

STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

HOUSE BILL 2465

By: Shelton

AS INTRODUCED

An Act relating to schools; amending 70 O.S. 2011, Section 1-113, as last amended by Section 1, Chapter 363, O.S.L. 2015 (70 O.S. Supp. 2015, Section 1-113), which relates to student residency; amending 70 O.S. 2011, Section 8-103.1, as amended by Section 2, Chapter 285, O.S.L. 2013 (70 O.S. Supp. 2015, Section 8-103.1), which relates to the transfer of students; requiring residency and transfer policies to establish uniform criteria, standards and requirements; prohibiting a school district from requiring any documentation, information or proof not required of other students; 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. 2011, Section 1-113, as last amended by Section 1, Chapter 363, O.S.L. 2015 (70 O.S. Supp. 2015, 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 legal residence of the parents, guardian, or person having legal custody.

1 Each school district board of education shall adopt a policy
2 establishing the requirements for student residency for that
3 district which provides for residence as described in this
4 paragraph. The policy shall establish the same uniform criteria and
5 standards and documentation, information or proof requirements for
6 every student who is establishing residency in the district. A
7 school district shall not request that a student provide any
8 documentation, information or proof that is not provided for in the
9 policy or is not required of other students. Within the discretion
10 of each school district's board of education, the policy may but is
11 not required to allow for establishment of residency by affidavit
12 when an adult, whether a relative or not, who does not fall within
13 one of the categories listed above, who holds legal residence in the
14 school district, and who has assumed permanent care and custody of
15 the child files an affidavit with the school district attesting that
16 they have assumed custody and the reasons for assuming custody. Any
17 policy allowing the establishment of residency by affidavit shall
18 require the adult who provides the affidavit to affirm in such
19 affidavit that the custody arrangement is permanent and that the
20 adult contributes the major degree of support to the child. If the
21 school district policy allows establishment of residency by
22 affidavit, any person who willfully makes a statement in the
23 affidavit which the person knows to be false shall, upon conviction,
24 be guilty of a misdemeanor punishable by imprisonment in the county

1 jail for not more than one (1) year or a fine of not more than Five
2 Hundred Dollars (\$500.00) or both such fine and imprisonment. Each
3 school district shall include in its policy on residency any
4 documentation necessary for the administration of the policy;

5 2. The foster family home, as defined in Section 1-1-105 of
6 Title 10A of the Oklahoma Statutes, except a therapeutic foster
7 family home or a specialized foster home where a child is in
8 voluntary placement as defined in subsection D of this section, in
9 which the child has been placed:

10 a. by the person or agency having legal custody of the
11 child pursuant to a court order, or

12 b. by a state agency having legal custody of the child
13 pursuant to the provisions of Title 10A of the
14 Oklahoma Statutes.

15 Upon request of the foster parent, the residence of a child
16 in foster care for school purposes may be changed to the school
17 district in which the child resided prior to being placed in foster
18 care or the school district in which the previous foster family home
19 of the child is located;

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

22 4. Any eleemosynary child care facility in which a child is
23 placed by a parent or guardian for full-time residential care;
24 provided, the provision of this paragraph shall apply only to

1 children who attend a district school by joint agreement of the
2 school district and facility and who are not placed in the facility
3 through a state contract. For purposes of this paragraph,

4 "eleemosynary child care facility" means a facility:

- 5 a. where child care and services are provided, and
- 6 b. which is funded predominantly by benevolent or
7 charitable funds and is exempt from taxation pursuant
8 to the provisions of Section 501(c)(3) of the Internal
9 Revenue Code, 26 U.S.C., Section 501(c)(3);

10 5. Any state-operated institution in which a child has been
11 placed by a parent or guardian or by a state agency having legal
12 custody of the child pursuant to the provisions of Title 10A or
13 Section 3-101 of Title 43A of the Oklahoma Statutes for care and
14 treatment due to a physical or mental condition of the child;

15 6. Any facility in which a child has been admitted and is
16 receiving on-site educational services as provided for in Section 3-
17 104.7 of this title;

18 7. The district in which a child who is entirely self-
19 supporting resides and attends school; or

20 8. A state-licensed or -operated emergency shelter.

21 B. No school district shall bear the cost of educating children
22 who are not residents of this state. A school district may furnish
23 educational services pursuant to contract as elsewhere provided by
24 law. A school district may furnish educational services pursuant to

1 a contract to children who do not reside in the United States of
2 America; provided, the children shall not be counted in the average
3 daily membership of the school district.

4 C. For the purpose of ensuring that a child placed in a
5 therapeutic foster family home, as defined in Section 1-1-105 of
6 Title 10A of the Oklahoma Statutes, receives an appropriate
7 education, no receiving school district shall be required to enroll
8 such a child if the enrollment would cause the proportion of
9 students in therapeutic foster family homes as compared to the
10 average daily membership of the receiving district for the preceding
11 school year to exceed two percent (2%). Children served by Head
12 Start may not be counted for the purpose of this paragraph unless
13 the child is on an individualized education program provided by the
14 school district. Any school district may enroll such students who
15 are outside the student's resident district in therapeutic foster
16 family home placements which exceed this limit if the school
17 determines it possesses the ability to provide such child an
18 appropriate education.

19 D. When a child does not meet the criteria for residency
20 provided in subsection A of this section and is placed in any of the
21 following entities which is out of the home of the child and not in
22 the school district in which the child legally resides:

- 23 1. A residential facility;
- 24

1 2. A treatment program or center, including the facility
2 operated pursuant to Section 485.1 of Title 63 of the Oklahoma
3 Statutes;

4 3. A therapeutic foster family home as defined in Section 1-1-
5 105 of Title 10A of the Oklahoma Statutes;

6 4. A specialized foster home, which is a specialized foster
7 home or an agency-contracted home under the supervision of and
8 certified as meeting the standards set by the Department of Human
9 Services and is funded through the Department of Human Services Home
10 and Community-Based Waiver Services Program; or

11 5. An acute psychiatric care facility,
12 the entity shall, if the child contends he or she resides in a
13 school district other than the district where the entity is located,
14 within eleven (11) days of admittance, notify the school district in
15 which the entity is located of the admittance.

16 For minors who are persons requiring psychiatric treatment as
17 defined by Title 43A of the Oklahoma Statutes, on-site educational
18 services shall be provided beginning on the eleventh day of
19 admission.

20 Upon provision of educational services to children pursuant to
21 the provisions of subsection F of this section, the receiving school
22 district shall receive the State Aid as defined in subsection C of
23 Section 18-110 of this title for those students.
24

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

4 E. The governing body of any state institution for children
5 operated pursuant to the provisions of Title 10A of the Oklahoma
6 Statutes or Section 3-101 of Title 43A of the Oklahoma Statutes and
7 the board of education of the school district in which the
8 institution is located or any other school district in the state
9 willing to provide necessary educational services may enter into a
10 contract whereby the district will maintain a school for the
11 children of the institution, in which event the residence of the
12 children for school purposes will be considered as being in the
13 district maintaining the school; provided, however, that upon
14 release from the school, a child shall be considered as a resident
15 of the originating school district for school purposes. The
16 governing body of the state institutions specified in this
17 subsection shall pay the costs for educating students placed in the
18 state institution less any amount of funds received for the students
19 by the school district contracting with the state institution to
20 provide necessary educational services.

21 F. 1. The school district in which an entity as described in
22 subsection D of this section exists to serve children in out-of-home
23 placements shall, upon request of the individual or agency operating
24 the entity, provide the educational services to which the children

1 in the entity are entitled subject to the limitations provided in
2 subsection C of this section. No person operating such an entity
3 may contract for the provision of educational services with any
4 school district other than the school district in which the entity
5 is located unless the school district in which the entity is located
6 agrees in writing to allow another school district to provide the
7 educational services or unless the person operating the entity
8 contracts with another school district for the provision of
9 educational services to be provided through remote Internet-based
10 courses. No person operating such an entity may contract for the
11 provision of educational services with more than one school
12 district.

13 2. Prior to location in a school district, the individual or
14 agency operating an entity described in subsection D of this section
15 which requires provision of educational services from the school
16 district shall notify the local board of education of its
17 anticipated educational needs. No school district shall be required
18 to provide educational services for students in the entity until at
19 least sixty (60) calendar days have elapsed from the time in which
20 the local board of education was initially notified of the need
21 unless the school district so agrees to provide the educational
22 services sooner. The provisions of this paragraph shall not apply
23 to therapeutic or specialized foster homes.
24

1 3. Educational services provided shall meet or exceed state
2 accreditation standards. No school district shall be responsible
3 for any expenses for students in an entity described in subsection D
4 of this section which are not directly related to the provision of
5 educational services. A school district shall not be obligated for
6 expenses of those students in an entity in the current school year
7 for whom educational services are requested after the first nine (9)
8 weeks of the current school year for the district if educational
9 services are requested for twelve or more students than were served
10 in the first nine (9) weeks, unless the school district chooses to
11 provide educational services for the current school year. Contracts
12 and agreements for provision of educational services may allow for
13 the use of public and private sources of support which are available
14 to share the costs of educational services and of therapies,
15 treatments, or support services. Otherwise valid obligations to
16 provide or pay for such services, such as Medicaid, shall remain in
17 effect for children who are eligible for the services from sources
18 other than the school district.

19 4. Upon the request of any residential facility which has
20 contracted with the Office of Juvenile Affairs to provide either a
21 regimented juvenile training program or a high-impact wilderness
22 camp to a minimum of forty students who have been adjudicated, a
23 school district may contract for the facility to provide the
24 educational services to those students. Under a contract, the

1 facility shall operate in accordance with all applicable laws,
2 including compliance with Section 18-114.14 of this title. The
3 contract shall include the State Aid generated by the students, less
4 a fee for administrative services which may be retained by the
5 school district, not to exceed ten percent (10%) of the total on an
6 annual basis. The school district shall exercise supervision over
7 the educational program in the facility and bear all responsibility
8 for required educational reporting. The school district shall
9 maintain access to all educational records for students in the
10 facility, and shall provide for the appropriate academic credit and
11 diplomas. The school district shall be indemnified against any
12 actions or penalties on the part of the facility which result in
13 adversity for the school district.

14 G. Any question as to the place of residence of any child for
15 school purposes shall be decided pursuant to procedures utilized by
16 the State Department of Education.

17 H. The receiving district shall notify the district of
18 residence immediately upon finding that the student requires special
19 education and related services and the district of residence shall
20 participate in planning the Individualized Education Program (IEP)
21 for the student and in subsequent reviews of the program in
22 accordance with the Individuals with Disabilities Education Act
23 (IDEA).
24

1 SECTION 2. AMENDATORY 70 O.S. 2011, Section 8-103.1, as
2 amended by Section 2, Chapter 285, O.S.L. 2013 (70 O.S. Supp. 2015,
3 Section 8-103.1), is amended to read as follows:

4 Section 8-103.1 A. A local school district board of education
5 which receives a request for a transfer for a student who does not
6 reside in the school district may refuse the transfer in accordance
7 with the provisions of the open transfer policy adopted by the local
8 school district board of education and subject to the provisions of
9 subsection B of this section. Each local board of education shall
10 adopt an open transfer policy for the school district which
11 specifies its criteria and standards for approval of transfers of
12 students who do not reside in the district. The policy shall
13 establish the same uniform criteria and standards and documentation,
14 information or proof requirements for every student who submits an
15 application for a transfer. A school district shall not request
16 that a student provide any documentation, information or proof that
17 is not provided for in the policy or is not required of other
18 students. The policy shall include, but shall not be limited to,
19 provisions relating to the availability of programs, staff, or space
20 as criteria for approval or denial of transfers. A school district
21 may include in the policy as the basis for denial of a transfer, the
22 reasons outlined in Section 24-101.3 of this title.

23 In considering requests for students to transfer into a school
24 district, the board of education shall consider the requests on a

1 first-come, first-serve basis. A school district shall not accept
2 or deny a transfer based on ethnicity, national origin, gender,
3 income level, disabling condition, proficiency in the English
4 language, measure of achievement, aptitude, or athletic ability.

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

8 B. A local school district board of education shall adopt a
9 policy for the school district regarding the transfer of students
10 who are the dependent children of a member of the active uniformed
11 military services of the United States on full-time active duty
12 status and for whom Oklahoma is the home of record and students who
13 are the dependent children of a member of the military reserve on
14 active duty orders and for whom Oklahoma is the home of record. The
15 policy shall provide for the approval of the transfer if:

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

18 2. At least one parent can provide evidence that he or she will
19 be on active duty status or active duty orders, meaning the parent
20 will be temporarily transferred in compliance with official orders
21 to another location in support of combat, contingency operation or a
22 natural disaster requiring the use of orders for more than thirty
23 (30) consecutive days; and
24

1 3. The student will be residing with a relative of the student
2 who lives in the receiving school district or who will be living in
3 the receiving school district within six (6) months of the filing of
4 the application for transfer.

5 SECTION 3. This act shall become effective July 1, 2016.

6 SECTION 4. It being immediately necessary for the preservation
7 of the public peace, health and safety, an emergency is hereby
8 declared to exist, by reason whereof this act shall take effect and
9 be in full force from and after its passage and approval.

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