-1-6 (providing that the State Board acts as a whole and business is only officially transacted at meetings of the State Board, and authorizing the President to appoint subcommittees on specific tasks). The only express statutory power relevant here is that the School Code authorizes the State Superintendent to “interpret” State Board rule and policy. 70 O.S.2021, § 3-107.1.

The Oklahoma Supreme Court “has relied on dictionary definitions to provide the plain, ordinary meaning of terms.” *Brassfield v. State*, 2024 OK 9, ¶ 8, 544 P.3d 938, 941. The term “interpret” generally means the process of determining what something means. *Interpret*, BLACK’S LAW DICTIONARY (12th ed. 2024). State Board rules require “any person” applying for a certificate to pass the “Oklahoma Teacher Certification Test(s)” in the field(s) which corresponds to the desired credential. OKLA. ADMIN. CODE § 210:20-13-1. This year, the State Board amended this rule to require passing the “written test based solely upon the U.S. Naturalization Test” in addition to the “Teacher Certification Test(s). 42 Okla. Reg. 1189, 1237 (July 1, 2025). Pursuant to title 70, section 3-107.1 of the Oklahoma Statutes, the State Superintendent has the express authority to interpret these administrative regulations. However, using the scenario in your inquiry, the Superintendent may not “interpret” this rule by establishing a testing requirement that *only applies* to out-of-state candidates for a teaching certificate. This is especially true because (1) the rule, by its plain terms, expressly applies to *all* persons applying for a certificate, whether a resident of Oklahoma or not, and (2) the Legislature expressly exempts a person who is certified by another state from any competency examination tied to receiving an Oklahoma teaching certificate. 70 O.S.Supp.2025, § 6-190(G)(2).

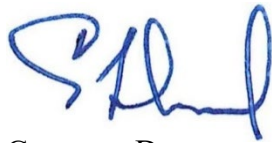
Accordingly, and to bring this matter to a close, the Legislature does not authorize the State Superintendent to adopt a competency examination; nor does the State Superintendent have authority in matters pertaining to teacher certification. And the Legislature does not permit the State Superintendent to adopt or make rules for the operation of the public schools, or adopt a competency examination for teacher certification candidates. Those charges are expressly reserved for the CEQA, the State Board, and a local school district board of education. 70 O.S.Supp.2025, §§ 3-104(A)(1), (6), (17), (20), 6-187, 6-190; 70 O.S.2021, § 5-117. Even if the power to interpret encompassed a more expansive implied power to establish an additional testing requirement for certification—which, to be sure, it does not—such implied power must yield to the State Board’s express authority over certification matters.⁹ As a result, any attempt by the State Superintendent

⁹ For completeness, but immaterial to the analysis and conclusion here, the State Superintendent is also expressly authorized under the School Code to (1) “advise” school districts as to their powers, duties and functions, and (2) “control” and “direct” the State Department, and “adopt policies” and have “authority” to coordinate the divisions therein. 70 O.S.2021, §§ 1-105(C), 1-115, 3-107, 3-107.1(2), (4). The term “advise” means “to give (someone) a recommendation about what should be done: to give advice to.” *Advise*, MERRIAM-WEBSTER.COM, <https://www.merriam-webster.com/dictionary/advise> (last visited Dec. 11, 2025). Accordingly, these express powers carry an implied power to publish a compilation of the laws and regulations affecting the public schools, or to provide staff to train the public schools on the laws and regulations. But the express power to advise on laws and rules does

to unilaterally require a competency examination as a condition of the State Board issuing a teaching certificate is a clear example of an agency or official expanding its powers beyond its own authority. And, that the Superintendent may not do. *Marley v. Cannon*, 1980 OK 147, ¶ 10, 618 P.2d 401, 405.

It is, therefore, the official Opinion of the Attorney General that:

The Superintendent of Public Instruction lacks any legal authority under Oklahoma law to unilaterally require out-of-state teachers to pass an additional examination as a condition for teacher certification or employment by a local public school district in Oklahoma.¹⁰



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not equate to “adopting,” “establishing,” or having control over certification matters. The term “authority” means “power to influence or command, thought, opinion, or behavior;” and “adopt” means “to accept and establish (something, such as a law or policy) in a formal or official way.” *Authority*, MERRIAM-WEBSTER.COM, <https://www.merriam-webster.com/dictionary/authority> (last visited Dec. 11, 2025); *see also Adopt*, MERRIAM-WEBSTER.COM, <https://www.merriam-webster.com/dictionary/adopt> (last visited Dec. 11, 2025). Consequently, these express powers necessarily include the implied power to establish and adopt structures for bonus compensation, as well as the authority to appoint advisors within the structural units of the State Department, *subject to otherwise applicable requirements or limitations*. And this pairs well with the State Superintendent’s other enumerated power to “control of and direct” the State Department. 70 O.S.2021, § 3-107. However, none of the express powers identified in this footnote are close to impliedly authorizing the State Superintendent to establish an additional competency examination for individual candidates who are eligible and otherwise required to pass such an exam as a condition of certification.

¹⁰ Because the State Superintendent does not have authority to impose a requirement that out-of-state teachers pass an examination before receiving an Oklahoma certificate, this office finds it unnecessary to whether such an attempt may or may not conflict with federal law, including the dormant Commerce Clause. *See CDR Sys. Corp. v. Okla. Tax Comm’n*, 2014 OK 31, ¶ 11, 339 P.3d 848, 853; *Granholm v. Heald*, 544 U.S. 460, 125 S.Ct. 1885, 161 L.Ed.2d 796 (2005).