

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)
CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 1720

By: Larason of the House

and

Long (Ed), Williams
(Penny) and Cole of the
Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to schools; amending 70 O.S. 1991, Sections 1-113, as amended by Section 3, Chapter 262, O.S.L. 1992 and 1-114, as amended by Section 4, Chapter 262, O.S.L. 1992 (70 O.S. Supp. 1992, Sections 1-113 and 1-114), which relate to residence of a child and school attendance age; modifying custody requirements for residency; modifying time for action on certain transfer approvals; requiring certain testing and approval for early kindergarten attendance; including certain children in average daily membership; amending 74 O.S. 1991, Section 840.8, as amended by Section 14 of Enrolled Senate Bill No. 1 of the 1st Session of the 44th Legislature, which relates to unclassified service positions; modifying enrollment requirement for students employed part-time; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 70 O.S. 1991, Section 1-113, as amended by Section 3, Chapter 262, O.S.L. 1992 (70 O.S. Supp. 1992, Section 1-113), is amended to read as follows:

Section 1-113. A. When used in this section, unless the context otherwise requires, the residence of any child for school purposes shall be:

1. The school district in which the parents, guardian, parent or person having legal custody of the child pursuant to a court order, or person ~~having the care and custody~~ providing care and having control of the child holds legal residence, if the parents,

guardian, or person contributes in major degree to the support of such child; or

2. The foster home, as defined in Section 25 of Title 10 of the Oklahoma Statutes, in which the child has been placed:

- a. by the person or agency having legal custody of the child pursuant to a court order, or
- b. by a state agency having legal custody of the child pursuant to the provisions of Title 10 of the Oklahoma Statutes; or

3. Any orphanage or eleemosynary child care facility having full-time care and custody; or

4. Any state-operated institution in which a child has been placed by a parent or guardian or by a state agency having legal custody of the child pursuant to the provisions of Title 10 of the Oklahoma Statutes for care and treatment due to a physical or mental condition of the child; or

5. The district in which a child who is supporting himself entirely by his own efforts resides and attends school; or

6. The legal residence of the parents or guardian of a child who has been placed in a public or private residential child care or treatment facility, voluntarily by a parent or guardian, or by court order, or by a state agency having legal custody.

B. Except as otherwise provided in this section no school district in which a public or private residential child care or treatment facility is located shall bear the costs of educating any child voluntarily placed by a parent or guardian in the facility unless a transfer has been approved for the child from the district in which the child has legal residence. No school district shall bear the costs of educating children placed in any state-operated institution; provided, a school district may furnish educational services pursuant to contract with such institution as elsewhere provided by law.

C. A transfer shall not be required for a child who is placed in a public or private residential child care or treatment facility by court order or by a state agency having legal custody or for a child who is placed in a public or private residential

child care or treatment facility voluntarily by a parent or guardian for the purpose of alcohol or drug treatment if such child is certified as in need of such treatment by a physician in a statement provided by the parent or guardian to the public or private residential child care or treatment facility to the school district providing educational services and to the school district of legal residence. The district in which the child has legal residence for school purposes shall bear the financial responsibility as defined in Section 18-110 of this title for the child for whom a transfer is not required pursuant to the provisions of this subsection.

D. Except for children for whom no transfer is required pursuant to subsection C of this section, whenever a child is voluntarily placed without a transfer in a public or private residential child care or treatment facility by a parent or guardian, the facility shall, if the child contends he resides in a district other than the district where the facility is located, immediately upon admittance:

1. inform the parent or guardian that the parent or guardian must immediately apply for a transfer from the school district in which the child contends he resides to the school district in which the facility is located; and

2. notify the district in which the facility is located of the admittance.

The district of residence shall be responsible for the educational costs as defined in Section 18-110 of this title until the district of residence acts to approve or disapprove the transfer. Action to approve or disapprove the transfer shall be taken within thirty (30) school days of the child's admittance to the facility.

If, ~~however~~ the facility is a psychiatric facility and if, from failure of the parent or guardian to make proper application for transfer, no transfer is approved within thirty (30) school days of the child's admittance to the facility, the district of residence shall not be required to pay the educational costs for any time beyond thirty (30) school days that the child remains in

the facility; rather, such costs shall be the responsibility of the facility or parent or guardian. If the facility is not a psychiatric facility and if, from failure of the parent or guardian to make proper application for transfer, no transfer is approved within thirty (30) school days of the child's admittance to the facility, the district of residence shall not be required to pay the educational costs for any time beyond ninety (90) school days that the child remains in the facility; rather such cost shall be the responsibility of the facility or parent or guardian.

3. Access to the due process procedure guaranteed to children with disabilities shall be available to resolve disagreements about the appropriateness of placements of children with disabilities.

E. The governing body of any state institution operated pursuant to the provisions of Sections 1401 through 1424 of Title 10 of the Oklahoma Statutes or Sections 31 through 36 and Section 50 of Title 43A of the Oklahoma Statutes and the board of education of the school district in which the institution is located or any other school district in the state willing to provide necessary educational services may enter into a contract whereby the district will maintain a school for the children of the institution, in which event the residence of such children for school purposes will be considered as being in the district maintaining the school. The governing body of the state institutions specified in this subsection shall pay the costs for educating students placed in the state institution less any amount of funds received for such students by the school district contracting with the state institution to provide necessary educational services.

F. The school district in which a public or private residential child care or treatment facility is located shall, upon request of the individual or agency operating the facility, contract to provide the educational services to which the residents are entitled.

G. Any question as to the place of residence of any child for school purposes shall be decided pursuant to procedures adopted by the State Board of Education. If the place of residence for any child as defined in paragraph 6 of subsection A of this section cannot be determined, the legal residence of such child for school purposes shall be the district in which such public or private child care or treatment facility is located.

SECTION 2. AMENDATORY 70 O.S. 1991, Section 1-114, as amended by Section 4, Chapter 262, O.S.L. 1992 (70 O.S. Supp. 1992, Section 1-114), is amended to read as follows:

Section 1-114. A. All children between the ages of five (5) years on or before September 1, and twenty-one (21) years on or before September 1, shall be entitled to attend school free of charge in the district in which they reside. Provided that children who have reached the age of five (5) years on or before September 1 of the school year may be admitted to kindergarten classes approved by the State Board of Education. Beginning with the 1990-91 school year, all children who are at least four (4) years of age on or before September 1 and who have not attended a public school kindergarten shall be entitled to attend early childhood programs at any public school in the state where such programs are offered; provided no child shall be required to attend any early childhood education program. Children who meet the qualifications for federally sponsored Head Start programs shall be entitled to attend free of charge and shall be given priority for acceptance into the early childhood programs over children who do not meet the qualifications for the federally sponsored Head Start programs. Those children who do not meet the qualifications for a federally sponsored Head Start program shall be accepted into a program based on the date of receipt of application and upon payment of a sliding scale tuition which shall be set by the local board of education of the district where the child has applied to attend. For purposes of calculation of State Aid, no child in an early childhood education program who does not meet the qualifications for federally sponsored Head Start programs shall be included in the average daily membership

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of the district providing the program. For those early childhood program students who qualify to be included in the average daily membership of the school district for State Aid funding, the weight shall be limited to the early childhood grade weight, as provided in Section 18-201 of this title, for purposes of reimbursement for early childhood programs. Except as otherwise provided by law, no child shall be enrolled in the first grade unless he or she will have reached the age of six (6) years on or before September 1 of the school year. Children who have not reached the age of five (5) years on or before September 1 may be admitted to nursery or early childhood education classes approved by the State Board of Education and conducted by the school district in which the child resides. A child accepted for enrollment in an early childhood education program outside of the district of residence shall be eligible for transfer to a district where such program is offered. Provided, however, any receiving district may object to a proposed transfer on the grounds that said district does not have the physical facilities or the teaching personnel to accommodate the kindergarten student, early childhood education student or students proposed to be transferred. Children who are underage not in attendance in a kindergarten or nursery or early childhood education class approved by the State Board of Education may be admitted to the schools of such district if class size of such schools permit and if the child is found to be ready for enrollment in kindergarten through appropriate readiness screening, as provided for in Section 1210.282 of this title, and if the enrollment of the child is approved by a psychometrist. Those underage children who qualify and are admitted in a kindergarten class of a school district shall be included in the average daily membership of the school district for State Aid funding, as provided for in Section 18-201 of this title. No such nonresident and nontransferred pupil shall be allowed to attend school in any school district unless there shall have been paid in advance yearly or by semester as determined by the local board of education, to such district, before such attendance during any period, a tuition fee equal to

the per capita cost of education for a similar period in such district during the preceding year. Provided, tuition shall not be required for attendance in the first grade if an underage child was authorized pursuant to this section to attend an accredited kindergarten in the same school district, and such first grade attendance shall be a legal attendance. If the State Board of Education discovers that such attendance has been allowed without prior payment of the tuition fee in advance as herein required, no further payment of any State Aid Funds shall be made to the district until such district has shown to the satisfaction of the State Board of Education that all such tuition fees have been paid or that such tuition pupil will no longer be allowed to attend school until the required tuition fee has been paid.

B. Any parent, guardian, person or institution having care and custody of a child who pays ad valorem tax on real property in any other school district other than that in which he resides may, with the approval of the receiving board, enroll the child in any school district in which ad valorem tax is paid and receive a credit on the nonresident tuition fee equal to the amount of the ad valorem tax paid for school district purposes in the school district in which the child is enrolled. Provided, the credit shall not exceed the total amount required for the tuition payment.

SECTION 3. AMENDATORY 74 O.S. 1991, Section 840.8, as amended by Section 14 of Enrolled Senate Bill No. 1 of the 1st Session of the 44th Oklahoma Legislature, is amended to read as follows:

Section 840.8 The following offices, positions, and personnel comprise the exempt unclassified service:

1. Persons chosen by popular vote or appointment to fill an elective office, and their employees, except the employees of the Corporation Commission, the State Department of Education and the Department of Labor;

2. Members of boards and commissions, and heads of agencies; also one principal assistant or deputy and one executive secretary for each state agency;

3. All judges, elected or appointed, and their employees;

4. Federally funded time-limited employees hired for the specific purpose of providing public service employment or one-time special or research project services for a limited period of time and shall not exceed the period of time for which that specific federal funding is provided;

5. All officers and employees of The Oklahoma State System of Higher Education, State Board of Education and State Department of Vocational and Technical Education;

6. Persons employed in a professional or scientific capacity to make or conduct a temporary and special inquiry, investigation, or examination on behalf of the Legislature or a committee thereof or by authority of the Governor;

7. Election officials and employees;

8. Temporary employees employed to work less than one thousand (1,000) hours in any twelve-month period. This category of employees shall include persons employed on an intermittent, provisional, seasonal, temporary or emergency basis;

9. Temporary lake patrol officers, regardless of the number of hours worked, who are employed by the Department of Public Safety during the period March 16 through October 31 in any calendar year; provided, the hours worked shall be considered in determining the temporary employee's eligibility for subsequent employment in any other unclassified temporary employment category;

10. Professional trainees only during the prescribed length of their course of training or extension study;

11. Students who are employed on a part-time basis, which shall be seventy-five percent (75%) of a normal forty-hour work week or thirty (30) hours per week, or less, or on a full-time basis if the employment is pursuant to a cooperative education program such as that provided for under Title I IV-D of the Higher Education Act of 1965 (20 U.S.C. 1087a-1087c), as amended, and who are regularly enrolled in ~~(a)~~:

- a. an institution of higher learning within The Oklahoma State System of Higher Education ~~(b)~~,

b. an institution of higher learning qualified to become coordinated with said State System of Higher Education ~~(c) for.~~ For purposes of this act a student shall be considered a regularly enrolled student if he or she is enrolled in a minimum of five (5) hours of accredited graduate courses or a minimum of ten (10) hours of accredited undergraduate courses, provided, however, the student shall only be required to be enrolled in a minimum of six (6) hours of accredited undergraduate courses during the summer, and such student is regularly attending classes during that semester of employment, or ~~(d)~~

c. high school students regularly enrolled in a high school in Oklahoma and regularly attending classes during such time of enrollment;

12. The spouses of personnel who are employed on a part-time basis to assist or work as a relief for their spouses in the Oklahoma Tourism and Recreation Department;

13. Service substitute attendants who are needed to replace museum and site attendants who are unavoidably absent. Service substitutes may work as part-time or full-time relief for absentees for a period of not more than four (4) weeks per year in the Oklahoma Historical Society sites and museums; such substitutes will not count towards the agency's Full-Time-Equivalent Employee Limit;

14. Employees of State Capitol cafeterias;

15. Employees of either the House of Representatives or the State Senate;

16. Grand River Dam Authority personnel occupying the following offices and positions:

a. the general manager, assistant general managers, secretaries to the general manager, and assistant general managers,

b. the chief engineer and the engineers, superintendents, and assistant superintendents,

- c. the general counsel and the attorneys on the general counsel's staff,
- d. the secretary,
- e. the treasurer,
- f. rate analysts, and
- g. unclassified employees hired prior to May 1, 1989, who hold engineering job titles but who are not registered engineers, provided said persons are reassigned nonengineering job titles. At such time as the positions occupied by said unclassified employees are vacated, the positions shall revert to the classified service;

17. Oklahoma Tax Commission personnel occupying the following offices and positions:

- a. all revenue administrators, the budget officer and the comptroller of the Tax Commission,
- b. all administrators and unit managers in the Management Information Services Division,
- c. all Computer Programming Systems Specialist positions,
- d. all Data Processing Programmer Analyst Supervisor and Data Processing Programmer Analyst III positions,
- e. all Public Affairs Officer and Assistant Public Affairs Officer positions,
- f. public Information Officer, and
- g. all Tax Economist positions;

18. Corporation Commission personnel occupying the following offices and positions:

- a. administrative assistant, administrative aides, and executive secretaries to the Commissioners,
- b. Directors of all the divisions, and
- c. General Counsel;

19. State Department of Education personnel occupying the following offices and positions:

- a. Administrative Assistants,

- b. Informational Representatives III,
- c. Driver Educational Electronics Technician,
- d. Media Technical Assistants,
- e. Executive Secretaries,
- f. Accounting Supervisor,
- g. Supervisor of Records,
- h. Supervisor of Printing Services,
- i. Migrant Records Transfer System Representative,
- j. Financial Managers, and
- k. in addition to the State Department of Education offices and positions listed in this paragraph, any and all offices and positions within the State Department of Education for which the annual salary is Twenty-one Thousand Nine Hundred Forty-three Dollars (\$21,943.00) or more shall also be in the unclassified service of this state.

Nothing in this paragraph is intended to change the status, whether classified or unclassified, of any person employed by the Department of Education prior to May 1, 1989. No position shall become unclassified while it is occupied by a classified employee because of any change in salary or grade. Hereafter, any position paid an annual salary of Twenty-one Thousand Nine Hundred Forty-three Dollars (\$21,943.00) or more shall be in the unclassified service upon being vacated;

20. At the option of the employing agency, the Supervisor, Director, or Educational Coordinator in any other state agency having a primary responsibility to coordinate educational programs operated for children in state institutions;

21. Bill Willis Community Mental Health Center personnel occupying the following offices and positions:

- a. Director of Facility,
- b. Deputy Director for Administration,
- c. Clinical Services Director, and
- d. Executive Secretary to Director;

22. The State Comptroller, Office of the Director of State Finance;

23. Employees of the Oklahoma Development Finance Authority;

24. Those positions so specified in the annual business plan of the Department of Commerce;

25. Those positions so specified in the annual business plan of the Oklahoma Center for the Advancement of Science and Technology;

26. The following positions and employees of the Oklahoma School of Science and Mathematics:

- a. positions for which the annual salary is Twenty-four Thousand One Hundred Ninety-three Dollars (\$24,193.00) or more, as determined by the Office of Personnel Management, provided no position shall become unclassified because of any change in salary or grade while it is occupied by a classified employee,
- b. positions requiring certification by the State Department of Education, and
- c. positions and employees authorized to be in the unclassified service of the state elsewhere in this section or in Section 840.10 of this title;

27. State Insurance Fund personnel occupying the following offices and positions:

- a. Commissioner,
- b. Deputy Commissioner,
- c. Administrative Assistants to the Commissioner,
- d. Executive Secretaries to the Commissioner and Deputy Commissioner,
- e. Law Clerks and Legal Assistants,
- f. Special Counsel,
- g. General Counsel,
- h. Medical Analysts Supervisor,
- i. Medical Analysts,
- j. Field Adjusters,
- k. Investment Officer, and
- l. Collections Attorneys;

28. The Carl Albert Internship Program Coordinator within the Office of Personnel Management;

29. Department of Corrections personnel occupying the following offices and positions:

- a. Associate Director,
- b. Executive Secretary,
- c. General Counsel,
- d. Assistant General Counsel,
- e. Deputy Director,
- f. Public Information Officer,
- g. Personnel Manager,
- h. Administrator of Planning and Research,
- i. Administrator of Finance and Accounting,
- j. Executive Assistant,
- k. Administrator of Information Services,
- l. Affirmative Action Officer,
- m. System Development Manager,
- n. Computer Operations Manager,
- o. Training Director,
- p. Assistant Training Director,
- q. Administrator of Construction and Maintenance,
- r. Administrative Assistant,
- s. Secretary,
- t. Administrator of Classification and Programs,
- u. Coordinator of Facility Classification,
- v. Mediation Coordinator,
- w. Inspector General,
- x. Medical Director,
- y. Psychiatrist,
- z. Physician,
- aa. Optometrist,
- ab. Dental Services Supervisor,
- ac. Dentist,
- ad. Psychologist,
- ae. Administrator of Dietary Services,
- af. Warden I,

- ag. Warden II,
- ah. Warden III,
- ai. Deputy Warden I,
- aj. Deputy Warden II,
- ak. Deputy Warden III,
- al. Community Treatment Center Superintendent,
- am. Community Treatment Center Assistant Superintendent,
- an. Probation and Parole District Supervisor,
- ao. Probation and Parole Assistant District Supervisor,
- ap. Administrator of Human Resources,
- aq. Facility Staffing Pattern Analyst,
- ar. Correctional School Superintendent,
- as. Regional Director,
- at. Assistant Regional Director,
- au. Chief of Operations, and
- av. Chief Psychologist;

30. Department of Corrections personnel occupying the following offices and positions as representatives of the Oklahoma State Industries:

- a. Administrator of Industrial Production,
- b. Administrator of Agriculture Production,
- c. OSI Sales Representative,
- d. OSI Sales Manager, and
- e. Marketing Manager.

The positions listed in this paragraph shall be funded from the Department of Corrections Industries' Revolving Fund only. In addition to the regular salary, any unclassified sales representative of the Oklahoma State Industries of the Department of Corrections who is responsible for obtaining a contract for products manufactured or services provided by prison industries may, at the discretion of the Director of the Department of Corrections, be awarded additional compensation of not more than five percent (5%) of the total amount of said contracts but not more than Five Thousand Dollars (\$5,000.00) per year. This compensation may be in addition to the salary of the employee and may be paid in one lump sum from any funds available to the

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Department of Corrections. No such compensation shall be made unless funds are available. Funds for payment of any compensation awards shall be encumbered to the extent of the awards.

Incumbents in positions listed in paragraph 29 of this section and in this paragraph that are classified under the Merit System of Personnel Administration on the effective date of this act shall have the option of remaining in their classified status under the Merit System of Personnel Administration. Incumbents that choose to accept unclassified appointments shall so signify in writing. All future appointees to these positions shall be unclassified. Incumbents that choose to remain in the classified service under the Merit System of Personnel Administration shall be subject to all rules and procedures of the Merit System of Personnel Administration. By the end of the first full work week of each month, the Director of the Department of Corrections shall submit to the Director of State Finance a report listing the total number of part-time employees employed during the preceding month, the positions for which they were employed, and the number of hours worked for each part-time position;

31. Department of Labor personnel occupying the following offices and positions:

- a. Deputy Commissioner,
- b. Executive Secretary to the Commissioner,
- c. Chief of Staff, and
- d. Administrative Assistant, Legal;

32. The State Bond Advisor and his employees;

33. The Oklahoma Employment Security Commission employees occupying the following positions:

- a. Associate Director,
- b. Secretary to the Associate Director, and
- c. Assistant to the Executive Director; and

34. Oklahoma Human Rights Commission personnel occupying the position of Administrative Assistant.

SECTION 4. This act shall become effective July 1, 1993.

SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency
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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.

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