

An Act

ENROLLED HOUSE
BILL NO. 3386

By: McCall and Caldwell (Chad)
of the House

and

Treat of the Senate

An Act relating to schools; requiring approval of intra-district transfer of students at any time in the year; providing an exception if school site has reached certain capacity; providing for selection of intra-district transfer students if capacity is insufficient; directing school district boards of education to determine certain capacity; allowing intra-district transfer student to continue with certain approval; allowing denial of continued intra-district transfer for certain reasons; providing for intra-district transfer of certain students if certain school district policy provides certain preference; requiring boards of education to adopt policy for capacity in each grade level for each school site by certain date; prohibiting more than two transfers per school year; providing exception; providing for contents 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; establishing process to appeal denial of a transfer student with disabilities; providing for promulgation of rules; requiring school district boards of education to annually submit the number of certain transfer requests approved and denied; requiring the State Department of Education to publish certain data on its website and make it available to certain agency; directing the Office of Educational Quality

and Accountability to annually select certain percentage of districts for certain audit; directing school districts to comply with certain recommended changes; allowing certain audit to be conducted in certain conjunction; providing for codification; and declaring an emergency.

SUBJECT: Schools

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 site based on its policy adopted pursuant to subsection B of this section. A student may be granted a one-year intra-district transfer and may automatically continue to attend the school site where the student transferred each school year with the approval of the school district. At the end of each school year, a school district may deny continued intra-district transfer of the student for the reasons outlined in paragraphs 2 and 3 of subsection B of this section.

1. Any sibling of a student who transfers intra-district may attend the school site to which the student transferred if the school district policy gives preference to sibling transfers regardless of capacity and the sibling of the transferred student

does not meet a basis for denial as outlined in paragraphs 2 and 3 of subsection B of this section.

2. The child of a school district employee who resides in the school district but wishes to attend a different school site within the school district where the student resides may be granted an intra-district transfer if the school district policy gives preference to the transfer of children of school district employees and the student does not meet a basis for denial as outlined in paragraphs 2 and 3 of subsection B of this section.

3. A student who changes residence within a school district and who wishes to attend the same school site may be granted an intra-district transfer if the school district policy gives preference to such transfers and the student does not meet a basis for denial as outlined in paragraphs 2 and 3 of subsection B of this section.

4. Any child in the custody of the Department of Human Services and living in foster care who resides in the home of another student who transfers intra-district may attend the school site to which the student transferred.

Except for a child in the custody of the Department of Human Services in foster care, an intra-district transfer student shall not transfer more than two times per school year to other school sites within the school district where the student resides, provided that the student may always reenroll at any time in his or her school site of residence.

B. Each school district board of education shall adopt a policy to determine the number of intra-district transfer students the school district has the capacity to accept in each grade level for each school site within a school district no later than July 1, 2024. The policy shall be publicly posted on the school district website. The policy:

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

- a. students who reside in the school site boundary,
- b. students who attended the school site the prior school year,

- c. siblings of students who are already enrolled at the school site,
- d. children of school district employees who wish to attend a different school site within the school district, and
- e. students who change residence within a school district and who wish to attend the same school site;

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

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

C. By the first day of January, April, July, and October of each year, the school district board of education shall establish the number of intra-district transfer students the school district has the capacity to accept in each grade level for each school site within the district.

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

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

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

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

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

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

1. The receiving district shall establish availability of the appropriate program, staff, and services prior to approval of the transfer;

2. Prior to the approval of the transfer of a ~~child~~ student on an individualized education program (IEP), a joint IEP conference shall be required between the district of residence and the receiving district; and

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

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

1. The parent or legal guardian of a student with disabilities or an adult student with disabilities who is age eighteen (18) or

older but under the age of twenty-two (22) may appeal the denial within ten (10) days of notification of the denial to the receiving school district board of education. The receiving school district board of education shall consider the appeal at its next regularly scheduled board meeting; and

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

~~C.~~ D. Transfers authorized by this section shall be made under rules adopted by the State Board of Education. When a ~~child student~~ with disabilities or pregnant ~~child student~~ is unable to attend any school or class in the district of residency, the board of education of the district may provide for home instruction for the ~~child student~~. The State Board of Education is further authorized to cooperate with any school district in the state to make it possible for a ~~child student~~ with disabilities to attend the regular school by making special provisions for the transportation of the ~~child student~~, or for special equipment, devices, books, supplies or other facilities, or for special instruction within the regular school building. The provisions for services and transfers as provided for in this section shall be made with consideration of the least restrictive environment and IEP requirements under the Individuals with Disabilities Education Act (IDEA).

~~D.~~ E. Beginning with the 2008-2009 school year, a transfer granted for a ~~child student~~ with disabilities pursuant to paragraph 4 of Section 13-101 of this title for three (3) consecutive years to the same school district shall automatically be renewed each year.

The district in which the ~~child~~ student resides shall continue to pay tuition as provided for in paragraph 4 of Section 13-101 of this title.

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

G. Each year, the Office of Educational Quality and Accountability shall randomly select ten percent (10%) of the school districts in the state and conduct an audit of each district's approved and denied transfers of students with disabilities. If the Office finds inaccurate reporting, the school district shall comply with the changes recommended in the audit. Nothing shall prohibit the Office from conducting the audit required by this subsection in conjunction with the audit required by subsection G of Section 8-101.2 of this title.

SECTION 3. It being immediately necessary for the preservation of the public peace, health, or 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.

Passed the House of Representatives the 28th day of May, 2024.

Presiding Officer of the House
of Representatives

Passed the Senate the 25th day of April, 2024.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____