

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

HOUSE BILL NO. 1806

By: Reese

AS INTRODUCED

An Act relating to schools; enacting the Education Choice Act; providing short title; requiring the State Board of Education to promulgate rules to facilitate transfer of pupils; authorizing certain persons to request such pupil transfer under certain circumstances; requiring the State Board of Education to appoint a committee; specifying duties and officers of such committee; requiring certain recommendations; requiring the State Board of Education to adopt rules relating to the granting and denial of such transfers; providing for transfer requests; specifying certain conditions; requiring adoption of certain policies by boards of education of school districts; providing for administration of pupil transfers; providing conditions for transfer and exceptions thereto; setting limitations; specifying procedure for requesting and processing pupil transfers; providing for appeal of decision to State Board of Education; providing procedure for such appeal; providing certain grounds for denial; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 8-113 of Title 70, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Education Choice Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 8-114 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. The State Board of Education shall promulgate rules to facilitate transfer of pupils among the school districts of the state subject to the provisions of the Education Choice Act.

B. The Education Choice Act shall apply only to those school districts located in counties with a population of fifty-five thousand (55,000) or less.

C. A parent, guardian or person having custody of a child shall be able to request a transfer to a school district other than the district in which the child resides if the transfer is justified by what is in the best educational interest of the pupil. The State Board of Education shall appoint a committee of seven (7) persons by July 1, 1993, whose duty it shall be to make recommendations to the Board for guidelines in determining a policy on the best educational interest of a pupil in regard to transfers and a policy on accepting or rejecting pupils seeking such transfers. The State Superintendent of Public Instruction shall call the initial meeting of the committee. At the first meeting the members shall elect a person to chair the committee. Recommendations made by the committee shall be presented to the Board by October 1, 1993.

D. By December 1, 1993, the State Board of Education shall adopt rules which establish a policy and guidelines for determining the best educational interest of a pupil for the purpose of granting

or denying a transfer. Such rules shall establish that the valid considerations for determining the best educational interest of a pupil shall include:

1. The participation of the pupil in specific academic courses;
2. The participation of the pupil in an extracurricular activity if such activity is not offered in the school district in which the pupil resides; and
3. Convenience of the parent or guardian of a child to participate in the student activities of the child, which may include but not be limited to, convenience in traveling to and from the place of employment.

E. The loss of State Aid to the sending school district shall not be a valid consideration to deny pupil transfers.

F. The State Board of Education shall also adopt rules which establish a policy by school districts for accepting or rejecting nonresident pupils seeking transfers to the school district. Such rules shall establish that the valid considerations for such policy shall include:

1. The capacity of a program, class, grade level or school building to accommodate additional pupils; and
2. Maintenance of a transfer list by the school district of the first-come first-serve requests for transfer and acceptance of the transfers only in the order they are requested.

G. The State Board of Education shall require each local school district board of education to adopt a local policy on granting, denying, rejecting and receiving pupil transfers that is consistent with the State Board policy. Each board shall file a current copy of its policy with the State Board of Education by July 1, 1994, and as is necessary thereafter.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 8-115 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. Beginning July 1, 1994, the State Department of Education shall grant an application for transfer of a pupil from the district in which the pupil resides to another school district furnishing instruction in the grade the pupil is entitled to pursue if such transfer has the approval of the boards of education of the sending and receiving districts. A pupil granted a transfer may continue to attend the school to which he or she transferred with the approval of the receiving district only, and any brother or sister of such pupil may attend such school with the approval of the receiving district only. Provided, this provision shall not apply to:

1. Pupils transferred for the purpose of attending classes in special education;

2. Pupils who have transferred to the district for an early childhood education program; or

3. Pupils with catastrophic medical problems.

With the exception of the pupils specified in paragraphs 1, 2 and 3 of this subsection, no pupil shall be permitted to transfer more than once in any school year.

If the grade a pupil is entitled to pursue is not offered in the district where the pupil resides, the transfer must be approved.

B. Beginning with the 1994-95 school year, parents, guardians and persons having custody of a child shall be able to request a transfer for a child according to the provisions of the Education Choice Act for the 1995-96 school year. Such request shall be filed with the district of residence of the child and shall be accompanied by an identification of the district to which the pupil wishes to be transferred and an agreement from the receiving district to accept the transfer, if granted. Within thirty (30) days of the receipt of the request, the board of education of the resident school district shall either grant or deny the transfer. The decision shall specify the reason for granting or denying the transfer according to the adopted policy pursuant to the provisions of Section 2 of this act.

If the decision is to deny the transfer, the parent, guardian or person having custody of the child shall have fourteen (14) days from the date of notification of the decision to appeal the school district board of education's decision to the State Board of Education. Such appeal shall be filed either in person or by registered or certified mail.

C. No pupil shall be transferred under the provisions of this section to a school district other than the one designated in the application for transfer of such pupil.

D. When a pupil has been transferred and later changes residence to another school district in the State of Oklahoma, the pupil shall be entitled to attend school in the district to which he or she shall have previously been transferred during the school year for which the transfer was made; and if such change of residence is to the district to which the pupil was transferred, upon affidavit of the parent, custodial parent, or guardian of the child, or of the school board of the transferring district, disclosing removal of residence from the transferring district, a transfer previously made may be canceled, and the appropriation made therefor relieved of such encumbrance to the extent not earned. Provided, that if any pupil changes residence from a district offering the grade which such pupil is entitled to pursue, to another district during the school year for which he or she was transferred, the pupil shall be entitled to attend school in either the receiving district or the district of prior residence for the remainder of the current year. Upon the final approval of a transfer, the transferred pupil shall not be entitled to attend school in the district from which he or she was transferred, even though the pupil continues to reside within the district during the school year for which the transfer was made, except in case of a cancellation of the transfer. A pupil who has had a transfer granted shall be entitled to attend school in

the district in which he or she resides in the next school year following the school year for which the transfer was made.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 8-116 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. In order that any pupil may be transferred, an application form specified by the State Board of Education must be completed by the parents, custodial parent or guardian of the child. The application shall be obtained from and filed with the board of education of the school district of residence of the child and with the State Board of Education. Applications shall be filed no later than May 15 of the school year preceding the school year for which the transfer is desired. The State Board of Education shall consider all appeals for transfer which have been denied by the local school district board of education. Such application appeal shall restate the application for transfer, and shall include a copy of the denial response and the agreement to accept the transfer from the receiving school district's board of education as provided in subsection B of Section 3 of this act. The State Board of Education shall set the appeal for hearing within thirty (30) days of the receipt of the appeal application. The Board shall then consider the information submitted and issue a decision to overrule or uphold the local school district board of education's decision based upon the determination of the best educational interest of the pupil pursuant to the adopted policy and guidelines provided in Section 2 of this act. Such decision shall be rendered within thirty (30) days following the hearing on the appeal and shall be final.

C. The board of education of either school district or the parent, guardian or person having custody of the child may appeal in writing the decision of the State Board of Education to any court of competent jurisdiction.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 8-117 of Title 70, unless there is created a duplication in numbering, reads as follows:

Any local school district board of education which receives a request for a transfer to its school district for a pupil who does not reside in the school district or who resides in a school district in a county with a population of fifty-five thousand (55,000) or more which has a no-transfer policy, may refuse the transfer in accordance with the provisions of the local school district board of education's transfer policy adopted pursuant to the provisions of Section 2 of this act.

SECTION 6. This act shall become effective July 1, 1993.

SECTION 7. It being immediately necessary for the preservation of the public peace, health and 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.

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