

# CHAPTER 1. STATE BOARD OF EDUCATION

## SUBCHAPTER 1. GENERAL PROVISIONS

### 210:1-1-2. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

**"Administrator"** means a duly certified person who devotes a majority of time to service as a superintendent, principal, vice principal, or in any other administrative or supervisory capacity in a school district.

**"Nonreemployment"** means the nonrenewal of a teacher's contract upon expiration of the contract (end of school term).

**"Policies"** means principles adopted by the State Board of Education (Board) to help it identify and select actions to guide and determine its present and future decisions.

**"Policy of evaluation"** means a school district's policy, developed pursuant to 70 O.S. § 6-101.10, describing the total teacher and administrator evaluation system including the purposes of evaluating, the criteria to be used as standards, and the procedure to be followed in implementing the evaluation process.

**"Procedures"** means actions specified by rules and regulations to be followed in carrying out a policy or law. It may also mean processes used in the implementation of a program.

**"Professional development program"** means the program mandated by 70 O.S. § 6-194 for the continuous improvement and enrichment of the certified teachers and administrators of this state.

**"Revocation"** or **"revoked"** means the invalidation of a teacher or administrator certification by the State Board of Education pursuant to due process procedures provided for by applicable laws and regulations.

**"Student teacher"** means any student who is enrolled in an institution of higher learning approved by the State Board of Education for teacher training and who is jointly assigned by such institution of higher learning and a school district's board of education to perform practice teaching under the direction of a regularly employed and certified teacher. A student teacher, while serving an internship under the supervision of a certified teacher, shall be accorded the same protection of the laws that accorded the certified teacher.

**"Suspension"** or **"suspended"** means temporary discontinuance of a teacher or administrator certification pursuant to 75 O.S. § 314, upon a finding by the State Board of Education that public health, safety, or welfare imperatively requires emergency action.

**"Teacher"** means ~~any individual who has been issued a certificate by the Board in accordance with the rules and regulations of the Board, and who falls under the definition of "Teacher" at 70 O.S. § 1-116~~ any person who holds a valid certificate issued by and in accordance with the rules of the State Board of Education and who is employed to serve as district superintendent, principal, supervisor, counselor, librarian, school nurse, coach, athletic trainer, or classroom teacher or in any other instructional, supervisory or administrative capacity; or all persons holding proper certificates and connected in any capacity with the instruction or supervision of students.

### 210:1-1-3. Powers, duties, and officers [REVOKED]

(a) **Agencies of the department.** In Oklahoma, the State Department of Education is that department of the State Government in which the agencies created or authorized by the Constitution or Legislature are placed and charged with the responsibility of determining the policies and directing the administration and supervision of the public school system of the state. These agencies are the State Board of Education, the State Superintendent of Public Instruction, and such divisions and positions as may be established by law and by the State Board of Education [70-1-105].

(b) **Composition of Board.** The State Board of Education is that agency in the State Department of Education which is the governing Board of the State Department of Education and the public school system of the state [70-1-105]. This Board consists of seven members. The State Superintendent of Public Instruction who is elected for a four-year term by the people, serves as a voting member and the President of the Board. The remaining six members are appointed by the Governor and confirmed by the Senate and serve staggered, overlapping six-year terms. A term expires each year on April 1 [70-3-101].

(c) **State Board members also members of State Vo-Tech Board.** The State Board of Education members and the Superintendent of Public Instruction are also ex-officio voting members of the State Board of Vocational and Technical Education. The State Superintendent of Public Instruction is chair of the State Board of Vocational and Technical Education [70-14-101].

(d) **Policies, rules, and regulations of State Vo-Tech Board.** Policies, rules, and regulations adopted by the State Board of Vocational and Technical Education are published in a separate manual. This manual entitled, POLICIES AND PROCEDURES FOR VOCATIONAL AND TECHNICAL EDUCATION is published by and may be obtained from the State Department of Vocational and Technical Education, Stillwater.

### 210:1-1-5. Administrative office

The State Board of Education Administrative Office consists of ~~the~~ may appoint a Chief Executive Secretary to the Board who also serves the State Board of Vocational and Technical Education and who is appointed by the State Board of Education, but is not an official voting member of either ~~the~~ Board [70-3-104 & 34]; the Administrative Assistant; and the Secretary.

(1) **Duties of the Chief Executive Secretary.** Under the direction of the Board's Executive Officer, the Chief Executive Secretary performs duties for the Board in carrying out its legal functions as follows:

- (A) collects copies of materials to be discussed at ensuing meetings and distributes same to Board members in advance;
- (B) prepares agendas, reports, resolutions, and other backup information for Board meetings and hearings, and makes all other necessary meeting arrangements;
- (C) is responsible for all correspondence; mailouts to board members, such as electronic mail, legislative update, and board agenda materials; transcriptions and certification of minutes; monitoring teacher hearing procedures and maintaining hearing records; and for keeping an accurate record of the proceedings of Board meetings and hearings [25-312 & 436];
- (D) files a schedule of Board meetings in advance with the office of the Secretary of State; gives written notice, displays a public notice and agenda of all Board meetings showing date, time, and place [25-311.1 & 435.1];
- (E) publishes all rules and regulations with any proposed amendments or additions which are filed with the Governor, State Librarian and Archivist, President Pro Tempore of the Senate, and the Speaker of the House;
- (F) supervises the maintenance of all files of the State Board including Tax-sheltered Annuity Contracts, Minutes, Certified Copies of Policies, Rules, and Regulations, Teacher Hearing Records, Tapes, etc.;
- (G) gives new-member orientation to all new Board members;
- (H) supervises office personnel in the Board Administrative Office, establishing office procedures;
- (I) is responsible for the Seal of the State Board to attest and affix the Seal on all contracts, resolutions, and other important legal documents.
- (J) prepares the minutes and other board records for transfer to the State Archives and State Records Center.
- (K) maintains biographical sketches of Board members and keeps Board member pictures current in boardroom display;
- (L) makes travel arrangements for Board members and prepares and notarizes travel claims;
- (M) provides technical assistance and training for local boards and their staff and other organizations on Board procedures;
- (N) serves as liaison with National Association of State Boards of Education (NASBE);
- (O) monitors the teacher due process hearing procedures, as required by law;
- (P) prepares an annual report on teacher hearing cases, including dispositions, and costs;
- (Q) notifies the Governor in the event the Board grants approval for a local school district to change its status from dependent to independent; and
- (R) performs all other duties pertaining to ~~this~~ the office as the Board or the Executive Officer, or his designee, directs.

(2) **Duties of the Administrative Assistant.** Assists the Chief Executive Secretary in:

- (A) preparing agendas, agenda books, agenda materials prior to the meetings, then files agenda materials following the meetings;
- (B) preparing legal rules and regulations, listing and filing in proper places and with proper authorities;
- (C) writing draft of Board minutes and reporting Board business;
- (D) composing correspondence and assisting in the development of publications and reports;
- (E) monitoring and up-dating office procedures manual and legal datelines;
- (F) coordinating due process hearing arrangements;
- (G) making technical adjustments for Board meetings;
- (H) opening and directing mail;
- (I) obtaining reservations for Board members and staff;
- (J) assisting the Secretary in duties of that position as time schedules and workload demands.

(3) **Duties of the Secretary.** Provides for the Board's Administrative Office:

- (A) compilation of agenda books and materials, and mailing agenda packets;
- (B) technical preparation of rules and regulations;
- (C) drafting and typing of minutes, and typing manuscripts, notices, and correspondence;
- (D) distribution of minutes of meetings and maintaining updated minute lists and labels;
- (E) posting of agenda and meeting notices and issuing reservation notices for parking;
- (F) creating and compiling due process hearing files;
- (G) pick-up and delivery of mail;
- (H) processing of requisitions, supplies, travel claims, and tax-sheltered annuities;
- (I) professional receptionist and clerical assistance;
- (J) assisting the Administrative Assistant in duties of that position as time schedules and workload demands.

## 210:1-1-6. Meetings

(a) **Parliamentary procedures.** Parliamentary procedures ~~will~~ may follow Roberts' Rules of Order, Revised, and the President of the Board may serve as parliamentarian, if so desired.

(b) **President pro tempore.** In the President's absence, he or she may designate, in his or her sole discretion, another member of the Board to serve as President pro tempore of the meeting. If the President fails to designate a chairperson due to extenuating circumstances, the Deputy State Superintendent shall designate the President pro tempore of the meeting.

(c) **Voting by proxy.** No voting by proxy is permitted [A.G. Opin. 82-7, January 20, 1982.]

(d) **Transaction of business.** Only at meetings are official decisions made and business transacted. Decisions shall be decided by motion and seconded, followed by roll call vote and such vote shall be publicly cast and recorded on all minutes of the Board [25-305].

(e) **Committees.** The Board shall generally act as a committee of the whole. However, subcommittees may be appointed by the President of the Board on a specific task. Such committees are subject to the same requirements of the Open Meeting Law, as applicable, regarding the filing of date, time, place, and agenda of the meeting as well as the advance public satisfaction and voting requirements as for regular, rescheduled, continued or reconvened, or special meetings.

#### **210:1-1-7. Purpose**

(a) This chapter outlines the context of the agency responsible for public education by describing the State Board of Education, their powers and duties, rules of practice, due process policies and procedures, the general principles by which the State Department of Education operates and the structural organization of the Department.

(b) The contents of this Chapter shall in no way be construed as the basis of, or as instituting any contractual rights between the State Board of Education and any person or employee. Of necessity, it cannot be complete in all detail and cannot, through error or omission, restrict the lawful powers of the State Board of Education. If it in any way conflicts with State Statutes any federal law or law of the State of Oklahoma, the law ~~will~~ shall take precedence and prevail.

### **SUBCHAPTER 3. DEPARTMENTAL PRECEPTS**

#### **210:1-3-1. Nature**

(a) The rules found in this Subchapter are State Board of Education rules of a general nature that are pertinent to the operation of the Board and the State Department of Education and in respect to the establishment and operation of a school district. ~~Rules of school district operational concerns or on specific subject matters such as finance, transportation, exceptional students, and curriculum will be found listed under each appropriate Chapter. Copies of such rules may be obtained by contacting the appropriate administrative section:~~

(b) Except where specified differently by law, members on advisory councils shall be recommended by the Superintendent or Executive Officer of the Board. ~~Names are usually solicited from subordinate administrators and other knowledgeable leaders. Where special parent advisory councils or other committees are required, this Board expects the law, whether federal or state, to be enforced and the council established:~~

(c) Advisory council members who are performing substantial and necessary service may be reimbursed for such expenses, according to the State Travel and Reimbursement Act (74-500.1-500.35), State Purchasing Laws (74-85), State Board rules and regulations, and local policies at the district level.

#### **210:1-3-5. Civil Rights [REVOKED]**

(a) ~~The State Board believes it is essential for the education process to include cultural awareness and sensitivity for a school age population which reflects diverse backgrounds, races, cultures and attitudes. [70-1210.201]~~

(b) ~~In relation to women's equity, the State Board of Education policy is one expressing support and commitment to increasing the number of women in educational administration in the public schools of Oklahoma, prohibiting discrimination on the basis of sex in education programs and activities under its supervision, and providing technical assistance and staff improvement activities for state and local education agency staffs to comply with desegregation and affirmative action requirements. Furthermore, as stated in the Affirmative Action Plan, the State Board of Education does not discriminate on the basis of race, color, national origin, sex, age, religion, handicap, or status as a veteran in the employment of personnel, provision of services, use of facilities, organization of group activities, and other similar benefits in any of its programs, policies or practices. It further assures that no new commitments for federal financial assistance under such programs will be made to school districts unless an assurance of compliance, a court order, or a plan of desegregation has been filed:~~

(c) ~~The compliance documents enumerate methods of administration to assure compliance and list procedures for evaluating and handling complaints filed with the Board:~~

#### **210:1-3-11. Open Records Act**

(a) **Official records.** All files, records, minutes, proceedings, rules, documents, decisions, opinions, written statements of policy, and written materials of any other nature required by law to be maintained by the State Board of Education or the State Department of Education and not otherwise exempt from public disclosure pursuant to the provisions of state and/or federal law shall be made available promptly for public inspection, copying, or mechanical reproduction upon reasonable notice during regular business hours in accordance with the provisions of the Open Records Act at 51 O.S. § 24A.1 et seq. and the procedures set forth below Official records shall mean record as defined in Title 51 O.S. § 24A.3(1) or any successor statute.

(b) **Records subject to disclosure.** Any document that comes within the statutory definition of a "record" and is not required to be kept confidential by State or federal law, or otherwise exempt from disclosure pursuant to the Open Records Act will be available for inspection and copying between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday, except state holidays, at the location where the records are housed, which is generally the Oliver Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City. Records subject to disclosure shall mean records subject to disclosure under the Open Records Act.

(c) **Procedure for records requests.** Any individual or group seeking access to public records maintained by the State Board of Education or the State Department of Education ~~shall~~ should submit a written request to the State Department of Education ~~Office of Legal Services, by fax, email, regular mail or in person.~~ In order to provide prompt, reasonable access to records, to ensure that records requests are accurately communicated to the records custodian, and to enable the records custodian to accurately process the request, it is recommended that records requests ~~be submitted in writing. In addition, all records requests must~~ comply with the following provisions:

(1) All records requests ~~must~~ should include:

(A) Identification of the individual and/or entity making the request;

(B) If the Requester is an entity rather than an individual, a name of a contact authorized to communicate with the records custodian on behalf of the Requester;

(C) Sufficient contact information at which the Requester may be contacted by the records custodian to comply with the records request procedures set forth in this Section;

(D) A description of the records requested with sufficient detail necessary to enable the records custodian to reasonably identify whether records responsive to the request exist;

(E) Whether the Requester seeks copies of any or all of the records requested and if so, whether the Requester seeks certified copies of any or all of the records requested; and

(F) If the Requester claims the public interest exemption from search fees in accordance with the provisions of (d) of this Section, all information necessary for the records custodian to determine the applicability of the exemption.

(2) An Open Records Act request form is provided on the OSDE website. The form may be submitted by email, fax, or regular mail via the addresses stated on the form. ~~The form may also be obtained by writing to the Oklahoma State Department of Education Office of Legal Services, Oliver Hodge Education Building, 2500 N. Lincoln Blvd., Room 117, Oklahoma City, OK 73105.~~

(3) Requests submitted will not be deemed to have been received unless and until the request has been identified as a request properly filed in accordance with the provisions of the Oklahoma Open Records Act at 51 O.S. § 24A.1 et seq. ~~and the procedures set forth in this Section.~~

(4) ~~Within a prompt and reasonable time of the date of receipt of the request, t~~The records custodian shall review the request, seek any additional information from the Requester necessary to clarify the request, and shall ascertain whether any records responsive to the request exist.

(5) In addition, the records custodian shall promptly notify the Requester of the following:

(A) Whether the request complies with ~~the provisions of this Section and~~ the provisions of the Open Records Act;

(B) ~~Whether records responsive to the request exist, and if so, the records custodian shall instruct the Requester to confirm the record custodian's interpretation of the request. If the records custodian believes the request does not comply with the Open Records Act, the records custodian shall notify the requestor within a reasonable amount of time;~~

(C) ~~If records responsive to the request exist and require an additional search of data necessary to identify and/or locate individual records of persons, whether the search will incur any fees and costs pursuant to (d) of this Section and if so, an estimate of search fees;~~

(~~D~~) ~~If the Requester asks to be provided copies of the requested records in lieu of inspection, an estimate of the costs of copying the records requested as necessary to deliver the responsive records to the Requester;~~

(~~E~~) ~~That processing of the request will not begin until any applicable records search fees and costs of copying have been received by the agency; and~~

(~~F~~D) ~~In the event the actual costs of copying and/or certification of records exceed the estimate provided and the amount of payment actually received from the Requester, that payment of any balance due from the Requester may be required prior to delivery of the requested records.~~

(6) All records requests will be deemed to have been received and processing of the request will begin when one of the following conditions is met:

(A) If payment of search fees or copying costs is required, upon receipt of:

(i) The fees and costs due; and

(ii) Receipt of any additional information necessary from the Requester to clarify and/or process the request; or

(B) If payment of search fees or copying costs is not required, upon receipt by the records custodian of:

(i) The Requester's confirmation of the request required by (7) of this subsection; and

(ii) Receipt of any additional information necessary from the Requester to clarify and/or process the request.

(7) Any request not confirmed by receipt of the requisite search fee within thirty (30) calendar days of the written notification set forth in (5) of this subsection ~~shall~~ may be deemed to be abandoned, unless, within the time stated, the Requester can show cause why the confirmation should be delayed or postponed.

(8) If the Requester fails to furnish additional information reasonably necessary to identify the records sought or otherwise enable agency personnel to accurately process the request, any further processing of the request may be suspended by the records custodian. A request that remains suspended for a period of forty-five (45) calendar days or more ~~shall~~ may be deemed abandoned.

**(d) Fees for record searches and copies of records.** Fees and costs associated with record searches and providing copies of records shall be determined in accordance with the following procedures:

**(1) Fees to recover reasonable and direct costs of record searches.** Requests that are either solely for commercial purposes or requests that cause an excessive disruption of the essential functions of the agency are subject to fees for recovery of the reasonable, direct costs of record searches in accordance with the provisions of 51 O.S. § 24A.5(3); provided that no search fee will be charged when the release of records is in the public interest, including, but not limited to, release to the news media, scholars, authors and taxpayers seeking to determine whether those entrusted with the affairs of the government are honestly, faithfully, and competently performing their duties as public servants.

**(2) Fees to recover reasonable and direct costs of record copies.** The requesting party shall pay a fee for copies. Said fee shall be twenty-five cents (25¢) per page, twelve dollars (\$12.00) per 3½-inch diskette, and \$1.00 per page for certified documents. Copies provided via FAX machine cost \$1.00 per page, regardless of the destination of the Faxed copy. For commercial requests or those that would cause excessive disruption of office function, such as documents that are archived, either internally or with the Oklahoma Archives and Records Commission, a search fee will be charged based upon the hourly rate of the individual(s) searching for, and locating, the requested records. Requests that are either solely for commercial purposes or requests that cause an excessive disruption of the essential functions of the agency are subject to fees for recovery of the reasonable, direct costs of copying records in accordance with the provisions of 51 O.S. § 24A.5(3):

(A) For purposes of this paragraph, "copying" of a record may include costs of:

- (i) Mechanical reproduction of a paper record ("hard copy"); or
- (ii) Conversion of a record into an electronic format (e.g., .pdf) as necessary for delivery to the requester.

(B) In no instance shall the fee per page fee for copies of documents exceed the amount set forth in 51 O.S. § 25A.5(3):

(C) The State Superintendent of Public Instruction is authorized to periodically review and adjust the rates that will be charged for providing copies of records in accordance with state law. Those rates will include costs for record copies, document searches and transcript rates. The rates will be posted at the Oliver Hodge building and filed with the country clerk as required by law.

(D) All fees and/or costs shall be paid by the Requester prior to delivery of the response to the request. All fees must be paid by check or money order payable to the Oklahoma State Department of Education. No cash will be accepted:

**(e) Processing and response times.** The agency will provide prompt, reasonable access to records in accordance with the requirements of 51 O.S. § 25A.5(5). The period of time considered prompt and reasonable is dependent upon a number of variable factors including, as noted in the Open Records Act and case law annotations, but not limited to:

(1) The scope and complexity of the request;

(2) Whether the workload of the agency or agencies necessary to respond to the request permits a response to the request without excessive disruption of essential services of the agency/agencies;

(3) Whether the records request includes:

(A) A sufficiently detailed description of the request by the requestor necessary for the agency to ascertain the existence of records responsive to the request;

(B) Records or portions of records deemed confidential by state and/or federal law which must be removed or redacted in order to permit inspection of the records;

(4) Whether the Requester requested copies of the records and if so, whether the Requester has paid applicable fees and/or costs set forth in (d) of this Section;

(5) Whether additional steps by the agency must be taken in order to ensure that inspection, copying, and/or response to the records can be provided without jeopardizing the integrity and organization of the records; and

(6) Whether student data is included within the scope of its request, and if so:

(A) Time necessary to de-identify and aggregate student data in accordance with the requirements of the Federal Educational Rights and Privacy Act (FERPA) at 20 U.S.C. § 1232g et seq. and accompanying regulations; the Student Data Accessibility, Transparency and Accountability Act of 2013 at 70 O.S. § 3-168 and accompanying regulations; or any other applicable provisions of state or federal law pertaining to confidentiality of records; or

(B) Time necessary to obtain approval of the State Board of Education in accordance with the requirements of the Student Data Accessibility, Transparency and Accountability Act of 2013 at 70 O.S. § 3-168 and accompanying regulations.

(f) **Requests for agency public information.** Certain employee personnel records are confidential and not subject to the Oklahoma Open Records Act, including employee evaluations, payroll deductions, applications submitted by persons not hired by the State Board of Education ("Board") or the State Department of Education ("Department"); internal personnel investigations including examination and selection material, employees' home addresses, telephone numbers, and social security numbers, medical and employee assistance records, and other personnel records where disclosure would constitute a clear invasion of privacy. Personnel records information that are subject to release are the application of a person who becomes an employee of either the Board or the Department, gross receipt of public funds, dates of employment, title or position and any final disciplinary action resulting in loss of pay, suspension, demotion or termination.

## SUBCHAPTER 5. DUE PROCESS

### **210:1-5-3. Declaratory ruling**Petition requesting promulgation, amendment or repeal of a rule

(a) Any person affected either by a rule adopted and promulgated by the State Board of Education, or the lack of a rule and regulation may petition the State Board of Education to promulgate, adopt, amend or repeal a rule pursuant to 75 O.S. § 305 and in accordance with this section.

(1) The petition must be in writing and submitted to the Secretary of the State Board of Education and shall include:

(A) the proposed amendment, promulgation, or repeal of a specific rule;

(B) the reason for the petition to repeal, promulgate, or amend a rule; and

(C) the effect that the repeal, amendment, or promulgation of the rule would have on the petitioner.

(2) The petitioner must print his or her name, address, and telephone number on the petition, and it must be signed by the petitioner.

(3) A designee for the State Board of Education shall timely respond to such petition, either by recommending to the State Board of Education that rulemaking proceedings be initiated or that the petition be denied.

(4) The petitioner will be notified by regular mail if rulemaking proceedings are initiated.

(5) A petition for rulemaking will be deemed denied if the State Board of Education has not initiated rulemaking proceedings within thirty (30) calendar days after the petition is submitted.

**-Request for ruling.** Any person affected by any rule or order promulgated or issued by the Board or one of its authorized agents may request in writing to petition the Board for an interpretation or ruling regarding the application of such a rule or order to the facts furnished with the request.

**(b) Filing and contents of petition.** The petition shall be styled similarly to an ex parte petition filed in a court of law in this state, and shall be filed with the Secretary of the Board in triplicate. It shall state fully, clearly and concisely the rule or order involved or affected, and state the facts giving rise to the need for such ruling, giving all pertinent data necessary for consideration.

**(c) Consideration of the petition by board; refusal to issue ruling.**

(1) The petition will be considered preliminarily at the next regular meeting of the Board or at a subsequent meeting.

(2) In either event, the petitioner shall be notified promptly of the date by the Secretary, and shall be entitled to be present in person or represented by counsel. At this meeting the Board shall determine whether or not to issue a ruling or to continue the matter for hearing upon the petition. The Board may refuse to entertain a petition for a declaratory ruling if it determines that the facts stated in the petition do not afford an adequate basis therefore, or that the experience under the rule or order is not adequate to enable it to make an effective or proper ruling, or that the request is premature, or that the request is one that should be handled through rule-making procedure, or that there exist other conditions rendering a declaratory ruling inopportune, similar to, though not necessarily identical to, the conditions justifying a court in refusing to enter a declaratory judgment. If the Board determines to entertain the petition for the declaratory ruling, it may issue the ruling at its meeting or it may continue the matter to a day certain for further consideration and for hearing of evidence and argument if necessary. If the applicant is not represented at the preliminary consideration, he/she shall be notified of the ruling if one is issued, in accordance with the rules respecting notice of orders; or, if the matter is continued, applicant shall be notified of the continuance in accordance with the rules respecting notice of hearings in individual proceedings. If the applicant is present or is represented at the preliminary consideration, no further notice of the subsequent hearing than announcement in open meeting is necessary; but the applicant shall receive a written copy of any ruling that is issued, as in the case of orders.

**(d) Request for formal hearing.** A petitioner for a declaratory ruling, in his/her petition prior to or at the preliminary consideration, may request a formal hearing at which to present evidence in support of the petition, setting forth the substance of the facts to be proved, if they do not appear in the petition. The Board thereupon will set the matters for formal hearing and notice shall be given as prescribed in 210:1-5-2.

**(e) Joining of other parties affected by rule.** If, at any time, it appears from the papers filed or from evidence adduced that the interests of persons other than the petitioner are so affected by the requested ruling that it is improper to entertain the proceedings without hearing them, the Board may refuse to issue a declaratory ruling, or in its discretion, it may require them to be made parties; and if the matter can be so handled consistently with the public interest and the efficiency of the Board's procedures, then in this event, notice shall be served upon them, as in individual proceedings, and the matter will be governed thereafter by the procedure applicable to individual proceedings, as described in 210:1-5-4.

**(f) Issuance of the ruling.** If the Board conducts a hearing upon a petition for a declaratory ruling, at the conclusion of the hearing it may issue the ruling or it may decline to do so upon any of the grounds specified heretofore or upon any other legal grounds.

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

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

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

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

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

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

**(1) Filing of application to revoke a certificate.** An individual proceeding to revoke a certificate shall be initiated by filing an application to revoke a certificate. An application to revoke a certificate shall be filed with the Secretary of the State Board of Education by the State Department of Education. The application shall name the holder of the certificate to be revoked as the respondent in the action, and shall contain:

- (A) A statement of the legal authority and jurisdiction under which the applicant seeks to initiate the proceeding and the hearing is to be held;
- (B) A reference to each particular statute and/or rule involved;
- (C) A short and plain statement of the allegations asserted; and
- (D) A statement of the facts alleged to give rise to the revocation. The application shall also state a proposed effective date for the relief requested (e.g., revocation), which shall be set no earlier than forty-five (45) calendar days from the date the complaint is filed.

**(2) Informal disposition.** Informal disposition of the application to revoke a certificate may be made by stipulation, agreed settlement, consent order, or default, unless otherwise precluded by law. Written notice signed by each party or counsel representatives shall be delivered to the Secretary of the State Board of Education prior to the time of the scheduled hearing.

**(3) Notice to parties.** Service of notice or process may be accomplished as follows:

**(A) Personal delivery.** Personal delivery may be accomplished by service by a sheriff or deputy sheriff, a person licensed to make service of process in civil cases, or a person specially appointed for that purpose. Personal service shall be made as follows: (1) upon the individual by delivering a copy of the notice and the petition, (2) or by leaving copies thereof at the certificate holder's dwelling listed mailing address.

**(B) Service by Mail.** Service by mail may be accomplished by mailing a copy of the notice and the petition by certified mail, return receipt requested and delivery restricted to the addressee. Service by mail shall not be the basis for the entry of a default or a judgment by default unless the record contains a return receipt showing acceptance by the certificate holder or a returned envelope showing refusal of the process by the certificate holder. Acceptance or refusal of service by mail by a person who is fifteen (15) years of age or older who resides at the certificate holder's mailing address shall constitute acceptance or refusal by the certificate holder.

**(C) Service by Publication.** Service by publication may be made when an attorney or investigator for OSDE verifies in the petition, or by separate affidavit, that with due diligence service cannot be made upon the certificate holder by any other method. Service pursuant to this paragraph shall be made by publication of a notice, signed by the Secretary of the Board of Education, one (1) day a week for three (3) consecutive weeks in a newspaper authorized by law to publish legal notices which is published in the county where the petition is filed. Within three (3) business days of the date the application to revoke a certificate is filed with the Secretary of the State Board of Education, the Secretary shall send a copy of the application along with a notice of intent to revoke the certificate by certified or registered mail, restricted delivery with return receipt requested, to the holder of the certificate. It is the responsibility of every certificate holder to notify the State Department of Education upon a change of address, and the mailing address on file for each certificate holder shall be presumed to be a proper

address for service of notice. Service of notice of intent to revoke a certificate shall be deemed complete upon certified or registered mailing of the notice to the certificate holder's last known address. In addition to the requirements of notice set forth at 75 O.S. § 309, the notice of intent to revoke the certificate shall include:

(A) A statement setting forth the proposed effective date of revocation of the certificate; and

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

(4) **Response to application.** Any respondent intending to contest an application must notify the Secretary of the State Board of Education of their intent to contest the application within twenty-one days of service of the application. The respondent must file a responsive pleading that states whether the respondent agrees, disagrees, or is without sufficient information to agree or disagree with each numbered paragraph containing a factual allegation. Failure to timely respond will be deemed confession of the allegations in the application unless the State Board of Education excuses the delay.

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

(f) **Hearing procedures.**

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

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

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

(A) **Form and Issuance.** Every subpoena shall:

(i) state the name of the court from which it is issued and the title of the action, and

(ii) command each person to whom it is directed to attend and give testimony or to produce and permit inspection, copying, testing or sampling of designated books, documents, electronically stored information or tangible things in the possession, custody or control of that person, or to permit inspection of premises, at a time and place therein specified. A subpoena may specify the form or forms in which electronically stored information is to be produced.

(iii) issue from the administrative law court or tribunal where the action is pending, and may be served at any place within the state.

(B) **Service.** Service of a subpoena upon a person named therein shall be made by delivering or mailing a copy thereof to such person. If the person's attendance is demanded, by tendering to the witness a ten-dollar (\$10.00) witness fee, per day, and the mileage allowed by law. Witness fees and mileage may be paid at the conclusion of the hearing.

(i) Service of a subpoena may be accomplished by any person who is eighteen (18) years of age or older.

(ii) Service of a subpoena may be accomplished by mail by mailing a copy thereof by certified mail with return receipt requested and delivery restricted to the person named in the subpoena. The person serving the subpoena shall make proof of service thereof to the administrative hearing officer promptly and, in any event, before the witness is required to testify at the hearing or trial. If service is made by a person other than a sheriff or deputy sheriff, such person shall make affidavit thereof. If service is by mail, the person serving the subpoena shall show in the proof of service the date and place of mailing and attach a copy of the return receipt showing that the mailing was accepted. Failure to make proof of service does not affect the validity of the service, but service of a subpoena by mail shall not be effective if the mailing was not accepted by the person named in the subpoena.

(iii) A copy of any subpoena that commands production of documents and things or inspection of premises before the hearing shall be served on each party in the manner as follows:

(iv) If the party is represented by an attorney, the service shall be made upon the attorney unless service directly upon the party is ordered by the hearing officer or final judgment has been rendered and the time for appeal has expired.

(v) Service upon the attorney or upon a party shall be made by delivering a copy to the attorney or the party or by mailing it or sending it by third-party commercial carrier for delivery within three (3) calendar days to the attorney or the party at the last-known address of the attorney or the party or by



electronic means if the attorney or party consents to receiving service in a particular case by electronic means and the attorney or party provides instructions for making the electronic service consented to by the attorney or party. For purposes of this subsection, "electronic means" includes communications by facsimile or electronic mail. If no mailing address, physical address or electronic means address for the attorney or party is known, service is affected by delivery to the last known address. Delivery of a copy within this section means: (a) handing it to the attorney or to the party, or (b) leaving it at the office of the attorney or the party with the attorney's or party's clerk or other person in charge thereof, or (c) if there is no one in charge, leaving it in a conspicuous place therein, (d) if the office is closed or the person to be served has no office, leaving it at his or her dwelling house or usual place of abode with some person residing therein who is fifteen (15) years of age or older.

**(C) Service by Mail.** Service of a subpoena, or a subpoena that commands production of documents and things or inspection of premises by mail is complete upon mailing, service by commercial carrier is complete upon delivery to the commercial carrier, and service by electronic means is complete upon transmission, unless the party making service is notified in sufficient time prior to the hearing or the date for production or inspection that the copy or paper served was not received by the party served.

**(D) Objection(s).** If the subpoena commands the production of documents and things or inspection of premises from a nonparty before trial but does not require attendance of a witness, the subpoena shall specify a date for the production or inspection that is at least seven (7) days after the date that the subpoena and copies of the subpoena are served on the witness and all parties, and the subpoena shall include the following language: "In order to allow objections to the production of documents and things to be filed, you should not produce them until the date specified in this subpoena, and if an objection is filed, until the court rules on the objection."

**(E) Duties in Issuance and Service.** A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena.

(i) A person commanded to produce and permit inspection, copying, testing or sampling of designated books, papers, documents, electronically stored information or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(ii) A person commanded to produce and permit inspection, copying, testing or sampling or any party may, within fourteen (14) days after service of the subpoena or before the time specified for compliance if such time is less than fourteen (14) days after service, serve written objection to inspection, copying, testing or sampling of any or all of the designated materials or of the premises, or to producing electronically stored information in the form or forms requested. An objection that all or a portion of the requested material will or should be withheld on a claim that it is privileged or subject to protection as trial preparation materials shall be made within this time period. If the objection is made by the witness, the witness shall serve the objection on all parties; if objection is made by a party, the party shall serve the objection on the witness and all other parties. If objection is made, the party serving the subpoena shall not be entitled to inspect, copy, test or sample the materials or inspect the premises except pursuant to an order of the hearing officer. For failure to object in a timely fashion, the hearing officer may assess reasonable costs and attorney fees or take any other action she, or he, deems proper. A privilege or the protection for trial preparation materials shall not be waived solely for a failure to timely object under this section. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(iii) On timely objection and motion, the hearing officer shall quash or modify the subpoena if it:

(a) fails to allow reasonable time for compliance, or

(b) requires a person to travel to a place beyond the territorial boundaries of the State of Oklahoma, or

(c) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(d) subjects a person to undue burden, or

(e) requires production of books, papers, documents, or tangible things that fall outside the scope of permissible disclosures for the hearing or matter being investigated, or

(f) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(g) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party.

(iv) However, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person

to whom the subpoena is addressed will be reasonably compensated, the hearing officer may order appearance or production upon specified conditions.

**(E) Duties in Responding to Subpoena.**

(i) Persons whose attendance is secured via subpoena shall appear as the subpoena directs. Attendance only shall not waive a person's constitutional rights (e.g., the right against self-incrimination.

(ii) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(iii) If a subpoena to produce documents does not specify the form or forms for producing electronically stored information, a person responding to a subpoena shall produce the information in a form or forms in which the person ordinarily maintains it or in a form or forms that are reasonably usable.

(iv) A person responding to a subpoena to produce documents is not required to produce the same electronically stored information in more than one form.

(v) A person responding to a subpoena to produce documents is not required to provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. If such a showing is made, the hearing officer may order discovery from such sources if the requesting party shows good cause. The hearing officer may specify conditions for the disclosure.

(vi) When information subject to a subpoena to produce documents is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(vii) If information is produced in response to a subpoena to produce documents that is subject to a claim or privilege or of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for such claim. After being notified, a party shall promptly return, sequester, or destroy the specified information and any copies the party has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the hearing officer under seal for a determination of the claim. If the receiving party disclosed the information before being notified, the receiving party shall take reasonable steps to retrieve the information. The person who produced the information shall preserve the information until the claim is resolved. This mechanism is procedural only and does not alter the standards governing whether the information is privileged or subject to protection as trial preparation material or whether such privilege or protection has been waived.

**Issuance of subpoenas.** Subpoenas for the attendance of witnesses, or for the production of books, records, papers, objects, or other evidence of any kind as may be necessary and proper for the purposes of a proceeding shall be issued by the Secretary of the Board at the direction of the Chairperson; upon order of the Board; or at the request of any party to a proceeding before the Board. The signature of the Secretary shall be sufficient authentication for any subpoena.

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

**(C) Objections to and compliance with subpoenas.** Any party to the proceeding may move to quash a subpoena or subpoenas duces tecum issued in accordance with the provisions of this Section, provided that, prior to quashing a subpoena or subpoenas duces tecum the agency shall give notice to all parties. A motion to quash shall be filed within seven days of the issuance of the subpoena.

**(D) Enforcement of subpoenas.** Upon the failure of any person to obey a subpoena, or upon the refusal of any witness to be sworn or make an affirmation or to answer a question put to her or him in the course of any individual proceeding or other authorized action of the Board, the party seeking enforcement may file an appropriate motion for enforcement with the State Board or hearing officer, as applicable, or may seek enforcement in a court of competent jurisdiction. Meanwhile, the hearing or other matters shall proceed, so far as is possible, but the Board at its discretion at any time may order a stay or continuance of the proceedings for such time as may be necessary to secure a final ruling in the compliance proceedings.

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

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

**(5) Legal counsel to State Board of Education.** The attorney for the State Department of Education shall present evidence to the Board, in furtherance of the application. Should the Board not have legal counsel, and if deemed necessary by the Chairperson of the Board, a request may be made of the Attorney General to provide counsel to the Board regarding questions of admissibility of evidence, competency of witnesses, and any other questions of law. In the event that counsel

is not requested from the Attorney General the Chairperson of the Board will rule on the evidence, competency of the witness and other questions of law.

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

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

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

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

(A) Opening statements by legal counsel of both parties;

(B) Presentation of evidence by both parties followed by cross-examination of witnesses, and questions by State Board members or the hearing officer;

(C) Closing arguments by legal counsel of both parties; and

(D) Submission of case to the Board or the hearing officer for decision.

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

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

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

(A) After hearing all evidence, and all witnesses, the State Board of Education or, if applicable, the hearing officer, shall render its decision on whether the certificate shall be revoked.

(B) The decision of the State Board of Education or a hearing officer presiding at the hearing shall be announced at the conclusion of the hearing and notification of that decision shall be by certified or registered mail, restricted delivery with return receipt requested to the holder of the certificate.

(C) If the holder of the certificate fails to appear at the scheduled hearing without prior notification within the time frame to request a stay or continuance set forth in (f)(10) of this Section, demonstration of good cause, the Board or hearing officer shall hold the party in default and issue an order sustaining the allegations set forth in the application.

(D) If the applicant fails to appear at the scheduled hearing without prior notification within the time frame to request a stay or continuance set forth in subsection (f)(10) of this Section, demonstration of good cause, or fails to prove the allegations by clear and convincing evidence, the application shall be dismissed.

(2) **Findings of fact and conclusions of law.** After the decision is announced, but before issuance of the final order, if the Board has not heard the case or read the record of the individual proceeding, the hearing officer shall provide the parties with an opportunity to prepare and submit proposed findings of fact and conclusions of law in accordance with the provisions of 75 O.S. § 311. After the parties have been given notice and an opportunity to file exceptions, present briefs and oral arguments to the proposed findings of fact and conclusions of law, the Board may take action to accept, reject, or modify the proposed Findings and Conclusions of the hearing officer. The Board shall render findings of fact and conclusions of law. All findings of fact made by the Board shall be based exclusively on the evidence presented during the course of the hearing or previously filed briefs, (made a part of the record), of the testimony of witnesses taken under oath.

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

(4) **Communication with parties.** Unless required for the disposition of ex parte matters authorized by law, the Chairperson and the members of the Board, the hearing officer, or the employees or the agents of the Board shall not

communicate, directly or indirectly, in connection with any issue of fact, with any person or party, nor, in connection with any issue of law, with any party or his or her representative except upon notice and opportunity for all parties to participate. The Chairperson and members of the Board or their employees may communicate with one another and have the aid and advice of one or more personal assistants. Advice may also be secured from the Attorney General's office.

**(h) Record of hearing.**

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

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

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

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

(1) A petition for rehearing, reopening or reconsideration of a final order must be filed with the Secretary of the State Board within ten (10) days from the entry of the order. It must be signed by the party or his or her attorney, and must set forth with particularity the statutory grounds upon which it is based. However, a petition based upon fraud practiced by the prevailing party or upon procurement of the orders by perjured testimony or fictitious evidence may be filed at any time. All petitions for rehearing, reopening, or reconsideration will be considered and ruled upon as soon as the convenient conduct of the Board's business will permit.

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

- (A) Newly discovered or newly available evidence, relevant to the issues;
- (B) Need for additional evidence adequately to develop the facts essential to proper decision;
- (C) Probable error committed by the Agency in the proceeding or in its decision such as would be grounds for reversal on judicial review of the order;
- (D) Need for further consideration of the issues and the evidence in the public interest; or
- (E) A showing that issues not previously considered ought to be examined in order to properly dispose of the matter. The grounds which justify the rehearing shall be set forth by the State Board of Education which grants the order, or in the petition of the individual making the request for the hearing.

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

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

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

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

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