

An Act

ENROLLED SENATE
BILL NO. 783

By: Pugh and David of the
Senate

and

Boles, West (Tammy),
Caldwell (Chad), Hilbert,
Davis, O'Donnell, Echols,
Baker, Hasenbeck and McCall
of the House

An Act relating to schools; amending 70 O.S. 2011, Sections 8-101.2, as amended by Section 2, Chapter 363, O.S.L. 2015, 8-103, as amended by Section 1, Chapter 184, O.S.L. 2013 and 8-103.1, as amended by Section 2, Chapter 285, O.S.L. 2013 (70 O.S. Supp. 2020, Sections 8-101.2, 8-103 and 8-103.1), which relate to the Education Open Transfer Act; granting student transfer to another school district at any time; providing exception if transfer exceeds certain capacity; directing selection of transfer students if certain capacity is exceeded; authorizing board of education to determine capacity; allowing transfer student to continue attendance; allowing denial of continued transfer; permitting certain children living in a home to transfer districts; prohibiting more than two transfers per school year; providing exception for child in foster care; removing prior transfer procedures; directing board to adopt policy for student capacity; setting deadline for adoption of policy; authorizing including certain reasons for denial in policy; directing posting of policy on a district website; requiring determination to be made by the first day of certain months regarding the number of students a district has capacity to accept; directing publication on school district website; directing submission of certain report to the State Department of Education; prescribing appeal process for transfer denials; providing for promulgation of

rules; directing boards of education to submit certain student transfer information to the State Department of Education; requiring certain annual audit of approved and denied transfers; providing for establishment of capacity if inaccurate reporting is found; removing time limitations for transfer applications; requiring certain report of students granted transfers to be submitted on the first day of certain months; removing provisions for cancellation of transfers; requiring for selection of transfer students in the order in which applications are received; providing appeal for transfer application denial; prohibiting denial of transfer unless certain capacity is exceeded; directing admission to district of choice for certain children regardless of capacity; amending 70 O.S. 2011, Section 8-113, which relates to transfers for children of school employees; allowing transfer of child of school employee without requiring district approval; repealing 70 O.S. 2011, Section 8-104, as amended by Section 1, Chapter 85, O.S.L. 2013 (70 O.S. Supp. 2020, Section 8-104), which relates to emergency transfers; declaring an emergency; and providing for conditional effect.

SUBJECT: Student transfers in schools

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

SECTION 1. AMENDATORY 70 O.S. 2011, Section 8-101.2, as amended by Section 2, Chapter 363, O.S.L. 2015 (70 O.S. Supp. 2020, Section 8-101.2), is amended to read as follows:

Section 8-101.2. A. ~~On~~ Except as provided in subsection B of this section, on and after January 1, 2000 2022, the transfer of a student from the district in which the student resides to another school district furnishing instruction in the grade the student is entitled to pursue shall be granted ~~if the transfer has the approval~~

~~of the board of education of the receiving district at any time in the year unless the number of transfers exceeds the capacity of a grade level for each school site within a school district. If the capacity of a grade level for each school site within a school district is insufficient to enroll all eligible students, the school district shall select transfer students in the order in which the district received the student transfer applications. The capacity of a school district shall be determined by the school district board of education based on its policy adopted pursuant to subsection B of this section. A student may be granted a one-year transfer and may continue to attend the school each school year to which the student transferred with the approval of the receiving district only. At the end of each school year, a school district may deny continued transfer of the student for the reasons outlined in paragraphs 1 and 2 of subsection B of this section. Any brother or sister of a student granted a transfer and any who transfers may attend the school district to which the student transferred as long as the school district has capacity and the brother or sister of the transferred student does not meet a basis for denial as outlined in paragraphs 1 and 2 of subsection B of this section. Any child in the custody of the Department of Human Services in foster care who is living in the home of a student granted a transfer who transfers may attend the school district to which the student transferred with the approval of the receiving district only. Except for a child in the custody of the Department of Human Services in foster care, no student shall be permitted to transfer more than once in any school year a transfer student shall not transfer more than two (2) times per school year to one or more school districts in which the student does not reside, provided that the student may always reenroll at any time in his or her school district of residence.~~

If the grade a student is entitled to pursue is not offered in the district where the student resides, the transfer shall be automatically approved.

B. ~~When a student has been transferred and later changes residence to another school district in the State of Oklahoma, the student shall be entitled to continue to attend school in the district to which the student was transferred. If a change of residence is to the district to which the student was transferred, upon affidavit of the parent of the student, that district shall become the resident district. If a student changes residence to~~

~~another district during the school year which is not the same district the student transferred to, the student shall be entitled to attend school in either the receiving district or the new district of residence for the remainder of the current year.~~

~~C. Any student transfer approved for any reason prior to January 1, 2000, shall continue to be valid and shall not be subject to the Education Open Transfer Act unless the parent having custody chooses otherwise. Each school district board of education shall adopt a policy to determine the number of transfer students the school district has the capacity to accept in each grade level for each school site within a school district no later than January 1, 2022. The policy may include:~~

~~1. The acts and reasons outlined in Section 24-101.3 of this title as a basis for denial of a transfer; and~~

~~2. A history of absences as a basis for denial of a transfer. For the purposes of this section, "history of absences" means ten or more absences in one semester that are not excused for the reasons provided for in subsection B of Section 10-105 of this title or due to illness.~~

~~The policy shall be publicly posted on the school district website.~~

~~C. By the first day of January, April, July and October, the school district board of education shall establish the number of transfer students the school district has the capacity to accept in each grade level for each school site within a school district.~~

~~D. After establishing the number of transfer students the school district has the capacity to accept in each grade level for each school site within a school district, the board of education shall:~~

~~1. Publish in a prominent place on the school district website the number of transfer students for each grade level for each school site within a school district which the school district has the capacity to accept; and~~

2. Report to the State Department of Education the number of transfer students for each grade level for each school site within a school district which the school district has the capacity to accept.

E. If a transfer request is denied by the school district, the parent of the student may appeal the denial within ten (10) days of notification of the denial to the receiving school district board of education. The receiving school district board of education shall consider the appeal at its next regularly scheduled board meeting. If the receiving school district board of education denies the appeal, the parent of the student may appeal the denial within ten (10) days of notification of the appeal denial to the State Board of Education. The parent shall submit to the State Board of Education and the superintendent of the receiving school a notice of appeal on a form prescribed by the State Board of Education. The appeal shall be considered by the State Board of Education at its next regularly scheduled meeting, where the parent and a representative from the receiving school district may address the Board. The State Board of Education shall promulgate rules to establish the appeals process authorized by this subsection.

F. Each school district board of education shall submit to the State Department of Education the number of student transfers approved and denied and whether each denial was based on capacity, acts and reasons outlined in Section 24-101.3 of this title or a history of absences as provided for in paragraph 2 of subsection B of this section. The State Department of Education shall publish the data on its website and make the data available to the Office of Educational Quality and Accountability.

G. Each year, the Office of Educational Quality and Accountability shall randomly select ten percent (10%) of the school districts in the state and conduct an audit of each district's approved and denied transfers based on the provisions of the policies adopted by the respective school district board of education. If the Office finds inaccurate reporting of capacity levels by a school district, the Office shall set the capacity for the school district.

SECTION 2. AMENDATORY 70 O.S. 2011, Section 8-103, as amended by Section 1, Chapter 184, O.S.L. 2013 (70 O.S. Supp. 2020, Section 8-103), is amended to read as follows:

Section 8-103. A. In order that any student may be transferred, an application form specified by the State Board of Education must be completed by the parents of the student. For purposes of the Education Open Transfer Act, the term "parent" means the parent of the student or person having custody of the student as provided for in paragraph 1 of subsection A of Section 1-113 of this title. The application shall be ~~obtained from and~~ filed with the superintendent of the receiving school district for transfers to school districts in ~~the State of Oklahoma~~ this state and with the State Board of Education for transfers to school districts in another state. ~~Except as otherwise provided for in this section, applications shall be filed no later than May 31 of the school year preceding the school year for which the transfer is desired. By May 31 of the same school year, the receiving school district shall notify the resident school district that an application for transfer has been filed by a student enrolled in the resident school district. The board of education of the receiving school district shall approve or deny the application for transfer not later than July 15 of the same year and shall notify the parents of the student of the decision. By August 1 of the same year, the parents of the student shall notify the receiving school district that the student will be enrolling in that school district. Failure of parents to notify the district as required may result in loss of the student's right to enroll in the district for that year.~~

B. On or before ~~September 1~~ the first day of January, April, July and October, it shall be the duty of the superintendent of the receiving school district to file with the State Board of Education and each resident district a statement showing the names of the students granted transfers to the school district, the resident school district of the transferred students and their respective grade level.

C. ~~The receiving school district of a student transferred pursuant to the provisions of this act shall notify the resident school district and parents of the student of a cancellation of the transfer. Such notice shall be made by July 15 prior to the school year for which the cancellation is applicable.~~

~~D.~~ For students who are deaf or ~~hearing-impaired~~ hearing-impaired who wish to transfer to a school district with a specialized deaf education program, applications may be filed at any time during the school year. ~~Upon approval of the receiving school district, the~~ The student may transfer to the receiving school district at any time during the school year.

D. The school district shall enroll transfer students in the order in which they submit their applications. If the number of student transfer applications exceeds the capacity of a receiving school district, as determined by subsection A of Section 8-101.2 of this title, the district shall select transfer students in the order in which the district received the student transfer applications.

E. If a transfer application is denied based on the receiving school district's open transfer policy adopted pursuant to subsection B of Section 8-101.2 of this title, the parent of the student may appeal the decision as provided for in subsection E of Section 8-101.2 of this title.

SECTION 3. AMENDATORY 70 O.S. 2011, Section 8-103.1, as amended by Section 2, Chapter 285, O.S.L. 2013 (70 O.S. Supp. 2020, Section 8-103.1), is amended to read as follows:

Section 8-103.1. A. ~~A local school district board of education which receives a request for a transfer for a student who does not reside in the school district may refuse~~ shall not deny the transfer ~~in accordance with the provisions of the open transfer policy adopted by the local school district board of education and subject to the provisions of subsection B of this section. Each local board of education shall adopt an open transfer policy for the school district which specifies its criteria and standards for approval of transfers of students who do not reside in the district. The policy shall include, but shall not be limited to, provisions relating to the availability of programs, staff, or space as criteria for approval or denial of transfers. A school district may include in the policy as the basis for denial of a transfer, the reasons outlined in Section 24-101.3 of this title unless the number of requested transfers exceeds the capacity of a grade level for each school site within a school district. If the number of student transfer applications exceeds the capacity of a receiving school~~

district, as determined by subsection A of Section 8-101.2 of this title, the district shall select transfer students in the order in which the district received the student transfer applications. The capacity of a school district shall be determined by the school district board of education based on its policy that complies with subsection B of Section 8-101.2 of this title.

~~In considering requests for students to transfer into a school district, the board of education shall consider the requests on a first-come, first-serve basis. A school district shall not accept or deny a transfer based on ethnicity, national origin, gender, income level, disabling condition, proficiency in the English language, measure of achievement, aptitude, or athletic ability.~~

Notwithstanding the provisions of the Education Open Transfer Act, transfers of children with disabilities shall be granted as authorized in Section 13-103 of this title.

~~B. A local school district board of education shall adopt a policy for the school district regarding the transfer of students Students who are the dependent children of a member of the active uniformed military services of the United States on full-time active duty status and for whom Oklahoma is the home of record and students who are the dependent children of a member of the military reserve on active duty orders and for whom Oklahoma is the home of record shall be eligible for admission to the school district of their choice regardless of the capacity of the district. The policy Students shall provide for the approval of the transfer be eligible if:~~

1. At least one parent of the student has a Department of Defense-issued identification card; and

2. At least one parent can provide evidence that he or she will be on active duty status or active duty orders, meaning the parent will be temporarily transferred in compliance with official orders to another location in support of combat, contingency operation or a natural disaster requiring the use of orders for more than thirty (30) consecutive days; ~~and~~

~~3. The student will be residing with a relative of the student who lives in the receiving school district or who will be living in~~

~~the receiving school district within six (6) months of the filing of the application for transfer.~~

SECTION 4. AMENDATORY 70 O.S. 2011, Section 8-113, is amended to read as follows:

Section 8-113. A student shall be allowed to transfer to a school district in which the parent or legal guardian of the student is employed as a teacher, as defined in Section 1-116 of ~~Title 70 of the Oklahoma Statutes, upon the approval of the receiving district~~ only this title.

SECTION 5. REPEALER 70 O.S. 2011, Section 8-104, as amended by Section 1, Chapter 85, O.S.L. 2013 (70 O.S. Supp. 2020, Section 8-104), is hereby repealed.

SECTION 6. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

SECTION 7. The provisions of this act shall be contingent upon the enactment of the provisions of House Bill No. 2078 of the 1st Session of the 58th Oklahoma Legislature and shall not become operative as law otherwise.

Passed the Senate the 2nd day of March, 2021.

Presiding Officer of the Senate

Passed the House of Representatives the 31st day of March, 2021.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____