

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

COMMITTEE SUBSTITUTE
FOR

HOUSE BILL NO. 2074

By: McCall

COMMITTEE SUBSTITUTE

An Act relating to schools; amending 70 O.S. 2011, Sections 8-101.2, as amended by Section 2, Chapter 363, O.S.L. 2015, 8-103, as amended by Section 1, Chapter 184, O.S.L. 2013 and 8-103.1, as amended by Section 2, Chapter 285, O.S.L. 2013 (70 O.S. Supp. 2020, Sections 8-101.2, 8-103 and 8-103.1), which relate to the Education Open Transfer Act; granting student transfer to another school district at any time; providing exception if transfer exceeds capacity; requiring a public lottery to select students if capacity is exceeded; authorizing board of education to determine capacity; allowing transfer student to continue attendance without requiring board approval; permitting other children living in the home to transfer districts; prohibiting more than two transfers per school year; providing exception for child in foster care; removing prior transfer procedures; directing board to adopt policy for student capacity; setting deadline for adoption of policy; authorizing including certain reasons for denial in policy; mandating posting of policy on district website; requiring monthly determination of number of students the district has capacity to accept; directing publication of numbers on website and reporting to State Department of Education; prescribing appeal process for transfer denials; directing State Board of Education to promulgate rules; directing board of education to submit transfer information to certain entities; requiring certain annual audit of approved and denied transfers; providing for specified entity to set

1 capacity if inaccurate reporting is found; striking
2 time limitations for transfer applications; requiring
3 monthly report of students granted transfers;
4 removing provisions for cancellation of transfers;
5 requiring enrollment of transfer students in the
6 order in which they apply; requiring public lottery
7 in certain cases; providing appeal for transfer
8 application denial; prohibiting denial of transfer
9 unless capacity is exceeded; directing admission to
10 district of choice for certain children regardless of
11 capacity; amending 70 O.S. 2011, Section 8-113, which
12 relates to transfers for children of school
13 employees; allowing transfer of child of school
14 employee without requiring district approval;
15 repealing 70 O.S. 2011, Section 8-104, as amended by
16 Section 1, Chapter 85, O.S.L. 2013 (70 O.S. Supp.
17 2020, Section 8-104), which relates to emergency
18 transfers; declaring an emergency; and providing for
19 conditional effect.

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

SECTION 1. AMENDATORY 70 O.S. 2011, Section 8-101.2, as amended by Section 2, Chapter 363, O.S.L. 2015 (70 O.S. Supp. 2020, Section 8-101.2), is amended to read as follows:

Section 8-101.2 A. ~~On~~ Except as provided in subsection B of this section, on and after January 1, 2000 2022, the transfer of a student from the district in which the student resides to another school district furnishing instruction in the grade the student is entitled to pursue shall be granted ~~if the transfer has the approval of the board of education of the receiving district at any time in the year unless the number of transfers exceeds the capacity of a program, class, grade level or building. If capacity is~~

1 insufficient to enroll all eligible students of a program, class,
2 grade level or building, the school district shall select transfer
3 students through a public lottery selection process. The capacity
4 of a school district shall be determined by the school district
5 board of education based on its policy adopted pursuant to
6 subsection B of this section. A student may be granted a one-year
7 transfer and may continue to attend the school each school year to
8 which the student transferred with the approval of the receiving
9 district only. At the end of each school year, a school district
10 may deny continued transfer of the student for the reasons outlined
11 in paragraphs 1 and 2 of subsection B of this section. Any brother
12 or sister of a student ~~granted a transfer~~ who transfers and any
13 child in the custody of the Department of Human Services in foster
14 care who is living in the home of a student ~~granted a transfer~~ who
15 transfers may attend the school district to which the student
16 transferred ~~with the approval of the receiving district only.~~
17 Except for a child in the custody of the Department of Human
18 Services in foster care, ~~no student shall be permitted to transfer~~
19 ~~more than once in any school year~~ a transfer student shall not
20 transfer more than two (2) times per school year to one or more
21 school districts in which the student does not reside, provided that
22 the student may always reenroll at any time in his or her school
23 district of residence.

1 If the grade a student is entitled to pursue is not offered in
2 the district where the student resides, the transfer shall be
3 automatically approved.

4 ~~B. When a student has been transferred and later changes~~
5 ~~residence to another school district in the State of Oklahoma, the~~
6 ~~student shall be entitled to continue to attend school in the~~
7 ~~district to which the student was transferred. If a change of~~
8 ~~residence is to the district to which the student was transferred,~~
9 ~~upon affidavit of the parent of the student, that district shall~~
10 ~~become the resident district. If a student changes residence to~~
11 ~~another district during the school year which is not the same~~
12 ~~district the student transferred to, the student shall be entitled~~
13 ~~to attend school in either the receiving district or the new~~
14 ~~district of residence for the remainder of the current year.~~

15 C. ~~Any student transfer approved for any reason prior to~~
16 ~~January 1, 2000, shall continue to be valid and shall not be subject~~
17 ~~to the Education Open Transfer Act unless the parent having custody~~
18 ~~chooses otherwise. Each school district board of education shall~~
19 adopt a policy to determine the number of transfer students the
20 school district has the capacity to accept for each program, class,
21 grade level and building no later than January 1, 2022. The policy
22 may include:

23 1. The acts and reasons outlined in Section 24-101.3 of this
24 title as a basis for denial of a transfer; and

1 2. A history of absences as a basis for denial of a transfer.

2 For the purposes of this section, "history of absences" means ten
3 or more absences in one semester that are not excused for the
4 reasons provided for in subsection B of Section 10-105 of this title
5 or due to illness.

6 The policy shall be publicly posted on the school district
7 website.

8 C. By the first of each month, the school district board of
9 education shall establish the number of transfer students the school
10 district has the capacity to accept in each grade level and
11 building.

12 D. After establishing the number of transfer students the
13 school district has the capacity to accept in each program, class,
14 grade level and building, the board of education shall:

15 1. Publish in a prominent place on the school district website
16 the number of transfer students for each program, class, grade level
17 and building which the school district has the capacity to accept;
18 and

19 2. Report to the State Department of Education the number of
20 transfer students for each program, class, grade level and building
21 which the school district has the capacity to accept.

22 E. The State Department of Education shall publish the data
23 received from school districts pursuant to subsection D of this
24 section in a prominent place on the Department website.

1 F. If a transfer request is denied by the school district, the
2 parent of the student may appeal the denial within ten (10) days of
3 notification of the denial to the State Board of Education. The
4 parent shall submit to the Board and the superintendent of the
5 receiving school a notice of appeal on a form prescribed by the
6 Board. The appeal shall be considered by the Board at its next
7 regularly scheduled meeting. The Board shall promulgate rules to
8 establish the appeals process authorized by this subsection.

9 G. Beginning June 30, 2023, and each June 30 thereafter, each
10 school district board of education shall submit to the State Board
11 of Education and the Office of Educational Quality and
12 Accountability the number of student transfers approved and denied
13 for the preceding school year and the reason for the denials.

14 H. Each year, the Office of Educational Quality and
15 Accountability shall randomly select ten percent (10%) of the school
16 districts in the state and conduct an audit of each district's
17 approved and denied transfers based on the provisions of the
18 policies adopted by the respective school district board of
19 education. If the Office finds inaccurate reporting of capacity
20 levels by a school district, the Office shall set the capacity for
21 the school district.

22 SECTION 2. AMENDATORY 70 O.S. 2011, Section 8-103, as
23 amended by Section 1, Chapter 184, O.S.L. 2013 (70 O.S. Supp. 2020,
24 Section 8-103), is amended to read as follows:

1 Section 8-103. A. In order that any student may be
2 transferred, an application form specified by the State Board of
3 Education must be completed by the parents of the student. For
4 purposes of the Education Open Transfer Act, the term "parent" means
5 the parent of the student or person having custody of the student as
6 provided for in paragraph 1 of subsection A of Section 1-113 of this
7 title. The application shall be ~~obtained from and~~ filed with the
8 superintendent of the receiving school district for transfers to
9 school districts in the State of Oklahoma and with the State Board
10 of Education for transfers to school districts in another state.
11 ~~Except as otherwise provided for in this section, applications shall~~
12 ~~be filed no later than May 31 of the school year preceding the~~
13 ~~school year for which the transfer is desired. By May 31 of the~~
14 ~~same school year, the receiving school district shall notify the~~
15 ~~resident school district that an application for transfer has been~~
16 ~~filed by a student enrolled in the resident school district. The~~
17 ~~board of education of the receiving school district shall approve or~~
18 ~~deny the application for transfer not later than July 15 of the same~~
19 ~~year and shall notify the parents of the student of the decision.~~
20 ~~By August 1 of the same year, the parents of the student shall~~
21 ~~notify the receiving school district that the student will be~~
22 ~~enrolling in that school district. Failure of parents to notify the~~
23 ~~district as required may result in loss of the student's right to~~
24 ~~enroll in the district for that year.~~

1 B. On or before ~~September 1~~ the first day of each month, it
2 shall be the duty of the superintendent of the receiving school
3 district to file with the State Board of Education and each resident
4 district a statement showing the names of the students granted
5 transfers to the school district, the resident school district of
6 the transferred students and their respective grade level.

7 ~~C. The receiving school district of a student transferred~~
8 ~~pursuant to the provisions of this act shall notify the resident~~
9 ~~school district and parents of the student of a cancellation of the~~
10 ~~transfer. Such notice shall be made by July 15 prior to the school~~
11 ~~year for which the cancellation is applicable.~~

12 ~~D.~~ For students who are deaf or hearing impaired who wish to
13 transfer to a school district with a specialized deaf education
14 program, applications may be filed at any time during the school
15 year. ~~Upon approval of the receiving school district, the~~ The
16 student may transfer to the receiving school district at any time
17 during the school year.

18 D. The school district shall enroll transfer students in the
19 order in which they submit their applications. If the number of
20 transfer student applications exceeds the capacity of a receiving
21 school district, as determined by subsection A of Section 8-101.2 of
22 this title, the district shall select transfer student applicants
23 through a public lottery selection process.
24

1 E. If a transfer application is denied based on the receiving
2 school district's open transfer policy adopted pursuant to
3 subsection B of Section 8-101.2 of this title, the parent of the
4 student may appeal the decision to the State Board of Education as
5 provided in subsection F of Section 8-101.2 of this title.

6 SECTION 3. AMENDATORY 70 O.S. 2011, Section 8-103.1, as
7 amended by Section 2, Chapter 285, O.S.L. 2013 (70 O.S. Supp. 2020,
8 Section 8-103.1), is amended to read as follows:

9 Section 8-103.1 A. A ~~local~~ school district board of education
10 which receives a request for a transfer for a student who does not
11 reside in the school district ~~may refuse~~ shall not deny the transfer
12 ~~in accordance with the provisions of the open transfer policy~~
13 ~~adopted by the local school district board of education and subject~~
14 ~~to the provisions of subsection B of this section. Each local board~~
15 ~~of education shall adopt an open transfer policy for the school~~
16 ~~district which specifies its criteria and standards for approval of~~
17 ~~transfers of students who do not reside in the district. The policy~~
18 ~~shall include, but shall not be limited to, provisions relating to~~
19 ~~the availability of programs, staff, or space as criteria for~~
20 ~~approval or denial of transfers. A school district may include in~~
21 ~~the policy as the basis for denial of a transfer, the reasons~~
22 ~~outlined in Section 24-101.3 of this title~~ unless the number of
23 requested transfers exceeds the capacity of a program, class, grade
24 level or building. If capacity is insufficient to enroll all

1 eligible students of a program, class, grade level or building, the
2 school district shall select students through a public lottery
3 selection process. The capacity of a school district shall be
4 determined by the school district board of education based on its
5 policy that complies with subsection B of Section 8-101.2 of this
6 title.

7 ~~In considering requests for students to transfer into a school~~
8 ~~district, the board of education shall consider the requests on a~~
9 ~~first come, first serve basis.~~ A school district shall not accept
10 or deny a transfer based on ethnicity, national origin, gender,
11 income level, disabling condition, proficiency in the English
12 language, measure of achievement, aptitude, or athletic ability.

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

16 B. ~~A local school district board of education shall adopt a~~
17 ~~policy for the school district regarding the transfer of students~~
18 Students who are the dependent children of a member of the active
19 uniformed military services of the United States on full-time active
20 duty status ~~and for whom Oklahoma is the home of record~~ and students
21 who are the dependent children of a member of the military reserve
22 on active duty orders ~~and for whom Oklahoma is the home of record~~
23 shall be eligible for admission to the school district of their
24 choice regardless of the capacity of the district. ~~The policy~~

1 Students shall ~~provide for the approval of the transfer~~ be eligible
2 if:

3 1. At least one parent of the student has a Department of
4 Defense-issued identification card; and

5 2. At least one parent can provide evidence that he or she will
6 be on active duty status or active duty orders, meaning the parent
7 will be temporarily transferred in compliance with official orders
8 to another location in support of combat, contingency operation or a
9 natural disaster requiring the use of orders for more than thirty
10 (30) consecutive days; ~~and~~

11 ~~3. The student will be residing with a relative of the student~~
12 ~~who lives in the receiving school district or who will be living in~~
13 ~~the receiving school district within six (6) months of the filing of~~
14 ~~the application for transfer.~~

15 SECTION 4. AMENDATORY 70 O.S. 2011, Section 8-113, is
16 amended to read as follows:

17 Section 8-113. A student shall be allowed to transfer to a
18 school district in which the parent or legal guardian of the student
19 is employed as a teacher, as defined in Section 1-116 of ~~Title 70 of~~
20 ~~the Oklahoma Statutes, upon the approval of the receiving district~~
21 ~~only~~ this title.

22 SECTION 5. REPEALER 70 O.S. 2011, Section 8-104, as
23 amended by Section 1, Chapter 85, O.S.L. 2013 (70 O.S. Supp. 2020,
24 Section 8-104), is hereby repealed.

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

5 SECTION 7. The provisions of this act shall be contingent upon
6 the enactment of the provisions of House Bill No. 2078 of the 1st
7 Session of the 58th Oklahoma Legislature and shall not become
8 operative as law otherwise.

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