

By: Paxton, et al.

S.B. No. 418

A BILL TO BE ENTITLED

AN ACT

relating to the transfer of students between public schools.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 25.001(h), Education Code, is amended to read as follows:

(h) In addition to the penalty provided by Section 37.10, Penal Code, a person who knowingly falsifies information on a form required for enrollment of a student in a school district is liable to the district if the student is not eligible for enrollment in the district but is enrolled on the basis of the false information. The person is liable, for the period during which the ineligible student is enrolled, for ~~[the greater of:~~

~~[(1) the maximum tuition fee the district may charge under Section 25.038; or~~

~~[(2)]~~ the amount the district has budgeted for each student as maintenance and operating expenses.

SECTION 2. Section 25.035, Education Code, is amended to read as follows:

Sec. 25.035. TRANSFERS BETWEEN DISTRICTS OR COUNTIES. The boards of trustees of two or more ~~[adjoining]~~ school districts or the boards of county school trustees of two or more ~~[adjoining]~~ counties may, ~~[by agreement and]~~ in accordance with Sections 25.032, 25.033, and 25.034, arrange for the transfer and assignment of any student from the jurisdiction of one board to that of

1 another. [~~In the case of the transfer and assignment of a student~~
2 ~~under this section, the participating governing boards shall also~~
3 ~~agree to the transfer of school funds or other payments~~
4 ~~proportionate to the transfer of attendance.~~]

5 SECTION 3. Section 25.036, Education Code, is amended to
6 read as follows:

7 Sec. 25.036. TRANSFER OF STUDENT. (a) Any child, other
8 than a high school graduate, who is younger than 21 years of age and
9 eligible for enrollment on September 1 of any school year may apply
10 to transfer [annually] from the child's school district [of
11 residence] to any public school [another district] in this state
12 that offers the appropriate grade level and has capacity, as
13 determined under Section 25.046 [if both the receiving district and
14 the applicant parent or guardian or person having lawful control of
15 the child jointly approve and timely agree in writing to the
16 transfer].

17 (b) Before the beginning of each school year, a school
18 district shall:

19 (1) require a transfer applicant under Subsection (a)
20 to complete and submit the district's transfer application form by
21 a reasonable deadline established by the district; and

22 (2) subject to Subsection (g), admit each eligible
23 transfer applicant until enrollment at the campus reaches capacity,
24 as determined under Section 25.046.

25 (c) If a school district receives more eligible transfer
26 applications for a district campus or a specific grade level at a
27 district campus than the district has capacity for at that campus or

1 in that grade level, as determined under Section 25.046, the
2 district shall fill the available positions by lottery. A school
3 district shall offer to a student who the district does not enroll
4 due to lack of capacity an available position, if any, in the
5 appropriate grade level at another district campus.

6 (d) A school district that must fill positions by lottery
7 under Subsection (c) shall, in developing the lottery system,
8 ensure priority is given to applicants in the following order:

9 (1) students residing in the receiving district;

10 (2) students enrolled as transfer students at another
11 campus in the receiving district;

12 (3) students who are dependents of an employee of the
13 receiving district;

14 (4) students receiving special education services
15 under Subchapter A, Chapter 29;

16 (5) students who are dependents of military personnel;

17 (6) students who are dependents of law enforcement
18 personnel;

19 (7) students in foster care;

20 (8) students who are the subject of court-ordered
21 modification of an order establishing conservatorship or
22 possession and access; and

23 (9) students who are siblings of a student who is
24 enrolled in the receiving district at the time the student seeks to
25 transfer.

26 (e) A school district that receives more eligible transfer
27 applications for a district campus or a specific grade level at a

1 district campus than the district may enroll at the capacity
2 determined under Section 25.046 for that campus or grade level
3 shall establish and maintain a waitlist for transfer applicants who
4 are not admitted.

5 (f) If a position at a school district campus with a
6 waitlist under Subsection (e) becomes available after the start of
7 the school year, the district shall first admit transfer applicants
8 according to that waitlist and then admit any additional transfer
9 applicants in the order in which those additional transfer
10 applications are received.

11 (g) A school district may deny approval of a transfer under
12 this section only if:

13 (1) the district or a school in the district to which a
14 student seeks to transfer is at full student capacity or has more
15 requests for transfers than available positions;

16 (2) at the time a student seeks to transfer:

17 (A) the student is:

18 (i) suspended or expelled by the district
19 in which the student is enrolled; or

20 (ii) placed in a disciplinary alternative
21 education program or a juvenile justice alternative education
22 program; or

23 (B) disciplinary proceedings are pending against
24 the student in the district in which the student is enrolled for
25 conduct for which the student:

26 (i) may be placed in out-of-school
27 suspension in accordance with the district's student code of

1 conduct;

2 (ii) is required or permitted to be removed
3 from class and placed in a disciplinary alternative education
4 program under Section 37.006; or

5 (iii) is required or permitted to be
6 expelled under Section 37.007; or

7 (3) approving the transfer would supersede a
8 court-ordered desegregation plan.

9 (h) A school district that denies approval of a transfer
10 under this section shall inform the applicant in writing of the
11 reason for denying approval of the applicant's transfer.

12 (i) A student who transfers to another school district under
13 this section may not be charged tuition. The student is included in
14 the average daily attendance of the district to which the student
15 transfers, beginning on the date the student begins attending
16 classes at that district.

17 (j) A receiving school district may, but is not required to,
18 provide transportation to a student who transfers to the receiving
19 district under this section.

20 (k) A receiving school district may revoke, at any time
21 during the school year, the approval of the student's transfer if
22 the student:

23 (1) fails to comply with a condition specified in the
24 agreement that is:

25 (A) a condition specified in the student code of
26 conduct under Section 37.001(a)(2);

27 (B) a circumstance specified in the student code

1 of conduct under Section 37.001(a)(3) that may result in
2 out-of-school suspension;

3 (C) conduct for which a student is required or
4 permitted to be removed from class and placed in a disciplinary
5 alternative education program under Section 37.006; or

6 (D) conduct for which a student is required or
7 permitted to be expelled from school under Section 37.007; or

8 (2) fails to maintain a specified school attendance
9 rate.

10 (1) A student who transfers to another school district or
11 district campus as provided by this section may remain at the
12 receiving campus until that student completes the highest grade
13 level offered at the campus.

14 (m) Once a student who transfers to another school district
15 or district campus as provided by this section completes the
16 highest grade level offered at the receiving campus, the student
17 must reapply to continue attending school in the receiving
18 district. The district must prioritize admitting the student as
19 provided by Subsection (d).

20 (n) A school district may not deny admission to a student
21 who is currently enrolled in the district, including a student
22 enrolled as a transfer student at another campus in the district,
23 for the purpose of accepting a transfer applicant under this
24 section.

25 (o) A school district may not take any adverse action
26 against a student enrolled as a transfer student in the district
27 based on the fact that the district charged a tuition fee for the

1 student to attend school in the district for a previous school year
2 under former Section 25.038.

3 (p) The commissioner shall adopt rules necessary to
4 implement this section, including rules establishing:

5 (1) an admissions lottery, as described by Subsection
6 (c), and a waitlist as described by Subsection (e); and

7 (2) procedures to ensure this section complies with
8 state and federal law regarding confidentiality of student medical
9 or educational information, including the Health Insurance
10 Portability and Accountability Act of 1996 (42 U.S.C. Section 1320d
11 et seq.) and the Family Educational Rights and Privacy Act of 1974
12 (20 U.S.C. Section 1232g). [A transfer agreement under this section
13 shall be filed and preserved as a receiving district record for
14 audit purposes of the agency.]

15 SECTION 4. Subchapter B, Chapter 25, Education Code, is
16 amended by adding Sections 25.046 and 25.047 to read as follows:

17 Sec. 25.046. TRANSFER CAPACITY; DISTRICT POLICY. (a)
18 Except as provided by Subsection (c), each year on the first day of
19 January, April, July, and October, the board of trustees of a school
20 district shall determine the capacity of each district campus and
21 the capacity of each grade level offered at each campus. For
22 purposes of this section, the capacity of a district campus or a
23 grade level at that campus is the total number of students that may
24 be admitted at the campus or at that grade level, as applicable,
25 less the students who are currently enrolled at that campus or at
26 that grade level, as applicable. Based on the board's
27 determination of campus or grade level capacity and current student

1 enrollment, the district shall identify the number of available
2 positions at each campus and for each grade level. In determining
3 campus and grade level capacity, the district shall consult the
4 most recent district facility plan, including:

5 (1) a facility plan created as part of a district bond
6 proposal; or

7 (2) a long-range facility plan created as part of a
8 capital improvement project for which construction services are
9 procured under Chapter 2269, Government Code, in accordance with
10 Section 44.031(a)(5) of this code.

11 (b) The district shall post for each campus in the district
12 on the district's Internet website, if the district maintains a
13 website, the most recent determination of campus and grade level
14 capacity. If the district does not maintain a website, the district
15 shall make the information required under this subsection available
16 to the public at an administrative office of the district.

17 (c) A school district is not required to determine the
18 capacity of a new instructional facility, as defined by Section
19 48.152, in the first school year in which students attend the new
20 instructional facility.

21 (d) The board of trustees of a school district shall adopt a
22 written policy that meets the requirements adopted by the
23 commissioner under Subsection (f) for the admission of a transfer
24 applicant under this subchapter. The board shall make the policy
25 available to the public in the same manner the district makes
26 available a district's determination of campus and grade level
27 capacity under Subsection (b). The policy must include:

1 (1) adoption of a transfer application form;

2 (2) the provision of the address of the district
3 administrative office where a person may access the district's
4 determination of campus and grade level capacity, if the district
5 does not maintain an Internet website; and

6 (3) the provision of information regarding available
7 options for transportation provided by the district or in the
8 community.

9 (e) The agency shall post on the agency's Internet website
10 information regarding each school district's policy adopted under
11 this section and each district's campus or grade level capacity
12 determinations under Subsection (a).

13 (f) The commissioner shall adopt rules and prescribe
14 procedures necessary to implement this section, including by
15 developing required policies and forms for use by a school district
16 in complying with Subsection (d). In adopting rules to implement
17 this section, the commissioner shall consider feedback from
18 districts and shall prioritize:

19 (1) flexibility of access for students;

20 (2) encouraging districts to accommodate student
21 transfers; and

22 (3) preventing districts from discouraging student
23 transfers.

24 Sec. 25.047. REPORTING AND AUDIT REQUIREMENTS. (a)
25 Subject to Subsection (b), each school district shall annually
26 submit not later than the last Friday in October of each school year
27 a report to the agency regarding the transfer of students to and

1 from the district during the previous school year. The report must
2 include:

3 (1) for each district campus, the quarterly campus and
4 grade level capacity determinations under Section 25.046;

5 (2) for each campus, the number of transfer
6 applications for transfers to that campus the district received,
7 the number of applications that were granted, and the number of
8 applications that were denied, including the reason for the denial,
9 during the preceding school year;

10 (3) the information described by Subdivisions (1) and
11 (2) aggregated for all campuses in the district; and

12 (4) for the purposes of demographic analysis, any
13 information required by the commissioner as necessary to identify
14 each student admitted to or denied admission to a campus in the
15 district who is or was previously enrolled in a public school in
16 this state.

17 (b) A school district with only one campus serving each
18 grade level is exempt from Subsection (a)(3).

19 (c) Not later than March 15 of each year, the agency shall
20 post on the agency's Internet website a report on the transfer and
21 assignment of students. The report must include:

22 (1) a summary of school district admission practices
23 relating to student transfer admissions;

24 (2) for the state, the aggregated data reported under
25 Subsection (a);

26 (3) for each district, the aggregated data reported
27 under Subsection (a);

1 (4) a demographic analysis of the students
2 transferring districts;

3 (5) a demographic analysis of the students
4 transferring between campuses within the same district;

5 (6) for each district, the number of transfer
6 applicants seeking admission or withdrawal, showing the potential
7 net change in enrollment; and

8 (7) for each district, the actual number of students
9 who transferred into or out of the district, showing the actual net
10 change in enrollment.

11 (d) Every sixth year, the agency shall publish a study of
12 statewide transfer trends that includes:

13 (1) the total number of students transferring
14 districts and of students transferring between campuses within the
15 same district;

16 (2) using data from the previous six school years, an
17 analysis at the state and district level of changes in:

18 (A) the number of school districts and campuses
19 admitting transfer students;

20 (B) the number of students transferring
21 districts; and

22 (C) the number of students transferring between
23 campuses within the same district;

24 (3) a demographic analysis of the students
25 transferring districts and of the students transferring between
26 campuses within the same district;

27 (4) using data from the previous six school years, an

1 analysis of the patterns of student movement between districts and
2 campuses, including a description of any characteristics that are
3 correlated with students transferring to or away from districts or
4 schools;

5 (5) a summary of district practices regarding
6 transportation of transfer students;

7 (6) an explanation of the reasons students choose to
8 transfer districts or campuses and the barriers faced by students
9 in transferring districts or campuses;

10 (7) an explanation of the challenges restricting
11 school districts from admitting more transfer students;

12 (8) performance outcomes for inter- and
13 intra-district transfer students, including changes in student
14 proficiency after the date of transfer; and

15 (9) the effects of inter-district transfers on student
16 performance outcomes and district program offerings for both
17 sending and receiving districts.

18 (e) Each year, the agency shall randomly select 10 percent
19 of the school districts in the state and conduct an audit of each
20 district's capacity determination under Section 25.046 and of each
21 district's approved and denied transfer applications. If the
22 agency finds inaccurate reporting of capacity levels by a school
23 district, the agency shall set the capacity for the school
24 district. Districts audited during the previous two school years
25 may not be selected for audit in a school year.

26 (f) The commissioner shall adopt rules necessary to
27 implement this section.

1 SECTION 5. The following provisions of the Education Code
2 are repealed:

- 3 (1) Section 25.038;
4 (2) Sections 25.039(b) and (c); and
5 (3) Section 48.154.

6 SECTION 6. The changes in law made by this Act may not be
7 interpreted to affect the authority or existing rules of the
8 University Interscholastic League regarding the participation of a
9 student in an interscholastic competition.

10 SECTION 7. Notwithstanding any other provision of this Act,
11 a student accepted for transfer to a school district for the
12 2023-2024 school year under Section 25.035 or 25.036, Education
13 Code, on a date occurring before the effective date of this Act is
14 entitled to transfer to the district for that school year in the
15 same manner as any other student accepted for transfer to the
16 district for that school year on a date occurring on or after the
17 effective date of this Act.

18 SECTION 8. Not later than September 1, 2029, the Texas
19 Education Agency shall publish the first study of statewide
20 transfer trends required under Section 25.047, Education Code, as
21 added by this Act.

22 SECTION 9. This Act applies beginning with the 2023-2024
23 school year.

24 SECTION 10. This Act takes effect immediately if it
25 receives a vote of two-thirds of all the members elected to each
26 house, as provided by Section 39, Article III, Texas Constitution.
27 If this Act does not receive the vote necessary for immediate

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1 effect, this Act takes effect September 1, 2023.