

**TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 10. SCHOOL ADMINISTRATION AND INSTRUCTIONAL SERVICES**

SUBCHAPTER 1. GENERAL PROVISIONS

210:10-1-18.1. Right to Appeal Transfer Application Upon Denial [NEW]

(a) **Definitions.** The following words and terms, when used in this subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

(1) “Student” means a student who is requesting transfer from the district in which the student resides to another school district furnishing instruction in the grade the student is entitled to pursue.

(2) “Parent” means the parent, legal guardian, foster parent, or person having custody of the student seeking a transfer, whose residence is used to determine the residence of the student in accordance with the provisions of 70 O.S. § 1-113(A)(1). For purposes of the Individuals with Disabilities Act at 20 U.S.C. § 1400 et seq. (IDEA), the definition of Parent set forth in 34 C.F.R. § 300.30 shall supersede the definition of Parent set forth in this subsection.

(3) “Receiving School District” shall mean a school district to which a Student is seeking to be transferred.

(4) “Receiving Board of Education” shall mean the board of education for the Receiving School District.

(b) **Appeal to Receiving Board of Education.**

(1) If a transfer request made pursuant to 70 O.S. § 8-101.2 is denied by the Receiving School District, the Parent of the Student may appeal the denial to the Receiving Board of Education.

(2) The Receiving School District shall provide notification of denial in writing to the Parent of the Student by either hand-delivery, by U.S. Mail or electronic mail.

(3) The notification shall include:

(A) An explanation, including but not limited to any citation to the statute, regulation, or school district policy under which the denial was made;

(B) A copy of the policy adopted by the Receiving Board of Education for determining the number of transfer students the school district has capacity to accept;

(C) A copy of this administrative rule; and

(D) The date upon which the appeal will be due.

(4) A Parent of a Student shall have ten days to appeal a Receiving School District’s denial of a transfer request. If notification of denial is hand-delivered, the appeal period shall begin the day after the notification is delivered. If notification of denial is sent by U.S. Mail, the appeal period shall begin three days after the notification is mailed. If notification of denial is sent by electronic mail, the appeal period shall begin the day after the notification is sent. The Receiving Board of Education shall accept an otherwise untimely appeal if a Parent of a Student can establish that they did not receive actual notice of the notification denying the transfer request, and the appeal was submitted within ten days after the Parent of the Student received actual notice.

(c) Submission of Appeal to Receiving Board of Education. An appeal to a Receiving Board of Education shall be submitted to the office of the superintendent of the Receiving School District. The appeal shall include the following:

- (1) The name, address and telephone number of the Parent of the Student and the Student for whom the appeal is being taken;
- (2) The date the Receiving School District gave notice denying the transfer request;
- (3) The basis for appealing the decision of the Receiving School District; and
- (4) The name, address and telephone number of the appellant's legal representative, if applicable.

Any documentary evidence should be attached to the petition for appeal.

(d) Timeframe for Hearing of Appeal to Receiving Board of Education. The Receiving Board of Education shall consider the appeal at its next regularly scheduled board meeting.

(e) Appeal to State Board of Education.

(1) If the Receiving Board of Education denies an appeal of a request to transfer made pursuant to 70 O.S. § 8-101.2, the Parent of the Student may appeal the denial to the State Board of Education.

(2) The Receiving Board of Education shall provide notification of denial in writing to the Parent of the Student by either hand-delivery, by U.S. Mail or by electronic mail.

(3) The notification shall include:

(A) An explanation, including but not limited to any citation to the statute, regulation, or school district policy under which the denial was made;

(B) A copy of the policy adopted by the Receiving Board of Education for determining the number of transfer students the school district has capacity to accept;

(C) A copy of the State Board of Education's prescribed form for an appeal; and

(D) A copy of this administrative rule.

(4) A Parent of a Student shall have ten days to appeal a Receiving Board of Education's denial of a transfer request. If notification of denial is hand-delivered, the appeal period shall begin the day after the notification is delivered. If notification of denial is sent by U.S. Mail, the appeal period shall begin three days after the notification is mailed. If notification of denial is sent by electronic mail, the appeal period shall begin the day after the notification is sent. The State Board of Education shall accept an otherwise untimely appeal if a Parent of a Student can establish that they did not receive actual notice of the notification denying the transfer request, and the appeal was submitted within ten days after the Parent of the Student received actual notice.

(f) Submission of an Appeal to the State Board. An appeal to the State Board of Education shall be submitted to the Executive Secretary of the Board. The Parent of a Student appealing a transfer denial from a Receiving Board of Education shall use the form prescribed by the State Board of Education. At the time of submitting an appeal to the State Board, the appellant must concurrently submit a copy of the appeal to the superintendent of the Receiving School District that denied the transfer request. The superintendent shall immediately transmit the appeal to the Receiving Board of Education.

(g) Form for Appeal. At a minimum, the appeal form prescribed by the State Board of Education shall include the following information:

- (1) The name, address, and telephone number of the Parent of the Student and the Student for whom the appeal is being taken;

- (2) The name of the Receiving Board of Education against whom the appeal is filed;
- (3) The date on which the Parent of the Student received notification that the Receiving Board of Education denied the transfer request;
- (4) The basis for appealing the decision of Receiving School Board and statement that any documentary evidence should be attached to the petition for appeal;
- (5) The name, address and telephone number of the appellant's representative, if applicable;
- (6) Notice that the appeal will be considered by the State Board at the next regularly scheduled meeting, at which the appellant and school district may appear; and
- (7) A signature of the appellant, or authorized representative.

(h) **Response.** Upon receipt of notice of an appeal, but not later than five (5) days prior to the date at which the appeal is scheduled to be considered by the State Board of Education, the Receiving Board of Education may submit a written response to the appeal. Responses should not exceed five (5) pages. If not submitted by the appealing Parent, the Receiving Board of Education shall provide a copy of the policy adopted to determine the number of transfer students the school district has the capacity to accept in each grade level for each school site within a school district.

(i) **Timeframe for Hearing Appeal to State Board.** Appeals shall be considered by the State Board of Education at its next regularly scheduled meeting. No later than ten (10) days from the date of the consideration of the appeal request, the State Board of Education will provide the appellant and the denying school district with notice of the time and place of the State Board meeting at which the appeal will be considered. The appellant and school district will have an opportunity to appear in person or by authorized representative or by attorney to address the State Board at the meeting.

(j) **Consideration of Appeal to State Board of Education.** If a Receiving Board of Education has not adopted a policy to determine the number of transfer students the school district has the capacity to accept in each grade level for each school site within a school district, there shall be a presumption that the receiving school district has capacity to accept the student requesting transfer. If no policy has been adopted, the receiving school district board of education shall have the burden to present evidence demonstrating that capacity does not exist. If a Receiving Board of Education has not adopted a capacity policy, it may not reject a transfer request based on:

- (1) The acts and reasons outlined in Section 24-101.3; or
- (2) A history of absences.