

CHAPTER 10. SCHOOL ADMINISTRATION AND INSTRUCTIONAL SERVICES
SUBCHAPTER 1. GENERAL PROVISIONS

210:10-1-9. Transfers [REVOKED]

~~(a) **Regular transfers (70-8-101, 102, 103).**—Regular transfers may be approved by the County Superintendent if both the sending and receiving boards of education approve. Provided, however, if the grade such child is entitled to pursue is not offered in the district where such child resides, the transfer must be approved. A special education transfer must be approved with the consent of the receiving board. The following statutory time lines must be followed for the regular transfer process:~~

~~(1) Not later than May 15—Application by parents or guardian filed with county superintendent.~~

~~(2) Not later than May 25—County superintendent must notify the clerk of each affected board of education of the proposed transfers and a hearing date.~~

~~(3) On or before June 5—County superintendent conducts a hearing for either board of education to show cause as to whether or not the transfer should be granted.~~

~~(4) Not later than June 15—County superintendent must notify the clerk of each affected board of education as to whether or not the transfer was granted.~~

~~(5) Anytime before June 20—Either district or parent or guardian may appeal the action of the county superintendent to the district court, in writing.~~

~~(6) Not later than June 30—The decision must be rendered by the court and the decision is final.~~

~~(b) **Emergency transfers (70-8-104).**—Emergency transfers ordered by the county superintendent of schools, subject to approval of the State Board of Education, are based upon any one of the following: destruction of a building, inability to furnish the grade of study the pupil is entitled to pursue, inability to offer the subject a pupil desires to pursue, nonavailability of science, mathematics, or foreign language, total failure of transportation facilities previously had or contemplated, approval of the boards of education of the sending and receiving districts. Emergency transfers must be filed with the State Department of Education within 30 days of date of order by county superintendent.~~

~~(c) **Special education transfers.**~~

~~(1) **Regular special education transfer:** In order that a child, identified pursuant to the provisions of Title 70 O.S. 1981 § 13-101 may be transferred, a written application for such transfer, designating the district to which the transfer is desired, shall be made by either of his/her parents, or by his/her guardian, and such application shall be filed with the county superintendent of schools for transfers to school districts in the State of Oklahoma and with the State Board of Education for transfers to school districts in another state not later than May 15, preceding the school year for which the transfer is desired. The county superintendent of schools shall notify, no later than May 25, the clerk of the board of education of the district from which the transfer is proposed to be made and the clerk of the board of education of the district to which the transfer is proposed to be made. The notices of the application for transfer shall so state that the board of education, from which the transfer is proposed, will submit information as required by STATE BOARD OF EDUCATION POLICIES AND PROCEDURES MANUAL FOR SPECIAL EDUCATION IN OKLAHOMA for the delivery of Special Education Services for each identified child with a disability and that on or before June 5, the board of education of either district affected by the proposed transfer shall have an opportunity to show cause, if any, why the transfer should or should not be granted. This information will include (1) a current individual evaluation, (2) a categorical eligibility statement and (3) a current Individualized Education Program (IEP). The county superintendent of schools shall, not later than June 15, notify, in writing, the clerk of each board of education affected as to whether or not the transfer has been granted. Provided that at any time before June 20, the board of education of either district or the parent or guardian of the child may appeal, in writing, from the action of the county superintendent of schools to the district court of the county in which the child resides, and such appeal shall be heard, and a decision rendered thereon not later than June 30, and such decision shall be final.~~

~~(2) **Emergency special education transfer.**—A written application for an emergency special education transfer for a child, identified pursuant to the provisions of Title 70 O.S. 1981 § 13-101, designating the district to which the transfer is desired shall be made by either the parent or guardian,~~

~~and on an adequate showing of emergency based on information as required by STATE BOARD OF EDUCATION POLICIES AND PROCEDURES MANUAL FOR SPECIAL EDUCATION IN OKLAHOMA for the delivery of Special Education Services for each identified child with a disability. This information will include (1) a current individual evaluation, (2) a categorical eligibility statement and (3) a current Individualized Education Program (IEP) and shall be submitted to the county superintendent who may make and order a transfer, subject to approval by the State Board of Education.~~

~~(3) **Cancellation of regular or emergency special education transfer.** A transfer made may be canceled with the concurrence of the board of the receiving district, and a transfer granted. Also, on affidavit of parent or guardian, or of the school board of the transferring district, disclosing removal of residence from the transferring district, a transfer previously made may be canceled. Cancellation of special education transfers are subject to the rules and regulations of the State Board of Education and the procedural due process requirements outlined at 20 U.S.C. § 1415, of the Individuals With Disabilities Education Improvement Act.~~

~~(4) **Residence of child--attendance in transportation area.** Any child, identified pursuant to the provisions of Title 70 O.S. 1981 § 13-101, residing in a school district in the State of Oklahoma that does not offer the grade such child is entitled to pursue shall be entitled to attend the school of the school district in the transportation area in which such pupil resides that offers the grade he is entitled to pursue.~~

~~(d) **Kindergarten transfers (70-18-108).** It is the duty of every school district in this state to provide and offer kindergarten free of tuition for every child residing in such district who attains the age of five (5) years by the second day of September of the school year such kindergarten is offered. This duty may be satisfied by transferring kindergarten children to other school districts which accept them and provide kindergarten for such children with the district in which the child resides paying seventy five percent (75%) of the average daily attendance per capita cost of the receiving district. The average daily attendance of such child shall be credited to the sending district of the child. When tuition is paid to a public school district for an underage kindergarten student during a given year, said student can legally enroll as a first grade student the following year in the same district without paying tuition. (70-1-114)~~

~~(e) **Gifted and talented transfers (70-1210.307).** Beginning with the school year 1983-84, it shall be the duty of each school district to provide gifted child educational programs for all identified gifted children, as defined in Section 1210.301 of Title 70 of the Oklahoma Statutes, who reside in that school district. This duty may be satisfied by: The district transferring identified gifted and talented children to other school districts which provide the appropriate gifted child educational programs, provided, no transfer shall be made without the consent of the board of education of the receiving school district. The district in which the child resides shall provide transportation for the transferred student and pay an amount of tuition equal to the proportion of the operating costs of the program to the receiving district. Transfers authorized by this section shall be made under such rules and regulations as the State Board of Education may prescribe; or the district located wholly or in part in a county participating in any program established by that county superintendent of schools.~~

210:10-1-18. Transfers [NEW]

(a) All district transfers shall be governed by the Oklahoma Education Open Transfer Act, 70 O.S. § 8-101.1, et seq. Transfers made for the purpose of providing a free appropriate public education (FAPE) to special education students shall be governed by 70 O.S. § 18-110 and 70 O.S. § 13-101, et seq. Transfers made for the purpose of providing gifted child educational programs shall be governed by 70 O.S. § 1210.307.

(b) The following definitions shall apply in State Department of Education rules relating to transfers:

1) Open Transfer- The transfer of a student from the district in which the student resides to another school district furnishing the grade the student is entitled to pursue. An open transfer may be requested and approved only during the statutory timeframe.

2) Emergency Transfer- the transfer of a student from the district in which the student resides to another school district furnishing the grade the student is entitled to pursue which, for specific

reasons, must be requested and approved outside of the statutory timeframe required for open transfers.

3) IEP Service Agreement- An agreement between school districts to provide special education and related services to an eligible student with a disability solely for the purpose of providing the student a free appropriate public education (FAPE). An IEP Service Agreement is the resourcing of special education and related services to a school district that provides special education and related services to an eligible student with a disability on behalf of the resident district.

4) “Special Education and Related Services”- All services required to be provided pursuant to the Individuals with Disabilities Education Act (IDEA) U.S.C. §§ 1400, *et seq.*

5) Receiving School District- The school district in which the student is seeking to be transferred.

6) Resident School District- The school district in which the parent, guardian, or person having custody of the student resides, as defined in 70 O.S. § 1-113(A)(1).

7) Parent- For purposes of the Education Open Transfer Act, this includes the parent, guardian, or person having custody of the student, as defined in 70 O.S. § 1-113(A)(1). For purposes of IDEA, the definition of parent set forth in 34 C.F.R. § 300.30 shall supersede this rule.

(c) Open Transfers. Transfers to another district may be approved by the board of education of the receiving school district. If the grade a student is entitled to pursue is not offered in the district where the student resides, the transfer shall be automatically approved by the receiving school district. No student may be granted more than one (1) open transfer per school year, but may qualify for additional transfers pursuant to emergency provisions of the Education Open Transfers Act or a legal change in residence.

1) The parent of the student must complete an application form specified by the State Board of Education. The application must be submitted to the receiving school district by April 1 of the school year preceding the school year for which the transfer is being requested.

2) The receiving school district shall notify the resident school district that an application for transfer has been filed.

3) The board of education of the receiving school district shall approve or deny the application no later than June 1 of the same year and notify the parents of the student in writing.

4) The parents of the student shall confirm enrollment in writing with the receiving school district by July 1 of the same year. Failure of the parents to notify may result in the loss of the student’s right to enroll in the school district for that year only. If a parent fails to notify the receiving school district that a student will be enrolling, and the receiving school district chooses to cancel the transfer, the receiving school district shall provide a written notice of the cancellation to the parent and the resident district immediately upon cancellation.

5) Local school districts shall adopt a policy governing the transfer of students who do not reside in the school district. A receiving school board of education may refuse the transfer request of a student who does not reside in the district in accordance with the provisions of the adopted policy, but may not accept or deny a request based on statutorily prohibited factors as set forth in 70 O.S. § 8-103.1.

6) Approval of the resident district is not required for an open transfer.

7) Transfer requests submitted outside of the statutory time frame will not be considered timely and must meet the statutory criteria of an emergency transfer to be approved.

(d) Emergency Transfers. In addition to the open transfer process, students may be transferred on an emergency basis, as prescribed by statute.

1) The parents of the student may make an application for an emergency transfer. The application for emergency transfer must be filed with the superintendent of the receiving school district.

2) The superintendent of the receiving school district or his/her designee responsible for approving transfers may approve the emergency transfer only upon an adequate showing of emergency, and subject to approval of the State Board of Education.

3) Only the superintendent of the receiving school district or his/her designee responsible for approving transfers may submit an application for emergency transfer to the State Board of Education for approval. The superintendent or designee of the receiving school district shall collect documentation from the student desiring to be transferred, and may be required to submit such

documentation to the State Board of Education through the State Department of Education's student information system. In submitting an application for an emergency transfer to the State Board of Education, the superintendent or designee verifies that he/she has personally reviewed and approved the application and has a good faith belief that the student qualifies for an emergency transfer.

A) If the superintendent has appointed a designee to review and approve emergency transfers, the school district shall notify the State Department of Education of the appointment.

B) Resident district approval of an emergency transfer is only required if the emergency transfer is being conducted pursuant to 70 O.S. § 8-104(5). Emergency transfer approval requests submitted to the State Board of Education shall be reviewed by the resident district within ten (10) business days of submission. Failure of the resident district to take action to approve or deny the emergency transfer request within ten (10) business days shall result in an automatic approval.

4) Emergency transfers shall be approved only in the following circumstances:

A) The destruction or partial destruction of a school building;

B) Inability of the resident district to offer the subject a student desires to pursue, if the student becomes a legal resident of the school district after February 1 of the school year immediately prior to the school year for which the student is seeking to transfer.

C) A catastrophic medical problem of a student, which for purposes of this section shall mean an acute or chronic serious illness, disease, disorder or injury which has a permanently detrimental effect on the body's system or renders the risk unusually hazardous;

D) Total failure of transportation facilities;

E) With the concurrence of both the sending and receiving school districts;

F) The unavailability of remote or on-site Internet-based instruction by course title in the district of residence for a student identified as a result of the district's intake and screening procedures as in need of drop-out recovery or alternative education services, provided such student was enrolled at any time in a public school in this state during the previous three (3) school years; or

G) The unavailability of a specialized deaf education program for a student who is deaf or hearing impaired. This transfer may be processed and handled as an IEP Service Agreement. Such determination shall be made in coordination with the parents of the requesting student.

5) Obtaining an emergency transfer by submitting an application that includes false or inaccurate information, or obtaining an emergency transfer on behalf of a student who remains in the resident school district may result in a reduction of a district's funding allocation based on Average Daily Attendance (ADA) and/or Average Daily Membership (ADM).

6) If a student to whom a transfer has been granted fails to report and/or enroll in the receiving school district, the superintendent of the receiving school district shall notify the State Board of Education and the resident school district within ten (10) business days.

7) Emergency transfers may be cancelled with the concurrence of the board of the receiving school district and the parents of the student. A school district must notify the parent in writing of the date and time for which the transfer will be considered for cancellation by the school board.

210:10-1-19: Special Education and Gifted Education Transfers [NEW]

(a) It shall be the duty of each school district to provide special education and related services for all children with disabilities who reside in that school district in accordance with the Individuals with Disabilities Education Act (IDEA), U.S.C. §§ 1400, et seq. A school district/LEA may fulfill this duty, to provide FAPE, by one of the following:

1) The district directly providing special education for such children;

2) The district joining a cooperative program with another district or districts to provide special education;

3) The district joining in a written agreement with a private or public institution, licensed residential childcare and treatment facility or day treatment facility within the district to provide special education and related services to students with disabilities;

4) The district entering into a written agreement with another school district whereby the resident district agrees that the receiving school district will provide FAPE to an eligible student with a disability on behalf of the resident district. This agreement is an IEP Service Agreement, entered into solely for the purpose of providing special education and related services (FAPE) to an eligible student with a disability. In this case, all funds remain with the resident school district, which agrees to pay tuition to the receiving district. Further, the average daily membership (ADM) of the student is credited to the resident district. The resident district has the responsibility to provide FAPE, special education and related services, including transportation for students serviced pursuant to this provision. Representatives of the resident district are responsible for the development and implementation of the IEP and must be provided the opportunity to participate in all IEP meetings. In the event of a due process complaint, the resident district retains responsibility.

A) IEP Service Agreements entered into pursuant to this section for three (3) consecutive years to the same school district shall lead to automatic renewal of the agreement each year. In these cases, the resident district shall continue to pay tuition as provided by law. Automatic renewal occurs only in cases where districts have entered into IEP Service Agreements.

B) IEP Service Agreements are granted by approval of both the resident and receiving school districts. Such agreements shall be memorialized in writing and documented in State Department of Education's student information system. This agreement should not be documented as a transfer pursuant to the Education Open Transfer Act.

(b) All transfers involving a student with disabilities are transfers and shall be conducted in accordance with the Education Open Transfer Act, 70 O.S. § 13-101, et seq., and State Department of Education rules. Transfers granted to students who are incidentally special needs students shall be governed by OAC 210:10-1-18 and governing state law. Consideration shall be given to the original purpose of the transfer.

1) In the event a student with disabilities requests a transfer for any reason other than to receive FAPE, the following provisions shall apply:

A) The receiving school district shall establish availability of the appropriate program, staff, and services prior to the approval of the transfer; and

B) The receiving school district shall consult the resident school district and the parents of the student to determine how FAPE will be provided to the student. Services comparable to those described in the IEP shall be provided until the receiving school district adopts the child's IEP from the resident district or develops, adopts and implements a new IEP that meets IDEA requirements.

2) Upon approval of the transfer pursuant to the Education Open Transfer Act, the receiving district shall claim the child in the average daily attendance for membership (ADM) for state and federal funding purposes and shall assume responsibility for education of the child. For state funding purposes, the State Department of Education shall include the appropriate grade level weight and all category weights to which the pupil is assigned to calculate State Aid pursuant to 70 O.S. § 18-200.1, et seq.

(c) In the event of an IEP Service Agreement, it is the responsibility of the resident school district to provide transportation to a child who has been granted a transfer for the purpose of providing a free appropriate public education (FAPE). In the event of an open transfer, the receiving school district is responsible for providing transportation if necessary to provide FAPE to the student with a disability.

1) The need for transportation must be determined on an individualized basis by the IEP team. If the IEP team determines that transportation is a related service the child needs in order to access

FAPE, then the service will be provided regardless of the distance the child resides from the school. The need for, frequency, and duration of these services must not be determined by the category of disability, the availability of services, or the distance the child lives from the school where the special education program is to be delivered. If the child requires transportation to receive, benefit from, or obtain access to a special education program, the district shall provide it at no cost to the student. When possible, children on an IEP should be transported with nondisabled peers.

A) Under federal regulations, transportation and such developmental, corrective, and other supportive services may be required for a child with a disability to benefit from special education. Transportation includes travel to and from school and between schools, travel in and around school buildings, and specialized equipment required to provide transportation to a child with disability, such as special or adapted buses, lifts, and ramps.

B) The provision of transportation for preschool children with disabilities must be considered on an individual basis by the IEP team. The team must consider transporting a preschool aged child to the site where special education and related services are provided, if that site is different from the site at which the child receives other preschool services.

C) The school district may provide transportation services directly or contract with parents or some other person to furnish transportation. The miles driven and cost per mile to be paid by the school district should be specified in the IEP. Based on a mutual agreement between two school districts, a school district offering special education classes may extend its transportation services to include the transportation of children qualifying for special education in an adjacent district that does not offer special education classes.

D) Children with disabilities are entitled to the same length of school day offered to all children as established in Oklahoma state law. Transportation, scheduling, or administrative conveniences are not acceptable reasons for students with disabilities to have shortened school days. Additionally, academic schedules may not be lengthened or shortened to accommodate transportation.

2) Independent school districts are responsible for providing FAPE to children aged three (3) through twenty-one (21) years old. Elementary school districts are responsible for providing FAPE to children aged three (3) through the highest-grade level of the school. A school district's responsibility to provide transportation to children with disabilities extends to the grade offered by that school district.

A) If a child transfers to an independent school district upon completion of the highest grade offered by an elementary school district, and the student lives within the independent school's transportation area, that independent district must provide transportation for that child.

B) Other independent school districts may also enroll any transferred high school child, but they are not required to provide this transportation service outside their transportation area.

C) In the event that transportation is included as a related service in the IEP and the IEP is reviewed and adopted by the receiving independent school district, the receiving school district will be required to provide transportation regardless of the transportation area where the child resides.

(d) It shall be the duty of each school district to provide gifted child educational programs and to serve those children, as defined in 70 O.S. § 1210. 307. This duty may be satisfied by:

1) The district directly providing gifted child educational programs for such children;

2) The district joining in a cooperative program with another district or districts to provide gifted child educational programs for such children;

3) The district joining in a cooperative program with a private or public institution within such district; or

4) The district entering into a written agreement with another school district whereby the resident district agrees that the receiving school district will provide appropriate gifted child educational programs.

A) No transfer shall be made without the consent of the board of education of the receiving school district;

B) The resident school district shall provide transportation for the transferred student; and

C) The resident school district shall pay an amount of tuition equal to the proportion of the operating costs of the program to the receiving district.