

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

SENATE BILL 783

By: Pugh

AS INTRODUCED

An Act relating to student transfers; amending 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), which relates to transfers from resident school districts; directing the State Department of Education to publish certain list establishing certain capacity by certain date each year; providing for calculation of capacity of a class for each grade level for each of three tiers; directing school districts to post on their websites the capacity for each grade level and the number of transfers a district can accept; directing each school district board of education to adopt certain open transfer policy; providing for contents of policy; prohibiting a school district from accepting or denying a transfer on certain bases; allowing a one-year provisional transfer; allowing a school district to deny continued transfer for certain reasons; removing outdated language; directing school district boards of education to submit certain information to the State Board of Education by certain date; amending 70 O.S. 2011, Section 8-103, as amended by Section 1, Chapter 184, O.S.L. 2013 (70 O.S. Supp. 2020, Section 8-103), which relates to transfer procedures; directing receiving school districts to select students via certain lottery process if the number of transfer applications exceeds certain capacity; allowing a parent to appeal denial of a transfer to the State Board of Education; requiring submission of certain appeal form within certain time period; providing for consideration of appeal; amending 70 O.S. 2011, Section 8-103.1, as amended by Section 2, Chapter 285, O.S.L. 2013 (70 O.S. Supp. 2020, Section 8-103.1), which relates to criteria for certain transfers; removing language regarding adoption of

1 open transfer policies; amending 70 O.S. 2011,
2 Section 8-104, as amended by Section 1, Chapter 85,
3 O.S.L. 2013 (70 O.S. Supp. 2020, Section 8-104),
4 which relates to emergency transfers; directing a
5 receiving school district board of education to
6 approve emergency transfers rather than the State
7 Board of Education; and providing an effective date.

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

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

12 Section 8-101.2. A. 1. By December 31, 2021, and each
13 December 31 thereafter, the State Department of Education shall
14 publish a list establishing the capacity of a class for each grade
15 level in kindergarten through twelfth grades for each of the
16 following three tiers of school districts:

17 a. school districts with an average daily attendance
18 (ADA) of more than one thousand five hundred (1,500)
19 students based on the first nine (9) weeks of the
20 current school year,

21 b. school districts with an ADA of more than five hundred
22 (500) students but fewer than one thousand five
23 hundred (1,500) students based on the first nine (9)
24 weeks of the current school year, and

1 c. school districts with an ADA of five hundred (500) or
2 fewer students based on the first nine (9) weeks of
3 the current school year.

4 2. a. The capacity of a class for each grade level for each
5 of the three tiers provided for in paragraph 1 of this
6 subsection shall be determined by dividing the total
7 ADA for each grade level in each tier by the
8 corresponding number of full-time instructional staff
9 assigned to each grade level in each tier.

10 b. The capacity of a school district with multiple
11 classes in a single grade level shall be determined by
12 multiplying the result of subparagraph a of this
13 paragraph by the number of classes the school district
14 offers in each grade level.

15 B. By March 1, 2022, and each March 1 thereafter, each school
16 district shall post on its website the capacity for each grade level
17 offered by the school district for the ensuing school year. The
18 school district shall also post on its website the number of student
19 transfers the district can accept before reaching capacity, as
20 determined by subsection A of this section.

21 C. Each school district board of education shall adopt an open
22 transfer policy for the school district which specifies its criteria
23 and standards for approval of transfers of students who do not
24 reside in the district. The policy shall include the capacity for

1 each grade level for the ensuing school year, as determined by
2 subsection A of this section, and may include:

3 1. The reasons outlined in Section 24-101.3 of this title as a
4 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 (10) or more absences that are not excused for the reasons provided
8 for in subsection B of Section 10-105 of this title or due to
9 illness.

10 D. No school district shall accept or deny a transfer based on
11 ethnicity, national origin, gender, income level, disabling
12 condition, proficiency in the English language, measure of
13 achievement, aptitude or athletic ability.

14 E. ~~On and after January 1, 2000~~ For the transfer application
15 period ending May 31, 2022, and for each transfer application period
16 thereafter as provided for in subsection A of Section 8-103 of this
17 title, the transfer of a student from the district in which the
18 student resides to another school district furnishing instruction in
19 the grade the student is entitled to pursue shall be granted if the
20 transfer has the approval of the board of education of the receiving
21 district in accordance with the district's transfer policy adopted
22 pursuant to subsection C of this section. A student may be granted
23 a one-year provisional transfer and may continue to attend the
24 school to which the student transferred with the approval of the

1 receiving district ~~only~~. After a one-year provisional transfer is
2 granted, a school district may deny continued transfer of the
3 student for the reasons outlined in paragraphs 1 and 2 of subsection
4 C of this section. Any brother or sister of a student granted a
5 transfer and any child in the custody of the Department of Human
6 Services in foster care who is living in the home of a student
7 granted a transfer may attend the school to which the student
8 transferred with the approval of the receiving district ~~only~~ and
9 subject to the provisions of paragraphs 1 and 2 of subsection C of
10 this section. Except for a child in the custody of the Department
11 of Human Services in foster care, no student shall be permitted to
12 transfer more than once in any school year.

13 If the grade a student is entitled to pursue is not offered in
14 the district where the student resides, the transfer shall be
15 automatically approved.

16 ~~B.~~ F. When a student has been transferred and later changes
17 residence to another school district in the State of Oklahoma, the
18 student shall be entitled to continue to attend school in the
19 district to which the student was transferred. If a change of
20 residence is to the district to which the student was transferred,
21 upon affidavit of the parent or legal guardian of the student, that
22 district shall become the resident district. If a student changes
23 residence to another district during the school year which is not
24 the same district the student transferred to, the student shall be

1 entitled to attend school in either the receiving district or the
2 new district of residence for the remainder of the current year.

3 ~~C. Any student transfer approved for any reason prior to
4 January 1, 2000, shall continue to be valid and shall not be subject
5 to the Education Open Transfer Act unless the parent having custody
6 chooses otherwise.~~

7 G. By June 30, 2023, and each June 30 thereafter, each school
8 district board of education shall submit to the State Board of
9 Education the number of student transfers approved and denied for
10 the preceding school year.

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

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

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

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

20 C. The receiving school district of a student transferred
21 pursuant to the provisions of ~~this act~~ the Education Open Transfer
22 Act shall notify the resident school district and parents of the
23 student of a cancellation of the transfer. Such notice shall be
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1 made by July 15 prior to the school year for which the cancellation
2 is applicable.

3 D. If the number of transfer applications exceeds the capacity
4 of a receiving school district for the ensuing school year, as
5 determined by subsection A of Section 8-101.2 of this title, the
6 district shall select transfer students through a public lottery
7 selection process.

8 E. For students who are deaf or hearing impaired who wish to
9 transfer to a school district with a specialized deaf education
10 program, applications may be filed at any time during the school
11 year. Upon approval of the receiving school district, the student
12 may transfer to the receiving school district at any time during the
13 school year.

14 F. If a transfer application is denied pursuant to a receiving
15 school district's open transfer policy adopted pursuant to
16 subsection C of Section 8-101.2 of this title, the parent of the
17 student may appeal the decision to the State Board of Education
18 within ten (10) days of the denial. The parent shall submit to the
19 State Board of Education a notice to appeal on a form prescribed by
20 the Board. The appeal shall be considered by the Board at its next
21 regularly scheduled meeting.

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

1 Section 8-103.1. A. ~~A local school district board of education~~
2 ~~which receives a request for a transfer for a student who does not~~
3 ~~reside in the school district may refuse the transfer in accordance~~
4 ~~with the provisions of the open transfer policy adopted by the local~~
5 ~~school district board of education and subject to the provisions of~~
6 ~~subsection B of this section. Each local board of education shall~~
7 ~~adopt an open transfer policy for the school district which~~
8 ~~specifies its criteria and standards for approval of transfers of~~
9 ~~students who do not reside in the district. The policy shall~~
10 ~~include, but shall not be limited to, provisions relating to the~~
11 ~~availability of programs, staff, or space as criteria for approval~~
12 ~~or denial of transfers. A school district may include in the policy~~
13 ~~as the basis for denial of a transfer, the reasons outlined in~~
14 ~~Section 24-101.3 of this title.~~

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

21 Notwithstanding the provisions of the Education Open Transfer
22 Act, transfers of children with disabilities shall be granted as
23 authorized in Section 13-103 of this title.
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1 B. A ~~local~~ school district board of education shall adopt a
2 policy for the school district regarding the transfer of students
3 who are the dependent children of a member of the active uniformed
4 military services of the United States on full-time active duty
5 status and for whom Oklahoma is the home of record and students who
6 are the dependent children of a member of the military reserve on
7 active duty orders and for whom Oklahoma is the home of record. The
8 policy shall provide for the approval of the transfer if:

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

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

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

21 SECTION 4. AMENDATORY 70 O.S. 2011, Section 8-104, as
22 amended by Section 1, Chapter 85, O.S.L. 2013 (70 O.S. Supp. 2020,
23 Section 8-104), is amended to read as follows:
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1 Section 8-104. A. In addition to the transfer process provided
2 in Section 8-103 of this title, students may be transferred on an
3 emergency basis. A written application for an emergency transfer
4 designating the district to which the transfer is desired shall be
5 made by the parent and filed with the superintendent of the
6 receiving school district. On an adequate showing of emergency, the
7 superintendent of the receiving school district may make and order a
8 transfer, subject to approval by the ~~State Board of Education~~
9 receiving school district board of education. An emergency shall
10 include only:

- 11 1. The destruction or partial destruction of a school building;
- 12 2. The inability to offer the subject a pupil desires to
13 pursue, if the pupil becomes a legal resident of a school district
14 after February 1 of the school year immediately prior to the school
15 year for which the pupil is seeking the transfer;
- 16 3. A catastrophic medical problem of a student, which for
17 purposes of this section shall mean an acute or chronic serious
18 illness, disease, disorder or injury which has a permanently
19 detrimental effect on the body's system or renders the risk
20 unusually hazardous;
- 21 4. The total failure of transportation facilities;
- 22 5. The concurrence of both the sending and receiving school
23 districts;
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1 6. The unavailability of remote or on-site Internet-based
2 instruction by course title in the district of residence for a
3 student identified as in need of drop-out recovery or alternative
4 education services, provided such student was enrolled at any time
5 in a public school in this state during the previous three (3)
6 school years;

7 7. The unavailability of a specialized deaf education program
8 for a student who is deaf or hearing impaired; or

9 8. When a student has been the victim of harassment,
10 intimidation and bullying as defined in Section 24-100.3 of this
11 title, upon verification by the receiving school district that the
12 student has been the victim of harassment, intimidation or bullying
13 and that the sending school district was notified of the incident or
14 incidents prior to the filing of the application for transfer.

15 B. An emergency transfer previously made may be canceled, with
16 the concurrence of the board of the receiving district and the
17 parent.

18 SECTION 5. This act shall become effective November 1, 2021.

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