

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

HOUSE BILL NO. 1297

By: McCarter

AS INTRODUCED

An Act relating to schools; amending 70 O.S. 1991, Section 1-113, as last amended by Section 1, Chapter 319, O.S.L. 1996 (70 O.S. Supp. 1996, Section 1-113), which relates to residence of a child for school purposes; modifying definition of legal residence; deleting categories of placements which require transfers; deleting certain definitions; deleting requirements for transfers for certain placements; deleting certain statement relating to determining residency; deleting requirement for notification relating to special education students; amending 70 O.S. 1991, Section 8-104, as last amended by Section 2, Chapter 319, O.S.L. 1996 (70 O.S. Supp. 1996, Section 8-104), which relates to emergency transfers; deleting certain category of an emergency; amending 70 O.S. 1991, Section 18-109.5, which relates to definitions used for State Aid purposes; adding definition of out-of-home placement; listing types of placements; providing definition of certain placements; requiring the Department of Human Services to provide certain lists; requiring the State Department of Education to distribute the list; amending 70 O.S. 1991, Section 18-110, as

last amended by Section 3, Chapter 319, O.S.L. 1996 (70 O.S. Supp. 1996, Section 18-110), which relates to adjustments in State Aid; deleting procedure for adjusting State Aid in cases of out-of-home placements; allowing inclusion of certain children in attendance of a school district; amending Section 6, Chapter 215, O.S.L. 1996 (70 O.S. Supp. 1996, Section 18-201.1), which relates to the formula for determining State Aid; adding certain weighted pupil category; 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 last amended by Section 1, Chapter 319, O.S.L. 1996 (70 O.S. Supp. 1996, Section 1-113), is amended to read as follows:

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

1. The school district in which the parents, guardian, person having legal custody or person who is a relative within the fourth degree of the child and who has assumed the permanent care and custody of the child holds legal residence.

Each school district board of education shall adopt a policy establishing the requirements for student residency for that district which provides for residence as described in this paragraph. Subject to each school district's discretion, the policy may also allow for establishment of residence when an adult who does not fall within one of the categories listed above and who holds legal residence in the school district and has assumed permanent care and custody of the child files an affidavit with the school

district attesting that they have assumed custody and the reasons for assuming custody. The district board of education shall consider the facts and unique concerns of each case and shall approve residency only if it is demonstrated that the custody arrangement is permanent and the adult contributes the major degree of support to the child. If the school district policy allows establishment of residency by affidavit, any person who willfully makes a statement in the affidavit which the person knows to be false shall, upon conviction, be guilty of a misdemeanor punishable by imprisonment in the county jail for not more than one (1) year or a fine of not more than Five Hundred Dollars (\$500.00) or both such fine and imprisonment. Each school district shall include in its policy on residency any documentation necessary for the administration of the policy; or

2. The foster home, as defined in Section 402 of Title 10 of the Oklahoma Statutes, except a therapeutic foster home as defined in subsection C of this section, 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 entirely self-supporting resides and attends school; or

6. ~~The legal residence of the parents or guardian of~~ For a child who has been placed in an out-of-home placement ~~under conditions enumerated in subsection C of this section,~~ the district in which the out-of-home placement is located.

B. ~~Except as otherwise provided in this section no school district in which a public or private residential child care or treatment facility or day treatment program is located shall bear the costs of educating any child voluntarily placed by a parent or guardian in the facility or day treatment program 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 A school district may furnish educational services pursuant to contract with ~~such~~ any state-operated institution as elsewhere provided by law.

C. 1. ~~When a child is placed out of the child's home and outside the school district in which the parent, guardian, or person having custody as defined in this section resides:~~

a. ~~an emergency transfer shall be granted if the child is placed:~~

~~(1) pursuant to a court order,~~

~~(2) in a public or private child care or treatment facility by a state agency having legal custody of the child,~~

~~(3) in a therapeutic foster home under the supervision of a state agency or a private licensed child placing agency,~~

~~(4) in a drug or alcohol treatment facility by the parent, guardian, or person having custody as defined in this section upon written order by a physician that such treatment is needed, or~~

~~(5) by the parent, guardian, or person having custody as defined in this section in a private, nonprofit children's home or group home which does not provide residential psychiatric treatment,~~

~~b. an emergency transfer shall be requested if the child is voluntarily placed by the parent, guardian, or person having custody as defined in this section:~~

~~(1) in a public or private child care facility or group home which provides residential psychiatric treatment,~~

~~(2) in a day treatment program, as defined in Section 175.20 of Title 10 of the Oklahoma Statutes, or~~

~~(3) in a drug or alcohol treatment facility without a physician's written order that such treatment is needed.~~

~~2. a. For purposes of this section a therapeutic foster home is defined as a foster home which has been certified as meeting the standards set by the Department of Human Services for therapeutic foster homes.~~

~~b. The agency placing a child in a therapeutic foster home shall be responsible for notifying the receiving district of the legal residence of the child's parent or guardian.~~

~~3. a. For purposes of this section a nonprofit children's home or group home is defined as a residential child care facility which is not operated by the state, a county, or a local government and which:~~

~~(1) is operated by an organization that qualifies as a nonprofit organization pursuant to Section 501(c) (3) of Title 26 of the United States Code,~~

~~(2) is in compliance with the Oklahoma Child Care Facilities Licensing Act, Section 401 et seq. of Title 10 of the Oklahoma Statutes, and~~  
~~(3) does not provide residential psychiatric treatment.~~

~~b. Each year the Department of Human Services shall provide to the State Department of Education a list of facilities that meet the definition of a nonprofit children's home or group home as provided in subparagraph a of this paragraph. The State Department of Education shall distribute the list of facilities to each school district.~~

~~4. 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 an emergency transfer is granted pursuant to the provisions of this subsection.~~

~~D. When a child is voluntarily placed without a transfer pursuant to the provisions of subparagraph b of paragraph 1 of subsection C of this section, the facility or program shall, if the child contends he or she resides in a district other than the district where the facility or program is located, within seven (7) days of 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 or she resides to the school district in which the facility or program 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) days of the child's admittance to the facility or program.~~

~~If, however, no transfer is approved within thirty (30) days of the child's admittance to the facility or day treatment program, the district of residence shall not be required to pay the educational costs for any time beyond thirty (30) school days from the date of admittance that the child remains in the facility or program or for any costs if the child has been admitted more than once during the school year to such facilities or programs without a transfer being granted by the school district; rather, such costs shall be the responsibility of the facility or parent or guardian. 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.~~ D. 1. The school district in which a public or private residential child care or treatment facility or day treatment program is located shall, upon request of the individual or agency

operating the facility or program, contract to provide the educational services to which the children in the facility or program are entitled. No individual or entity operating a public or private residential child care or treatment facility may contract for the provision of educational services with any school district other than the school district in which the facility is located unless the school district in which the facility is located agrees in writing to allow another school district to provide the educational services.

2. Prior to location in a school district, the individual or entity operating a public or private residential child care or treatment facility or day treatment program which requires provision of educational services for students from the school district shall notify the local board of education of its anticipated educational needs. No school district shall be required to provide educational services for residents of the facility or participants in the program until at least ninety (90) calendar days have elapsed from the time in which the local board of education was initially notified of the need unless the school district so agrees to provide the educational services sooner.

3. Educational services provided shall meet or exceed state accreditation standards subject to agreement of the operator of the facility or program and the local board of education. No school district shall be responsible for any expenses for students in a public or private residential child care or treatment facility or day treatment program which are not directly related to the provision of educational services. Contracts and agreements for provision of such services may allow for the use of public and private sources of support which are available to share the costs of educational services and of therapies, treatments, or support services. Otherwise valid obligations to provide or pay for such services, such as Medicaid, shall remain in effect for children who

are eligible for the services from sources other than the school district.

~~G. E. Any question as to the place of residence of any child for school purposes shall be decided pursuant to procedures utilized by the State Department 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 the out-of-home placement is located.~~

~~H. The receiving district shall notify the sending district immediately upon finding that the student requires special education and related services and the sending district shall participate in planning the student's Individualized Education Program (IEP) and in subsequent reviews of the program in accordance with the Individuals with Disabilities Education Act (IDEA).~~

SECTION 2. AMENDATORY 70 O.S. 1991, Section 8-104, as last amended by Section 2, Chapter 319, O.S.L. 1996 (70 O.S. Supp. 1996, Section 8-104), is amended to read as follows:

Section 8-104. A. A written application for an emergency transfer designating the district to which the transfer is desired shall be made by either the parent or guardian and filed with the superintendent of the receiving school district. On an adequate showing of emergency the superintendent of the receiving school district may make and order a transfer, subject to approval by the State Board of Education. An emergency shall include only:

1. The destruction or partial destruction of a school building;
2. The inability to furnish the grade of study the pupil is entitled to pursue;
3. The inability to offer the subject a pupil desires to pursue;
4. A catastrophic medical problem of a student, which for purposes of this section shall mean an acute or chronic serious

illness, disease, disorder or injury which has a permanently detrimental effect on the body's system or renders the risk unusually hazardous; and

5. The total failure of transportation facilities previously had or contemplated; ~~and~~

~~6. The purposes detailed in subparagraph a of paragraph 1 of subsection C of Section 1-113 of this title and may include the purposes detailed in subparagraph b of paragraph 1 of subsection C of Section 1-113 of this title if such transfer is also approved by the district of residence.~~

Provided that a transfer shall also be approved when such transfer has the approval of the boards of education of the sending and receiving districts. Similarly, a transfer previously made may be canceled, with the concurrence of the board of the receiving district and the parent or guardian of the child.

B. On affidavit of parent or guardian, 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; and, with concurrence of the boards of education of both the transferring and transferee districts, a parent or guardian may show by affidavit that, by discontinuance of transportation facilities previously afforded or contemplated, the pupil or pupils are unable to attend the school of the transferee district, whereupon the transfer so made may be canceled and the appropriation therefor relieved of any encumbrance to the extent not earned.

SECTION 3. AMENDATORY 70 O.S. 1991, Section 18-109.5, is amended to read as follows:

Section 18-109.5 A. ~~Prior to July 1, 1990, as used in Sections 18-109.3 and 18-109.4 of this title, and on and after July 1, 1990,~~ as As used in Section ~~108~~ 18-201.1 of this ~~act~~ title:

1. "Vision impaired" means a visual impairment which, even with correction, adversely affects a child's educational performance;

2. "Children with learning disabilities" means a disorder in one or more of the basic psychological processes involved in understanding or in using language, written or spoken, which may manifest itself in an imperfect ability to listen, think, speak, read, write, spell or to do mathematical calculations. The term includes such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia and developmental aphasia;

3. "Hearing impaired" means a hearing impairment, whether permanent or fluctuating, which adversely affects a child's educational performance;

4. "Economically disadvantaged" means all children who qualify for free or reduced lunches. Provided, for the school year 1981-82, economically disadvantaged shall mean children who qualify and participate in a program for free or reduced lunches;

5. "Educable mentally handicapped" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the development period, which adversely affects a child's educational performance;

6. "Emotionally disturbed" means emotional problems preventing adjustment in regular class including:

- a. an inability to learn which cannot be explained by intellectual, sensory or health factors,
  - b. an inability to build or maintain satisfactory interpersonal relationships with peers and teachers,
  - c. inappropriate types of behavior or feelings under normal circumstances,
  - d. a general pervasive mood of unhappiness or depression,
- or

- e. a tendency to develop physical symptoms or fears associated with personal or school problems;

The term includes children who are schizophrenic. The term does not include children who are socially maladjusted, unless it is determined that they are seriously emotionally disturbed;

7. "Gifted" means identified students as outlined in Section 1210.301 of Title 70 of the Oklahoma Statutes;

8. "Multiple handicapped" means concomitant impairments, such as mentally retarded/blind, mentally retarded/orthopedically impaired, and other combinations, the combination of which causes such severe educational problems that they cannot be accommodated in special education programs solely for one of the impairments. The term does not include deaf/blind children;

9. "Physically handicapped" means a severe orthopedic impairment or an autistic condition which is manifested by severe communication and other developmental and educational problems; or having limited strength, vitality or alertness, due to chronic or acute health problems such as a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, or diabetes, which adversely affects a child's educational performance.

The term includes impairments caused by congenital anomaly, and impairments from other causes;

10. "Speech impaired" means a communication disorder, such as stuttering, impaired articulation, language impairment, or voice impairment, which adversely affects a child's educational performance;

11. "Trainable mentally handicapped" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the development period, which adversely affects a child's educational performance;

12. "Deaf/Blind" means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational problems that they cannot be accommodated in special education programs solely for deaf or blind children;

13. "Bilingual" means those students who have limited English speaking abilities or who come from homes where English is not the dominant language as reported on the prior year application for accrediting;

14. "Special Education Summer Program" means those summer school programs which school districts may provide for children who are severely or profoundly multiple-handicapped if their individualized education program states the need for a continuing educational experience to prevent loss of educational achievement or basic life skills. Any school district receiving funds for such special education summer programs shall provide services as provided in Section 13-101 of this title. Provided, during the 1982-83 school year the State Department of Education shall obtain data related to the number of children who would qualify for summer school special education programs and the number of children who are being served in summer school special education programs; ~~and~~

15. "Optional Extended School Year Program" means the program defined in Section ~~18~~ 1-109.1 of this ~~act~~ title; and

16. "Out-of-home placement" means any placement when a child is placed out of the child's home and outside the school district in which the parent, guardian, or person having custody as defined in Section 1-113 of this title resides in any of the following:

- a. pursuant to a court order,
- b. in a public or private child care or treatment facility by a state agency having legal custody of the child or by the parent, guardian, or person having custody of the child,

- c. in a therapeutic foster home under the supervision of a state agency or a private licensed child-placing agency,
- d. in a group home which provides residential psychiatric treatment,
- e. in a day treatment program as defined in Section 175.20 of Title 10 of the Oklahoma Statutes, or
- f. in a drug and alcohol treatment facility.

For purposes of this paragraph, a therapeutic foster home is defined as a foster home which has been certified as meeting the standards set by the Department of Human Services for therapeutic foster homes. For purposes of this paragraph, a nonprofit children's home or group home is defined as a residential child care facility which is not operated by the state, a county or a local government and which is operated by an organization that qualifies as a nonprofit organization pursuant to Section 501(c)(3) of Title 26 of the United States Code, is in compliance with the Oklahoma Child Care Facilities Licensing Act and does not provide residential psychiatric treatment. The Department of Human Services shall annually provide the State Department of Education with a list of facilities that meet the definition of a nonprofit children's home or group home as provided for in this paragraph. The State Department of Education shall distribute the list of facilities to each school district.

B. The State Board of Education is hereby authorized to modify and redefine by ~~regulation~~ rule the definitions set out in this section whenever such modification is required to receive federal assistance therefor.

SECTION 4. AMENDATORY 70 O.S. 1991, Section 18-110, as last amended by Section 3, Chapter 319, O.S.L. 1996 (70 O.S. Supp. 1996, Section 18-110), is amended to read as follows:

Section 18-110. A. If any district, or a part of a district, becomes a part of another district by consolidation, annexation, or otherwise, the following procedure shall be followed, except as otherwise provided by law, in calculating aid to the new district or districts so formed:

1. If the action occurs after budgets have been approved by the county excise board and the tax levies approved, the State Aid for the current year shall be calculated for each district as it existed prior to the annexation and prorated to the annexing district or districts on the basis of average daily attendance.

2. If the action occurs prior to approval of the school district budgets by the county excise board, the annexed district shall be merged with the annexing district or districts and State Aid shall be calculated according to the formula provided by this title.

B. Any school district that does not maintain school for a full term pursuant to Section 1-109 of this title shall have its State Aid reduced proportionately unless it has received written approval to maintain school for less than a full term from the State Board of Education. The State Board of Education shall not approve any request to maintain school for less than a full term unless such request meets the requirements of Section 1-109 of this title.

C. If a school district operates a school located in a state institution for the pupils of school age residing in such institution, the attendance of such children shall be included in the attendance of such school district for the purpose of calculating State Aid of the district. Provided, such attendance shall not be used for apportioning other miscellaneous revenue; and such school district State Aid shall be paid in the amount of the Foundation Program Aid and Incentive Aid of such school as provided in this title.

D. ~~1. If a public school district in this state provides educational services to a child who is in the district as a result of the child's placement in an out-of-home living situation within the district under circumstances enumerated in paragraph 1 of subsection C of Section 1-113 of this title, upon approval of an emergency transfer the providing district shall receive from the district in which the child has residence a fee in the amount of the per capita cost of the providing district for current expenditures for the education of such resident. The amount of the expenditures shall be determined based upon the cost of teachers, equipment, material, and other direct education and special education costs associated with the education of such child prorated by the number of days the child has been enrolled in the providing district.~~

~~2. Immediately upon beginning to provide such services, the providing district shall send to the district of residence as defined in paragraph 6 of subsection A of Section 1-113 of this title, and to the Finance Division of the State Department of Education, an enrollment form which shall include an estimate of the number of school days such services are to be provided to said child and an itemized estimate of the cost per day of providing said services. The district of residence shall acknowledge receipt of the enrollment form within ten (10) days, notifying both the providing district and the Finance Division. If a dispute is anticipated, the providing district and the district of residence shall begin discussion of points in dispute. Immediately upon cessation of the provision of said services, the providing district shall send to the district of residence and to the Finance Division a final attendance report and an itemized claim for payment. Within sixty (60) days of receipt of the claim, the district of residence shall deliver payment to the providing district and both districts shall immediately notify the Finance Division that payment has been made; provided, any unsettled disputes as to the appropriateness of~~

~~the charges or the emergency transfer shall be referred within said sixty-day period to the Finance Division for resolution. Only upon verification that the payment has been received by the providing district shall the Finance Division credit to the district of residence the average daily attendance (ADA) of the child or include the child in the average daily membership (ADM) of the district of residence for the days the child received services from the providing district. Further, if payment still has not been made within sixty (60) days from the time of resolution of the dispute by the Finance Division or one hundred twenty (120) days from the date of receipt of the original claim, whichever is later, the Finance Division shall settle the matter by withholding one hundred twenty percent (120%) of the entire amount of the claim from State Aid or other payments otherwise due the district of residence and transmitting such amount to the providing district.~~

~~E. Upon determination by the Finance Division of the State Department of Education that a legal residence for For a child placed in an out-of-home placement cannot be identified, the district in which the placement is located shall be the district of residence and the average daily membership of such child shall be credited to such district.~~

~~F. E. If any school district shall fail, neglect or refuse, for any reason whatsoever, to provide special education and related services for a child with disabilities, certified as such by competent authorities and residing in such district, as directed in Section 13-101 of this title, the following is hereby authorized:~~

~~1. Such child shall be entitled, upon petition by the child's parent or guardian, without consent or approval of the school district not providing special education and related services, to transfer to any adjacent or nearby school district which will accept the child with disabilities and provide the special education and related services which such child is entitled to receive. The~~

school district in which a child transferring under this section resides shall pay to the district receiving and educating such child, as tuition, a special education transfer fee as provided in paragraph 2 of this subsection. Provided the average daily membership of such child shall be credited to the home district of such transferee.

2. The special education transfer fee shall be the per capita cost of the receiving district for current expenditures for the special education and related services of such child with disabilities based upon the cost of teachers, equipment, material, and special costs associated with the special education class.

3. It shall be the duty of the school district from which such child with disabilities transfers to appropriate and pay such special education transfer fee to the district which receives and educates such child. If a school district owing such special education transfer fees shall fail, neglect or refuse for any reason whatsoever to appropriate and pay such special education transfer fees, then the school district entitled to receive such fees shall certify such fact to the Finance Division of the State Department of Education. Upon receipt of such certification, the Finance Division shall deduct the amount of the special education fee from any State Foundation Program or Incentive Aid otherwise due the sending district and transmit such amount to the receiving district.

4. The sending school district shall also be obligated to pay the special education transfer fee whenever it has transferred a student to another school district for purposes other than to acquire special education, but where the student is subsequently found to require such special education and related services, is determined to be eligible by the Special Education Division of the State Department of Education, and is placed in an appropriate special education program by the receiving school district. For purposes of this paragraph, the special education transfer fee shall

be as provided by paragraph 2 of this subsection, prorated by the receiving school district according to the number of days the student has been enrolled in the special education program. The receiving district shall notify the sending district immediately upon finding that the student requires special education and related services and the sending district shall participate in planning the student's Individualized Education Program (IEP) and in subsequent reviews of the program in accordance with the Individuals with Disabilities Education Act (IDEA).

SECTION 5. AMENDATORY Section 6, Chapter 215, O.S.L. 1996 (70 O.S. Supp. 1996, Section 18-201.1), is amended to read as follows:

Section 18-201.1 A. Beginning with the 1997-98 school year, and each school year thereafter, the weighted membership of a school district for calculation of Foundation Aid purposes pursuant to paragraph 1 of subsection C of Section 4 18-200.1 of this ~~act~~ title shall be the sum of the weighted pupil grade level calculation, the weighted pupil category calculation, the weighted district calculation and the weighted teacher experience and degree calculation. The weighted membership of a school district for calculation of Salary Incentive Aid purposes pursuant to paragraph 3 of subsection C of Section 4 18-200.1 of this ~~act~~ title shall be the sum of the weighted pupil grade level calculation, the weighted pupil category calculation, the weighted district calculation, and the weighted teacher experience and degree calculation.

B. The weighted calculations provided for in subsection A of this section shall be based on the highest weighted average daily membership of the first nine (9) weeks of the current school year, the preceding school year or the second preceding school year of a school district, unless otherwise specified. The highest of the three (3) weighted average daily memberships shall be used consistently in all of the calculations. The average daily

membership data used for all calculations in paragraphs 1, 2, 3 and 4 of this subsection shall be the same as used in the calculation of the State Aid formula. The weighted calculations provided for in subsection A of this section shall be determined as follows:

1. The weighted pupil grade level calculation shall be determined by taking the highest average daily membership and assigning weights to the pupils according to grade attended as follows:

	GRADE LEVEL	WEIGHT
a.	Early childhood programs	.5
b.	Kindergarten	1.3
c.	First and second grade	1.351
d.	Third grade	1.051
e.	Fourth through sixth grade	1.0
f.	Seventh through twelfth grade	1.2

Multiply the membership of each grade by the weight assigned to such grade and add the totals together to determine the weighted pupil grade level calculation for a school district. Determination of the pupils eligible for the early childhood program weight shall be pursuant to the provisions of Section 1-114 of this title. No child for whom tuition is paid pursuant to the provisions of Section 1-114 of this title may be included in the membership count of the school district providing the early childhood program.

2. The weighted pupil category calculation shall be determined by assigning a weight to the pupil category as follows:

	CATEGORY	WEIGHT
a.	Vision Impaired	3.8
b.	Learning Disabilities	.4
c.	Hearing Impaired	2.9
d.	Deaf and Blind	3.8
e.	Educable Mentally Handicapped	1.3
f.	Emotionally Disturbed	2.5



on any national standardized test of intellectual ability plus the number of students identified as gifted pursuant to subparagraphs a through d of paragraph 1 of Section 1210.301 of this title, or (2) the sum of the number of students who scored in the top three percent (3%) on any national standardized test of intellectual ability plus eight percent (8%) of the total average daily membership of the school district for the first nine (9) weeks of the school year.

3. The weighted district calculation shall be determined by determining the calculations for each school district for both the small school district formula and the district sparsity - isolation formula, applying whichever is the greater of the calculations of the two formulas and then applying the restrictions pursuant to subparagraph c of this paragraph.

a. Small school district formula:  $529 \text{ minus the average daily membership divided by } 529 \text{ times } .2 \text{ times total average daily membership.}$

The small school district formula calculation shall apply only to school districts whose highest average daily membership is less than 529 pupils. School districts which are consolidated or annexed after August 19, 1991, pursuant to the Oklahoma School Consolidation and Annexation Act shall have the weighted district size calculation for the two (2) school years following the fiscal year in which such consolidation occurred calculated to be the sum of the individual consolidated districts computed as if the consolidation had not taken place. Thereafter, any such district which is consolidated pursuant to the Oklahoma School Consolidation and Annexation Act shall not qualify for the weighted district calculation unless the district can satisfy the specifications herein. Subject to the provisions of subparagraph c of this paragraph, the

resulting number shall be counted as additional students for the purpose of calculating State Aid.

b. District sparsity - isolation formula:

The district sparsity - isolation formula calculation shall apply only to school districts:

- (1) whose total area in square miles is greater than the average number of square miles for all school districts in this state; and
- (2) whose areal density is less than one-fourth (1/4) of the state average areal density. Areal density shall be determined by dividing the school district's average daily membership by the school district's total area in square miles.

The district sparsity - isolation formula calculation shall be calculated as follows:

The school district student cost factor multiplied by the school district area factor. The resulting product shall be multiplied by the school district's average daily membership. Subject to the provisions of subparagraph c of this paragraph, the resulting number shall be counted as additional students for the purpose of calculating State Aid.

The school district student cost factor shall be calculated as follows:

The school district's average daily membership shall be categorized into the following grade level groups and applied to the appropriate formulas as computed below:

Grade Level Group

Grades K-5                      Divide 74 by the sum of the Grade  
Level ADM plus 23,  
add .85 to the quotient, then

multiply the sum by the Grade  
Level ADM.

Grades 6-8            Divide 122 by the sum of the Grade  
Level ADM plus 133,  
add .85 to the quotient, then  
multiply the sum by the Grade  
Level ADM.

Grades 9-12         Divide 292 by the sum of the Grade  
Level ADM plus 128,  
add .78 to the quotient, then  
multiply the sum by the Grade  
Level ADM.

The sum of the grade level group's average daily membership shall be divided by the school district's average daily membership. The number one (1.0) shall be subtracted from the resulting quotient.

The school district area cost factor shall be calculated as follows:

Subtract the state average district area from the district area, then divide the remainder by the state average district area;

however, the district area cost factor shall not exceed one (1.0).

The State Board of Education shall define geographical barriers whose location in a school district would inhibit the district from consolidation or annexation. The Board shall make available an application process, review applications, and for districts the Board deems necessary allow additional square miles to be used for the purposes of calculations used for the weighted district sparsity - isolation formula. Provided, that the additional square miles allowed for geographical barriers shall not exceed thirty percent (30%) of the district's actual size.

c. State Aid funds which a district is calculated to receive as a result of the weighted district calculation shall be restricted as follows:

If, after the weighted district calculation is applied, the district's projected per pupil revenue exceeds one hundred fifty percent (150%) of the projected state average per pupil revenue, then the district's State Aid shall be reduced by an amount that will restrict the district's projected per pupil revenue to one hundred fifty percent (150%) of the projected state average per pupil revenue. Provided, in applying the restriction provided in this division, the district's State Aid shall not be reduced by an amount greater than by the amount of State Aid which was generated by the weighted district calculation.

Projected per pupil revenue shall be determined by dividing the highest of the district's preceding two years average daily membership (ADM) as weighted by the pupil grade level, the pupil category, the district and the teacher experience degree index calculations for projected State Aid into the district's projected total revenues including projected funds for the current State Aid Formula, net assessed valuation for the preceding calendar year times thirty-nine (39) mills, county revenues of the second preceding year, other state appropriations for the preceding year and the collections for the second preceding year of state apportionment, motor vehicle revenue, gross production tax and R.E.A. tax. The district's projected total revenues shall exclude the

following collections for the second preceding year:  
 federal revenue, insurance loss payments,  
 reimbursements, recovery of overpayments and refunds,  
 unused reserves, prior expenditures recovered, prior  
 year surpluses, and other local miscellaneous  
 revenues.

4. The weighted teacher experience and degree calculation shall be determined in accordance with the teacher experience and degree index. The State Department of Education shall determine an index for each state teacher by using data supplied in the school district's teacher personnel reports of the preceding year and utilizing the index as follows:

TEACHER EXPERIENCE - DEGREE INDEX			
EXPERIENCE	BACHELOR'S DEGREE	MASTER'S DEGREE	DOCTOR'S DEGREE
0 - 2	.7	.9	1.1
3 - 5	.8	1.0	1.2
6 - 8	.9	1.1	1.3
9 - 11	1.0	1.2	1.4
12 - 15	1.1	1.3	1.5
Over 15	1.2	1.4	1.6

The school district teacher index for each school district shall be determined by subtracting the weighted average state teacher from the weighted average district teacher. Multiply the school district teacher index if greater than zero by .7 and then multiply that product by the sum of the district's weighted pupil grade level calculation provided in paragraph 1 of this subsection and the weighted pupil category calculation provided in subparagraph n of paragraph 2 of this subsection to determine the weighted teacher experience and degree calculation.

SECTION 6. This act shall become effective July 1, 1997.

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.

46-1-5503

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