

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

and

Pugh of the Senate

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
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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

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
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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

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

Passed the House of Representatives the 24th day of February, 2021.

Presiding Officer of the House
of Representatives

Passed the Senate the ____ day of _____, 2021.

Presiding Officer of the Senate