

1 ENGROSSED HOUSE  
2 BILL NO. 2074

By: McCall, Boles, Caldwell  
(Chad), Hilbert, Conley,  
Davis, Hasenbeck, Echols,  
O'Donnell and West (Tammy)  
of the House

4  
5 and

Pugh of the Senate

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9 An Act relating to schools; amending 70 O.S. 2011,  
10 Sections 8-101.2, as amended by Section 2, Chapter  
363, O.S.L. 2015, 8-103, as amended by Section 1,  
11 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.  
12 2020, Sections 8-101.2, 8-103 and 8-103.1), which  
relate to the Education Open Transfer Act; granting  
13 student transfer to another school district at any  
time; providing exception if transfer exceeds certain  
14 capacity; directing selection of transfer students if  
capacity is exceeded; authorizing board of education  
15 to determine capacity; allowing transfer student to  
continue attendance; allowing denial of continued  
16 transfer; permitting other children living in the  
home to transfer districts; prohibiting more than two  
17 transfers per school year; providing exception for  
child in foster care; removing prior transfer  
18 procedures; directing board to adopt policy for  
student capacity; setting deadline for adoption of  
19 policy; authorizing including certain reasons for  
denial in policy; mandating posting of policy on  
20 district website; requiring determination four times  
per year for the number of students the district has  
21 capacity to accept; directing publication on school  
district website; requiring submission of certain  
22 report to the State Department of Education;  
prescribing appeal process for transfer denials;  
23 providing for promulgation of rules; directing board  
of education to submit transfer information to the  
24 State Department of Education; requiring certain  
annual audit of approved and denied transfers;

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

1 grade level for each school site within a school district. If the  
2 capacity of a grade level for each school site within a school  
3 district is insufficient to enroll all eligible students, the school  
4 district shall select transfer students in the order in which the  
5 district received the student transfer applications. The capacity  
6 of a school district shall be determined by the school district  
7 board of education based on its policy adopted pursuant to  
8 subsection B of this section. A student may be granted a one-year  
9 transfer and may continue to attend the school each school year to  
10 which the student transferred with the approval of the receiving  
11 district only. At the end of each school year, a school district  
12 may deny continued transfer of the student for the reasons outlined  
13 in paragraphs 1 and 2 of subsection B of this section. Any brother  
14 or sister of a student granted a transfer and any who transfers may  
15 attend the school district to which the student transferred unless  
16 the transfer is denied for the reasons outlined in paragraphs 1 and  
17 2 of subsection B of this section. Any child in the custody of the  
18 Department of Human Services in foster care who is living in the  
19 home of a student granted a transfer who transfers may attend the  
20 school district to which the student transferred with the approval  
21 of the receiving district only. Except for a child in the custody  
22 of the Department of Human Services in foster care, no student shall  
23 be permitted to transfer more than once in any school year a  
24 transfer student shall not transfer more than two times per school

1 year to one or more school districts in which the student does not  
2 reside, provided that the student may always reenroll at any time in  
3 his or her school district of residence.

4 If the grade a student is entitled to pursue is not offered in  
5 the district where the student resides, the transfer shall be  
6 automatically approved.

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

18 ~~C. Any student transfer approved for any reason prior to~~  
19 ~~January 1, 2000, shall continue to be valid and shall not be subject~~  
20 ~~to the Education Open Transfer Act unless the parent having custody~~  
21 ~~chooses otherwise. Each school district board of education shall~~  
22 ~~adopt a policy to determine the number of transfer students the~~  
23 ~~school district has the capacity to accept in each grade level for~~  
24

1 each school site within a school district no later than January 1,  
2 2022. The policy may include:

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

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

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

10 The policy shall be publicly posted on the school district  
11 website.

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

16 D. After establishing the number of transfer students the  
17 school district has the capacity to accept in each grade level for  
18 each school site within a school district, the board of education  
19 shall:

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

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

5        E. If a transfer request is denied by the school district, the  
6 parent of the student may appeal the denial within ten (10) days of  
7 notification of the denial to the receiving school district board of  
8 education. The receiving school district board of education shall  
9 consider the appeal at its next regularly scheduled board meeting.  
10 If the receiving school district board of education denies the  
11 appeal, the parent of the student may appeal the denial within ten  
12 (10) days of notification of the appeal denial to the State Board of  
13 Education. The parent shall submit to the State Board of Education  
14 and the superintendent of the receiving school district a notice of  
15 appeal on a form prescribed by the State Board of Education. The  
16 appeal shall be considered by the State Board of Education at its  
17 next regularly scheduled meeting. The State Board of Education  
18 shall promulgate rules to establish the appeals process authorized  
19 by this subsection.

20        F. Each school district board of education shall submit to the  
21 State Department of Education the number of student transfers  
22 approved and denied and whether each denial was based on capacity,  
23 acts and reasons outlined in Section 24-101.3 of this title or a  
24 history of absences as provided for in paragraph 2 of subsection B

1 of this section. The State Department of Education shall publish  
2 the data on its website and make the data available to the Office of  
3 Educational Quality and Accountability.

4 G. Each year, the Office of Educational Quality and  
5 Accountability shall randomly select ten percent (10%) of the school  
6 districts in the state and conduct an audit of each district's  
7 approved and denied transfers based on the provisions of the  
8 policies adopted by the respective school district board of  
9 education. If the Office finds inaccurate reporting of capacity  
10 levels by a school district, the Office shall set the capacity for  
11 the school district.

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

15 Section 8-103. A. In order that any student may be  
16 transferred, an application form specified by the State Board of  
17 Education must be completed by the parents of the student. For  
18 purposes of the Education Open Transfer Act, the term "parent" means  
19 the parent of the student or person having custody of the student as  
20 provided for in paragraph 1 of subsection A of Section 1-113 of this  
21 title. The application shall be ~~obtained from~~ and filed with the  
22 superintendent of the receiving school district for transfers to  
23 school districts in ~~the State of Oklahoma~~ this state and with the  
24 State Board of Education for transfers to school districts in

1 another state. ~~Except as otherwise provided for in this section,~~  
2 ~~applications shall be filed no later than May 31 of the school year~~  
3 ~~preceding the school year for which the transfer is desired. By May~~  
4 ~~31 of the same school year, the receiving school district shall~~  
5 ~~notify the resident school district that an application for transfer~~  
6 ~~has been filed by a student enrolled in the resident school~~  
7 ~~district. The board of education of the receiving school district~~  
8 ~~shall approve or deny the application for transfer not later than~~  
9 ~~July 15 of the same year and shall notify the parents of the student~~  
10 ~~of the decision. By August 1 of the same year, the parents of the~~  
11 ~~student shall notify the receiving school district that the student~~  
12 ~~will be enrolling in that school district. Failure of parents to~~  
13 ~~notify the district as required may result in loss of the student's~~  
14 ~~right to enroll in the district for that year.~~

15 B. On or before ~~September 1~~ the first day of January, April,  
16 July and October, it shall be the duty of the superintendent of the  
17 receiving school district to file with the State Board of Education  
18 and each resident district a statement showing the names of the  
19 students granted transfers to the school district, the resident  
20 school district of the transferred students and their respective  
21 grade level.

22 C. ~~The receiving school district of a student transferred~~  
23 ~~pursuant to the provisions of this act shall notify the resident~~  
24 ~~school district and parents of the student of a cancellation of the~~



1 ~~transfer. Such notice shall be made by July 15 prior to the school~~  
2 ~~year for which the cancellation is applicable.~~

3 ~~D.~~ For students who are deaf or hearing-impaired who wish to  
4 transfer to a school district with a specialized deaf education  
5 program, applications may be filed at any time during the school  
6 year. ~~Upon approval of the receiving school district, the~~ The  
7 student may transfer to the receiving school district at any time  
8 during the school year.

9 D. The school district shall enroll transfer students in the  
10 order in which they submit their applications. If the number of  
11 transfer student applications exceeds the capacity of a receiving  
12 school district, as determined by subsection A of Section 8-101.2 of  
13 this title, the district shall select transfer students in the order  
14 in which the district received the student transfer applications.

15 E. If a transfer application is denied based on the receiving  
16 school district's open transfer policy adopted pursuant to  
17 subsection B of Section 8-101.2 of this title, the parent of the  
18 student may appeal the decision as provided for in subsection E of  
19 Section 8-101.2 of this title.

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

23 Section 8-103.1 A. A ~~local~~ school district board of education  
24 which receives a request for a transfer for a student who does not

1 reside in the school district ~~may refuse~~ shall not deny the transfer  
2 ~~in accordance with the provisions of the open transfer policy~~  
3 ~~adopted by the local school district board of education and subject~~  
4 ~~to the provisions of subsection B of this section. Each local board~~  
5 ~~of education shall adopt an open transfer policy for the school~~  
6 ~~district which specifies its criteria and standards for approval of~~  
7 ~~transfers of students who do not reside in the district. The policy~~  
8 ~~shall include, but shall not be limited to, provisions relating to~~  
9 ~~the availability of programs, staff, or space as criteria for~~  
10 ~~approval or denial of transfers. A school district may include in~~  
11 ~~the policy as the basis for denial of a transfer, the reasons~~  
12 ~~outlined in Section 24-101.3 of this title~~ unless the number of  
13 requested transfers exceeds the capacity of a grade level for each  
14 school site within a school district. If the number of student  
15 transfer applications exceeds the capacity of a receiving school  
16 district, as determined by subsection A of Section 8-101.2 of this  
17 title, the district shall select transfer students in the order in  
18 which the district received the student transfer applications. The  
19 capacity of a school district shall be determined by the school  
20 district board of education based on its policy that complies with  
21 subsection B of Section 8-101.2 of this title.

22 ~~In considering requests for students to transfer into a school~~  
23 ~~district, the board of education shall consider the requests on a~~  
24 ~~first-come, first-serve basis. A school district shall not accept~~

1 or deny a transfer based on ethnicity, national origin, gender,  
2 income level, disabling condition, proficiency in the English  
3 language, measure of achievement, aptitude, or athletic ability.

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

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

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

20 2. At least one parent can provide evidence that he or she will  
21 be on active duty status or active duty orders, meaning the parent  
22 will be temporarily transferred in compliance with official orders  
23 to another location in support of combat, contingency operation or a  
24

1 natural disaster requiring the use of orders for more than thirty  
2 (30) consecutive days; and

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

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

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

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

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

21 SECTION 7. The provisions of this act shall be contingent upon  
22 the enactment of the provisions of House Bill No. 2078 of the 1st  
23  
24

