

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

HOUSE BILL NO. 1906

By: Steidley

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, officers and qualifications 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; abolishing certain types of transfers; placing certain restrictions upon transfers; amending 70 O.S. 1991, Section 8-103, as

last amended by Section 2, Chapter 232, O.S.L. 1994 (70 O.S. Supp. 1994, Section 8-103), which relates to pupil transfers; modifying procedures for requesting and effecting transfer; deleting certain transfer procedures; modifying rights and procedures relating to appeals to State Board of Education; repealing 70 O.S. 1991, Sections 8-102, as amended by Section 34, Chapter 239, O.S.L. 1993 and 8-104, as last amended by Section 2, Chapter 168, O.S.L. 1994 (70 O.S. Supp. 1994, Sections 8-102 and 8-104), which relate to procedures for transfers and certain types of transfers; providing for codification; providing effective dates; 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 8-101.1 of Title 70, unless there is created a duplication in numbering, reads as follows:

Sections 1 through 5 of 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 8-101.2 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. 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, 1995, 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 transfers. Qualifications for appointment as a committee member shall be determined by the Board. 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, 1995.

C. By December 1, 1995, 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. The 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 the activity is not offered in the school district in which the pupil resides; and
3. A weighing of the best educational interest of one pupil against the best educational interest of all other pupils in the district. The loss of State Aid to the school district shall not be a valid consideration to deny pupil transfers.

D. The State Board of Education shall also adopt rules which establish guidelines for school districts to follow when establishing a policy for accepting or rejecting nonresident pupils seeking transfers to the school district. The rules shall establish that the valid considerations for the policy shall include:

1. The capacity of a program, class, grade level or school building to accommodate additional pupils; and

2. A weighing of the best educational interest of one pupil against the best educational interest of all other pupils in the district. The State Board of Education shall specify that none of the following pupil attributes may be a valid consideration for determining acceptance or rejection of a transfer request:

- a. previous academic achievement or failure,
- b. athletic or other extracurricular ability,
- c. disabling conditions,
- d. English proficiency level,
- e. involvement in previous disciplinary proceedings, and
- f. prior legal charges.

E. 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, 1996, and as is necessary thereafter.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 8-101.3 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. On and after July 1, 1996, 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 the 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. 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 shall be approved.

B. Beginning with the 1996-97 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 1997-1998 school year. Requests 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 decision of the school district board of education to the State Board of Education. Such appeal shall be filed either in person or by registered or certified mail.

C. A pupil may be transferred by the State Board of Education to a school district in another state, if the board of education of the school district in which the pupil resides determines that the best educational interests of the pupil will be served by the transfer and if applicable, the determination shall also be made by the board of education of the independent school district in whose

transportation area the pupil resides for transfers from an elementary school district where the grade the pupil is entitled to pursue is not offered.

D. 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 the pupil.

E. 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 a 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. AMENDATORY 70 O.S. 1991, Section 8-103, as last amended by Section 2, Chapter 232, O.S.L. 1994 (70 O.S. Supp. 1994, Section 8-103), is amended to read as follows:

Section 8-103. A. In order that any ~~child~~ pupil may be transferred, ~~an application for transfer shall be approved by the board of education of both the resident and receiving school district as provided for in this section. 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 superintendent of the receiving resident school district for transfers to school districts in the State of Oklahoma and with the State Board of Education for transfers to school districts in another state. Applications shall be filed no later than February 1 of the school year preceding the school year for which the transfer is desired. The board of education of the receiving school district shall approve or deny the application for transfer, and if approved, the superintendent of the receiving school district shall notify, in writing, not later than March 1, the clerk of the board of education of the resident school district of the board's decision on the application for transfer. On or before April 10, the board of education of the resident school district shall approve or deny the application for transfer and shall notify, in writing, the superintendent of the receiving district whether the transfer application was approved or denied. If the resident school district denies the transfer application it shall send written notice of the denial to the receiving school district by certified mail. If the resident school district fails to notify the receiving school district by the due date, the application shall be deemed approved by the receiving school district. The superintendent of the receiving school district shall, not later than May 1, send written notice to the clerk of the board of education of the resident school district and the parents~~

~~or guardian of the child confirming whether or not the transfer has been granted for each application submitted.~~

B. On or before August 1, it shall be the duty of the superintendent of the receiving school district to file with the State Board of Education 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 State Board of Education shall consider all appeals for transfer which have been denied by the local school district board of education. The written request for appeal shall contain a copy of the application for transfer and the denial and agreement responses from the school districts. The Board shall set the appeal for hearing within thirty (30) days of receipt of the request for appeal. The Board shall consider the information submitted plus any additional information the Board deems necessary, and shall issue a decision to grant or deny the transfer based upon the best educational interest of the pupil pursuant to the policies and guidelines adopted by the school districts as provided for in Section 2 of this act.

D. The parent or guardian of a child making application for transfer may appeal the decision of the ~~board of education of either the resident or receiving school district~~ State Board of Education regarding the transfer of the child to the district court of the county where the child resides.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 8-103.1 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 may refuse the transfer in accordance with the provisions of the transfer policy of the local

school district board of education adopted pursuant to the provisions of Section 2 of this act.

In considering requests for pupils to transfer into a school district, the board of education shall consider the requests on a first-come first-serve basis.

SECTION 6. REPEALER 70 O.S. 1991, Section 8-102, as amended by Section 34, Chapter 239, O.S.L. 1993 (70 O.S. Supp. 1994, Section 8-102), is hereby repealed.

SECTION 7. REPEALER 70 O.S. 1991, Section 8-104, as last amended by Section 2, Chapter 168, O.S.L. 1994 (70 O.S. Supp. 1994, Section 8-104), is hereby repealed.

SECTION 8. Sections 1 through 5 and Section 7 of this act shall become effective July 1, 1995.

SECTION 9. Section 6 of this act shall become effective July 1, 1996.

SECTION 10. 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.

45-1-5851

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