

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 783

By: Pugh and David of the
Senate

6 and

7 Boles of the House

8
9 COMMITTEE SUBSTITUTE

10 An Act relating to schools; amending 70 O.S. 2011,
11 Sections 8-101.2, as amended by Section 2, Chapter
12 363, O.S.L. 2015, 8-103, as amended by Section 1,
13 Chapter 184, O.S.L. 2013 and 8-103.1, as amended by
14 Section 2, Chapter 285, O.S.L. 2013 (70 O.S. Supp.
15 2020, Sections 8-101.2, 8-103 and 8-103.1), which
16 relate to the Education Open Transfer Act; granting
17 student transfer to another school district at any
18 time; providing exception if transfer exceeds certain
19 capacity; directing selection of transfer students if
20 certain capacity is exceeded; authorizing board of
21 education to determine capacity; allowing transfer
22 student to continue attendance; allowing denial of
23 continued transfer; permitting certain children
24 living in a 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; directing posting of policy on a
district website; requiring determination to be made
by the first day of certain months regarding the
number of students a district has capacity to accept;
directing publication on school district website;
directing submission of certain report to the State
Department of Education; prescribing appeal process
for transfer denials; providing for promulgation of
rules; directing boards of education to submit

1 certain student transfer information to the State
2 Department of Education; requiring certain annual
3 audit of approved and denied transfers; providing for
4 establishment of capacity if inaccurate reporting is
5 found; removing time limitations for transfer
6 applications; requiring certain report of students
7 granted transfers to be submitted on the first day of
8 certain months; removing provisions for cancellation
9 of transfers; requiring for selection of transfer
10 students in the order in which applications are
11 received; providing appeal for transfer application
12 denial; prohibiting denial of transfer unless certain
13 capacity is exceeded; directing admission to district
14 of choice for certain children regardless of
15 capacity; amending 70 O.S. 2011, Section 8-113, which
16 relates to transfers for children of school
17 employees; allowing transfer of child of school
18 employee without requiring district approval;
19 repealing 70 O.S. 2011, Section 8-104, as amended by
20 Section 1, Chapter 85, O.S.L. 2013 (70 O.S. Supp.
21 2020, Section 8-104), which relates to emergency
22 transfers; declaring an emergency; and providing for
23 conditional effect.

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

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

19 Section 8-101.2. A. ~~On~~ Except as provided in subsection B of
20 this section, on and after January 1, 2000 2022, the transfer of a
21 student from the district in which the student resides to another
22 school district furnishing instruction in the grade the student is
23 entitled to pursue shall be granted ~~if the transfer has the approval~~
24 ~~of the board of education of the receiving district~~ at any time in

1 the year unless the number of transfers exceeds the capacity of a
2 grade level for each school site within a school district. If the
3 capacity of a grade level for each school site within a school
4 district is insufficient to enroll all eligible students, the school
5 district shall select transfer students in the order in which the
6 district received the student transfer applications. The capacity
7 of a school district shall be determined by the school district
8 board of education based on its policy adopted pursuant to
9 subsection B of this section. A student may be granted a one-year
10 transfer and may continue to attend the school each school year to
11 which the student transferred with the approval of the receiving
12 district only. At the end of each school year, a school district
13 may deny continued transfer of the student for the reasons outlined
14 in paragraphs 1 and 2 of subsection B of this section. Any brother
15 or sister of a student granted a transfer and any who transfers may
16 attend the school district to which the student transferred unless
17 such transfer is denied for the reasons outlined in paragraphs 1 and
18 2 of subsection B of this section. Any child in the custody of the
19 Department of Human Services in foster care who is living in the
20 home of a student granted a transfer who transfers may attend the
21 school district to which the student transferred with the approval
22 of the receiving district only. Except for a child in the custody
23 of the Department of Human Services in foster care, no student shall
24 be permitted to transfer more than once in any school year a

1 transfer student shall not transfer more than two (2) times per
2 school year to one or more school districts in which the student
3 does not reside, provided that the student may always reenroll at
4 any time in his or her school district of residence.

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

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

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

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 or
7 more absences in one semester that are not excused for the reasons
8 provided for in subsection B of Section 10-105 of this title or due
9 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

24

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 a notice of appeal on
15 a form prescribed by the State Board of Education. The appeal shall
16 be considered by the State Board of Education at its next regularly
17 scheduled meeting, where the parent and a representative from the
18 receiving school district may address the Board. The State Board of
19 Education shall promulgate rules to establish the appeals process
20 authorized by this subsection.

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

1 history of absences as provided for in paragraph 2 of subsection B
2 of this section. The State Department of Education shall publish
3 the data on its website and make the data available to the Office of
4 Educational Quality and Accountability.

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

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

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

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

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

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

1 ~~school district and parents of the student of a cancellation of the~~
2 ~~transfer. Such notice shall be made by July 15 prior to the school~~
3 ~~year for which the cancellation is applicable.~~

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

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

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

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

1 Section 8-103.1. 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~~ shall not deny the transfer
4 ~~in accordance with the provisions of the open transfer policy~~
5 ~~adopted by the local school district board of education and subject~~
6 ~~to the provisions of subsection B of this section. Each local board~~
7 ~~of education shall adopt an open transfer policy for the school~~
8 ~~district which specifies its criteria and standards for approval of~~
9 ~~transfers of students who do not reside in the district. The policy~~
10 ~~shall include, but shall not be limited to, provisions relating to~~
11 ~~the availability of programs, staff, or space as criteria for~~
12 ~~approval or denial of transfers. A school district may include in~~
13 ~~the policy as the basis for denial of a transfer, the reasons~~
14 ~~outlined in Section 24-101.3 of this title~~ unless the number of
15 requested transfers exceeds the capacity of a grade level for each
16 school site within a school district. If the number of student
17 transfer applications exceeds the capacity of a receiving school
18 district, as determined by subsection A of Section 8-101.2 of this
19 title, the district shall select transfer students in the order in
20 which the district received the student transfer applications. The
21 capacity of a school district shall be determined by the school
22 district board of education based on its policy that complies with
23 subsection B of Section 8-101.2 of this title.
24

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

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

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

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

23 2. At least one parent can provide evidence that he or she will
24 be on active duty status or active duty orders, meaning the parent

1 will be temporarily transferred in compliance with official orders
2 to another location in support of combat, contingency operation or a
3 natural disaster requiring the use of orders for more than thirty
4 (30) consecutive days; and

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

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

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

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

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

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

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Session of the 58th Oklahoma Legislature and shall not become operative as law otherwise.

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