

1 STATE OF OKLAHOMA

2 2nd Session of the 59th Legislature (2024)

3 COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

HOUSE BILL NO. 3386

By: McCall and Caldwell (Chad)  
of the House

5 and

6 Treat of the Senate

7  
8  
9 COMMITTEE SUBSTITUTE

10 An Act relating to schools; requiring approval of  
11 intra-district transfer of students at any time in  
12 the year; providing an exception if school site has  
13 reached certain capacity; providing for selection of  
14 intra-district transfer students if capacity is  
15 insufficient; directing school district boards of  
16 education to determine certain capacity; allowing  
17 intra-district transfer student to continue with  
18 certain approval; allowing denial of continued intra-  
19 district transfer for certain reasons; permitting  
20 intra-district transfer for certain children residing  
21 in a home; requiring boards of education to adopt  
22 policy for capacity in each grade level for each  
23 school site by certain date; providing for contents  
24 of policy; directing posting of policy on district  
website; requiring determination of intra-district  
capacity by the first day of certain months;  
directing publication on school district website;  
directing submission of certain report to the State  
Department of Education; amending 70 O.S. 2021,  
Section 13-103, which relates to providing education  
for students with disabilities; updating statutory  
language; directing each school district board of  
education to adopt certain policy regarding transfer  
students with disabilities by certain date; requiring  
the policy and certain capacity to be published and  
reported to the State Department of Education;  
modifying process for determining whether to accept  
certain student transfer; establishing process to

1 appeal denial of a transfer student with  
2 disabilities; providing for promulgation of rules;  
3 requiring school district boards of education to  
4 annually submit the number of certain transfer  
5 requests approved and denied; requiring the State  
6 Department of Education to publish certain data on  
7 its website and make it available to certain agency;  
8 directing the Office of Educational Quality and  
9 Accountability to annually select certain percentage  
10 of districts for certain audit; directing school  
11 districts to comply with certain recommended changes;  
12 allowing certain audit to be conducted in certain  
13 conjunction; providing for codification; providing an  
14 effective date; and declaring an emergency.

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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 8-114 of Title 70, unless there  
is created a duplication in numbering, reads as follows:

A. Except as provided in subsection B of this section,  
beginning July 1, 2024, the transfer of a student from one school  
site to another school site within the school district where the  
student resides shall be approved at any time in the year, unless  
the grade level of the receiving school site has reached capacity.  
If the capacity of a grade level is insufficient to enroll all  
eligible students, the school district shall select intra-district  
transfer students based on the preferences outlined in paragraph 1  
of subsection B of this section and then in the order in which the  
intra-district transfer applications were received. The school  
district board of education shall determine the capacity of a school

1 site based on its policy adopted pursuant to subsection B of this  
2 section. A student may be granted a one-year intra-district  
3 transfer and may automatically continue to attend the school site  
4 where the student transferred each school year with the approval of  
5 the school district. At the end of each school year, a school  
6 district may deny continued intra-district transfer of the student  
7 for the reasons outlined in paragraphs 2 and 3 of subsection B of  
8 this section. Any sibling of a student who transfers intra-district  
9 may attend the school site to which the student transferred, if the  
10 school district policy gives preference to sibling transfers  
11 regardless of capacity, and the sibling of the transferred student  
12 does not meet a basis for denial as outlined in paragraphs 2 and 3  
13 of subsection B of this section. Any child in the custody of the  
14 Department of Human Services and living in foster care who resides  
15 in the home of another student who transfers intra-district may  
16 attend the school site to which the student transferred. Except for  
17 a child in the custody of the Department of Human Services in foster  
18 care, an intra-district transfer student shall not transfer more  
19 than two times per school year to other school sites within the  
20 school district where the student resides, provided that the student  
21 may always reenroll at any time in his or her school site of  
22 residence.

23 B. Each school district board of education shall adopt a policy  
24 to determine the number of intra-district transfer students the

1 school district has the capacity to accept in each grade level for  
2 each school site within a school district no later than July 1,  
3 2024. The policy shall be publicly posted on the school district  
4 website. The policy:

5 1. Shall include an enrollment preference and reserve capacity  
6 for:

7 a. students who reside in the school site boundary,

8 b. students who attended the school site the prior school  
9 year, and

10 c. siblings of students who are already enrolled at the  
11 school site;

12 2. May include the acts and reasons outlined in Section 24-  
13 101.3 of Title 70 of the Oklahoma Statutes as a basis for denial of  
14 an intra-district transfer; and

15 3. May include a history of absences as a basis for denial of  
16 an intra-district transfer. For the purposes of this section,  
17 "history of absences" means ten or more absences in one semester  
18 that are not excused for the reasons provided in subsection B of  
19 Section 10-105 of Title 70 of the Oklahoma Statutes or due to  
20 illness.

21 C. By the first day of January, April, July, and October of  
22 each year, the school district board of education shall establish  
23 the number of intra-district transfer students the school district  
24

1 has the capacity to accept in each grade level for each school site  
2 within the district.

3 D. After establishing the number of intra-district transfer  
4 students the school district has the capacity to accept in each  
5 grade level for each school site, the board of education shall:

6 1. Publish in a prominent place on the school district website  
7 the number of intra-district transfer students for each grade level  
8 for each school site within the school district which the district  
9 has the capacity to accept; and

10 2. Report to the State Department of Education the number of  
11 intra-district transfer students for each grade level for each  
12 school site within the school district which the district has the  
13 capacity to accept.

14 SECTION 2. AMENDATORY 70 O.S. 2021, Section 13-103, is  
15 amended to read as follows:

16 Section 13-103. A. Any school district in the state may  
17 provide suitable facilities and employ qualified teachers and  
18 therapists for ~~children~~ students with disabilities, either in  
19 schools, classrooms, or in other places as the board of education of  
20 the district may deem advisable. When a school district cannot  
21 provide special educational facilities and qualified teachers, a  
22 ~~child~~ student may be transferred pursuant to the provisions of  
23 paragraph 4 of Section 13-101 of this title.

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1 B. 1. Each school district board of education shall adopt a  
2 policy to determine the number of transfer students with  
3 disabilities the school district has the capacity to accept based on  
4 the availability of appropriate programs, staff, and services no  
5 later than January 1, 2025, and each January 1 thereafter.

6 2. The school district board of education shall:

7 a. publish the policy and the number of transfer students  
8 with disabilities the school district has the capacity  
9 to accept in a prominent place on the school  
10 district's website, and

11 b. report to the State Department of Education the number  
12 of transfer students with disabilities the school  
13 district has the capacity to accept.

14 C. If a ~~child~~ student with disabilities is transferred to a  
15 school district other than the district of residence of the ~~child~~  
16 student pursuant to the Education Open Transfer Act the following  
17 provisions shall apply:

18 1. The receiving district shall ~~establish availability of the~~  
19 ~~appropriate program, staff, and services~~ determine whether the  
20 district has the capacity to accept the student transfer under the  
21 policy adopted pursuant to subsection B of this section prior to  
22 approval of the transfer;

23 2. Prior to the approval of the transfer of a ~~child~~ student on  
24 an individualized education program (IEP), a joint IEP conference

1 shall be required between the district of residence and the  
2 receiving district; and

3 3. Upon approval of the transfer, the receiving district shall  
4 claim the ~~child~~ student in the average daily membership for state  
5 and federal funding purposes and shall assume all responsibility for  
6 education of the ~~child~~ student. For state funding purposes, the  
7 State Department of Education shall include the appropriate grade  
8 level weight and all category weights to which the ~~pupil~~ student is  
9 assigned pursuant to the provisions of Section 18-201.1 of this  
10 title when calculating State Aid pursuant to the provisions of  
11 Section 18-200.1 of this title, regardless of whether the receiving  
12 district provides education to the student using traditional in-  
13 class means or via online instruction. When applicable, the  
14 receiving district may apply to the Oklahoma Special Education  
15 Assistance Fund for assistance in meeting any extraordinary costs  
16 incurred.

17 D. If a request to transfer a student with disabilities to a  
18 school district other than the district of residence of the student  
19 pursuant to the Education Open Transfer Act is denied, the following  
20 provisions shall apply:

21 1. The parent or legal guardian of a student with disabilities  
22 or an adult student with disabilities who is age eighteen (18) or  
23 older but under the age of twenty-two (22) may appeal the denial  
24 within ten (10) days of notification of the denial to the receiving

1 school district board of education. The receiving school district  
2 board of education shall consider the appeal at its next regularly  
3 scheduled board meeting; and

4 2. If the receiving school district board of education denies  
5 the appeal, the parent or legal guardian of the student with  
6 disabilities or an adult student with disabilities who is age  
7 eighteen (18) or older but under the age of twenty-two (22) may  
8 appeal the denial within ten (10) days of notification of the appeal  
9 denial to the State Board of Education. The parent or legal  
10 guardian of the student with disabilities or the adult student with  
11 disabilities shall submit to the State Board of Education and the  
12 superintendent of the receiving school district a notice of appeal  
13 on a form prescribed by the State Board of Education. The appeal  
14 shall be considered by the State Board of Education at its next  
15 regularly scheduled meeting, where the parent or legal guardian of  
16 the student with disabilities or the adult student with disabilities  
17 may address the Board. The State Board of Education shall  
18 promulgate rules to establish the appeals process authorized by this  
19 subsection which shall align with rules promulgated pursuant to  
20 Section 8-101.2 of this title.

21 ~~C.~~ E. Transfers authorized by this section shall be made under  
22 rules adopted by the State Board of Education. When a ~~child~~ student  
23 with disabilities or pregnant ~~child~~ student is unable to attend any  
24 school or class in the district of residency, the board of education



1 of the district may provide for home instruction for the ~~child~~  
2 student. The State Board of Education is further authorized to  
3 cooperate with any school district in the state to make it possible  
4 for a ~~child~~ student with disabilities to attend the regular school  
5 by making special provisions for the transportation of the ~~child~~  
6 student, or for special equipment, devices, books, supplies or other  
7 facilities, or for special instruction within the regular school  
8 building. The provisions for services and transfers as provided for  
9 in this section shall be made with consideration of the least  
10 restrictive environment and IEP requirements under the Individuals  
11 with Disabilities Education Act (IDEA).

12 ~~D.~~ F. Beginning with the 2008-2009 school year, a transfer  
13 granted for a ~~child~~ student with disabilities pursuant to paragraph  
14 4 of Section 13-101 of this title for three (3) consecutive years to  
15 the same school district shall automatically be renewed each year.  
16 The district in which the ~~child~~ student resides shall continue to  
17 pay tuition as provided for in paragraph 4 of Section 13-101 of this  
18 title.

19 G. Each school district board of education shall annually  
20 submit to the State Department of Education the number of transfer  
21 requests for students with disabilities approved and denied and  
22 whether each denial was based on availability of programs, staff, or  
23 services. The State Department of Education shall publish the data  
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1 on its website and make the data available to the Office of  
2 Educational Quality and Accountability.

3 H. Each year, the Office of Educational Quality and  
4 Accountability shall randomly select ten percent (10%) of the school  
5 districts in the state and conduct an audit of each district's  
6 approved and denied transfers based on the provisions of each school  
7 district board of education's policy adopted pursuant to subsection  
8 B of this section. If the Office finds inaccurate reporting of  
9 capacity levels by a school district, the school district shall  
10 comply with the changes recommended in the audit. Nothing shall  
11 prohibit the Office from conducting the audit required by this  
12 subsection in conjunction with the audit required by subsection G of  
13 Section 8-101.2 of this title.

14 SECTION 3. This act shall become effective July 1, 2024.

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

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