

Part 2 District of Residency

53A-2-201 Child's school district of residence -- Determination -- Responsibility for providing educational services.

- (1) The school district of residence of a minor child whose custodial parent or legal guardian resides within Utah is:
 - (a) the school district in which the custodial parent or legal guardian resides; or
 - (b) the school district in which the child resides:
 - (i) while in the custody or under the supervision of a Utah state agency;
 - (ii) while under the supervision of a private or public agency which is in compliance with Section 62A-4a-606 and is authorized to provide child placement services by the state;
 - (iii) while living with a responsible adult resident of the district, if a determination has been made in accordance with rules of the district board of education that:
 - (A) the child's physical, mental, moral, or emotional health would best be served by considering the child to be a resident for school purposes;
 - (B) exigent circumstances exist which would not permit the case to be appropriately addressed under Section 53A-2-207; and
 - (C) considering the child to be a resident of the district under this subsection would not violate any other law or rule of the State Board of Education; or
 - (iv) if the child is married or has been determined to be an emancipated minor by a court of law or by a state administrative agency authorized to make that determination.
- (2) A minor child whose custodial parent or legal guardian does not reside in the state is considered to be a resident of the district in which the child lives, unless that designation violates any other law or rule of the State Board of Education, if:
 - (a) the child is married or an emancipated minor under Subsection (1)(b)(iv); or
 - (b) the child lives with a resident of the district who is a responsible adult and whom the district agrees to designate as the child's legal guardian under Section 53A-2-202; or
 - (c) if permissible under policies adopted by the local school board, it is established to the satisfaction of the local school board that:
 - (i) the child lives with a responsible adult who is a resident of the district and is the child's noncustodial parent, grandparent, brother, sister, uncle, or aunt;
 - (ii) the child's presence in the district is not for the primary purpose of attending the public schools;
 - (iii) the child's physical, mental, moral, or emotional health would best be served by considering the child to be a resident for school purposes; and
 - (iv) the child is prepared to abide by the rules and policies of the school and school district in which attendance is sought.
- (3)
 - (a) If admission is sought under Subsection (1)(b)(iii), or (2)(c), then the district may require the person with whom the child lives to be designated as the child's custodian in a durable power of attorney, issued by the party who has legal custody of the child, granting the custodian full authority to take any appropriate action, including authorization for educational or medical services, in the interests of the child.
 - (b) Both the party granting and the party empowered by the power of attorney shall agree to:
 - (i) assume responsibility for any fees or other charges relating to the child's education in the district; and

- (ii) if eligibility for fee waivers is claimed under Section 53A-12-103, provide the school district with all financial information requested by the district for purposes of determining eligibility for fee waivers.
- (c) Notwithstanding Section 75-5-103, a power of attorney meeting the requirements of this section and accepted by the school district shall remain in force until the earliest of the following occurs:
 - (i) the child reaches the age of 18, marries, or becomes emancipated;
 - (ii) the expiration date stated in the document; or
 - (iii) the power of attorney is revoked or rendered inoperative by the grantor or grantee, or by order of a court of competent jurisdiction.
- (4) A power of attorney does not confer legal guardianship.
- (5) Each school district is responsible for providing educational services for all children of school age who are residents of the district.
- (6) Students who were enrolled in a Utah public school by October 1, 1992, and would, but for this part, have been allowed to attend public schools without payment of tuition shall be permitted to continue their attendance until graduation or termination of enrollment on the same basis as Utah resident students.

Amended by Chapter 282, 1995 General Session

53A-2-202 Guardianship for residency purposes by responsible adult -- Procedure to obtain -- Termination.

- (1) For purposes of this part, "responsible adult" means a person 21 years of age or older who is a resident of this state and is willing and able to provide reasonably adequate food, clothing, shelter, and supervision for a minor child.
- (2) A local board of education may adopt a policy permitting it to designate a responsible adult residing in the school district as legal guardian of a child whose custodial parent or legal guardian does not reside within the state upon compliance with the following requirements:
 - (a) submission to the school district of a signed and notarized affidavit by the child's custodial parent or legal guardian stating that:
 - (i) the child's presence in the district is not for the primary purpose of attending the public schools;
 - (ii) the child's physical, mental, moral, or emotional health would best be served by a transfer of guardianship to the Utah resident;
 - (iii) the affiant is aware that designation of a guardian under this section is equivalent to a court-ordered guardianship under Section 75-5-206 and will suspend or terminate any existing parental or guardianship rights in the same manner as would occur under a court-ordered guardianship;
 - (iv) the affiant consents and submits to any such suspension or termination of parental or guardianship rights;
 - (v) the affiant consents and submits to the jurisdiction of the state district court in which the school district is located in any action relating to the guardianship or custody of the child in question;
 - (vi) the affiant designates a named responsible adult as agent, authorized to accept service on behalf of the affiant of any process, notice, or demand required or permitted to be served in connection with any action under Subsection (2)(a)(v); and
 - (vii) it is the affiant's intent that the child become a permanent resident of the state and reside with and be under the supervision of the named responsible adult;

- (b) submission to the school district of a signed and notarized affidavit by the responsible adult stating that:
 - (i) the affiant is a resident of the school district and desires to become the guardian of the child;
 - (ii) the affiant consents and submits to the jurisdiction of the state district court in which the school district is located in any action relating to the guardianship or custody of the child in question;
 - (iii) the affiant will accept the responsibilities of guardianship for the duration, including the responsibility to provide adequate supervision, discipline, food, shelter, educational and emotional support, and medical care for the child if designated as the child's guardian; and
 - (iv) the affiant accepts the designation as agent under Subsection (2)(a)(vi);
 - (c) submission to the school district of a signed and notarized affidavit by the child stating that:
 - (i) the child desires to become a permanent resident of Utah and reside with and be responsible to the named responsible adult; and
 - (ii) the child will abide by all applicable rules of any public school which the child may attend after guardianship is awarded; and
 - (d) if the child's custodial parent or legal guardian cannot be found in order to execute the statement required under Subsection (2)(a), the responsible adult must submit an affidavit to that effect to the district. The district shall also submit a copy of the statement to the Criminal Investigations and Technical Services Division of the Department of Public Safety, established in Section 53-10-103.
- (3) The district may require the responsible adult, in addition to the documents set forth in Subsection (2), to also submit any other documents which are relevant to the appointment of a guardian of a minor or which the district reasonably believes to be necessary in connection with a given application to substantiate any claim or assertion made in connection with the application for guardianship.
- (4) Upon receipt of the information and documentation required under Subsections (2) and (3), and a determination by the board that the information is accurate, that the requirements of this section have been met, and that the interests of the child would best be served by granting the requested guardianship, the school board or its authorized representative may designate the applicant as guardian of the child by issuing a designation of guardianship letter to the applicant.
- (5)
- (a) If a local school board has adopted a policy permitting the board to designate a guardian under this section, a denial of an application for appointment of a guardian may be appealed to the district court in which the school district is located.
 - (b) The court shall uphold the decision of the board unless it finds, by clear and convincing evidence, that the board's decision was arbitrary and capricious.
 - (c) An applicant may, rather than appealing the board's decision under Subsection (5)(b), file an original Petition for Appointment of Guardian with the district court, which action shall proceed as if no decision had been made by the school board.
- (6) A responsible adult obtaining guardianship under this section has the same rights, authority, and responsibilities as a guardian appointed under Section 75-5-201.
- (7)
- (a) The school district shall deliver the original documents filed with the school district, together with a copy of the designation of guardianship issued by the district, in person or by any form of mail requiring a signed receipt, to the clerk of the state district court in which the school district is located.

- (b) The court may not charge the school district a fee for filing guardianship papers under this section.
- (8)
- (a) The authority and responsibility of a custodial parent or legal guardian submitting an affidavit under this section may be restored by the district, and the guardianship obtained under this section terminated by the district:
 - (i) upon submission to the school district in which the guardianship was obtained of a signed and notarized statement by the person who consented to guardianship under Subsection (2) (a) requesting termination of the guardianship; or
 - (ii) by the person accepting guardianship under Subsection (2)(b) requesting the termination of the guardianship.
 - (b) If the school district determines that it would not be in the best interests of the child to terminate the guardianship, the district may refer the request for termination to the state district court in which the documents were filed under Subsection (5) for further action consistent with the interests of the child.
- (9) The school district shall retain copies of all documents required by this section until the child in question has reached the age of 18 unless directed to surrender the documents by a court of competent jurisdiction.
- (10)
- (a) Intentional submission to a school district of fraudulent or misleading information under this part is punishable under Section 76-8-504.
 - (b) A school district which has reason to believe that a party has intentionally submitted false or misleading information under this part may, after notice and opportunity for the party to respond to the allegation:
 - (i) void any guardianship, authorization, or action which was based upon the false or misleading information; and
 - (ii) recover, from the party submitting the information, the full cost of any benefits received by the child on the basis of the false or misleading information, including tuition, fees, and other unpaid school charges, together with any related costs of recovery.
 - (c) A student whose guardianship or enrollment has been terminated under this section may, upon payment of all applicable tuition and fees, continue in enrollment until the end of the school year unless excluded from attendance for cause.

Amended by Chapter 263, 1998 General Session

53A-2-203.5 Recognition of guardianship.

- (1) A document issued by other than a court of law which purports to award guardianship to a person who is not a legal resident of the jurisdiction in which the guardianship is awarded is not valid in the state of Utah until reviewed and approved by a Utah court.
- (2) The procedure for obtaining approval under Subsection (1) is the procedure required under Title 75, Chapter 5, Part 2, Guardians of Minors, for obtaining a court appointment of a guardian.

Enacted by Chapter 124, 1998 General Session

53A-2-204 District paying tuition -- Effect on state aid.

- (1) A local school board may by written agreement pay the tuition of a child attending school in a district outside the state. Both districts shall approve the agreement and file it with the State Board of Education.
- (2) The average daily membership of the child may be added to that of other eligible children attending schools within the district of residence for the purpose of apportionment of state funds.
- (3) The district of residence shall bear any excess tuition costs over the state's contribution for attendance in the district of residence unless otherwise approved in advance by the State Board of Education.

Enacted by Chapter 2, 1988 General Session

53A-2-205 Permitting attendance by nonresident of the state -- Tuition.

- (1) A local school board may permit a child residing outside the state to attend school within the district. With the exception of a child enrolled under Section 53A-2-206, the child is not included for the purpose of apportionment of state funds.
- (2) The board shall charge the nonresident child tuition at least equal to the per capita cost of the school program in which the child enrolls unless the board, in open meeting, determines to waive the charge for that child in whole or in part. The official minutes of the meeting shall reflect the determination.

Enacted by Chapter 2, 1988 General Session

53A-2-206 Interstate compact students -- Inclusion in attendance count -- Funding for foreign exchange students -- Annual report -- Requirements for exchange student agencies.

- (1) A school district or charter school may include the following students in the district's or school's membership and attendance count for the purpose of apportionment of state money:
 - (a) a student enrolled under an interstate compact, established between the State Board of Education and the state education authority of another state, under which a student from one compact state would be permitted to enroll in a public school in the other compact state on the same basis as a resident student of the receiving state; or
 - (b) a student receiving services under Title 62A, Chapter 4a, Part 7, Interstate Compact on Placement of Children.
- (2)
 - (a) A school district or charter school may include foreign exchange students in the district's or school's membership and attendance count for the purpose of apportionment of state money, except as provided in Subsections (2)(b) through (d).
 - (b)
 - (i) Notwithstanding Section 53A-17a-106, foreign exchange students may not be included in average daily membership for the purpose of determining the number of weighted pupil units in the grades 1-12 basic program.
 - (ii) Subject to the limitation in Subsection (2)(c), the number of weighted pupil units in the grades 1-12 basic program attributed to foreign exchange students shall be equal to the number of foreign exchange students who were:
 - (A) enrolled in a school district or charter school on October 1 of the previous fiscal year; and
 - (B) sponsored by an agency approved by the district's local school board or charter school's governing board.
 - (c)

- (i) The total number of foreign exchange students in the state that may be counted for the purpose of apportioning state money under Subsection (2)(b) shall be the lesser of:
 - (A) the number of foreign exchange students enrolled in public schools in the state on October 1 of the previous fiscal year; or
 - (B) 328 foreign exchange students.
- (ii) The State Board of Education shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the cap on the number of foreign exchange students that may be counted for the purpose of apportioning state money under Subsection (2)(b).
- (d) Notwithstanding Sections 53A-17a-133 and 53A-17a-164, weighted pupil units in the grades 1 through 12 basic program for foreign exchange students, as determined by Subsections (2)(b) and (c), may not be included for the purposes of determining a school district's state guarantee money under the voted or board local levies.
- (3) A school district or charter school may:
 - (a) enroll foreign exchange students that do not qualify for state money; and
 - (b) pay for the costs of those students with other funds available to the school district or charter school.
- (4) Due to the benefits to all students of having the opportunity to become familiar with individuals from diverse backgrounds and cultures, school districts are encouraged to enroll foreign exchange students, as provided in Subsection (3), particularly in schools with declining or stable enrollments where the incremental cost of enrolling the foreign exchange student may be minimal.
- (5) The board shall make an annual report to the Legislature on the number of exchange students and the number of interstate compact students sent to or received from public schools outside the state.
- (6)
 - (a) A local school board or charter school governing board shall require each approved exchange student agency to provide it with a sworn affidavit of compliance prior to the beginning of each school year.
 - (b) The affidavit shall include the following assurances:
 - (i) that the agency has complied with all applicable policies of the board;
 - (ii) that a household study, including a background check of all adult residents, has been made of each household where an exchange student is to reside, and that the study was of sufficient scope to provide reasonable assurance that the exchange student will receive proper care and supervision in a safe environment;
 - (iii) that host parents have received training appropriate to their positions, including information about enhanced criminal penalties under Subsection 76-5-406(10) for persons who are in a position of special trust;
 - (iv) that a representative of the exchange student agency shall visit each student's place of residence at least once each month during the student's stay in Utah;
 - (v) that the agency will cooperate with school and other public authorities to ensure that no exchange student becomes an unreasonable burden upon the public schools or other public agencies;
 - (vi) that each exchange student will be given in the exchange student's native language names and telephone numbers of agency representatives and others who could be called at any time if a serious problem occurs; and
 - (vii) that alternate placements are readily available so that no student is required to remain in a household if conditions appear to exist which unreasonably endanger the student's welfare.

- (7)
 - (a) A local school board or charter school governing board shall provide each approved exchange student agency with a list of names and telephone numbers of individuals not associated with the agency who could be called by an exchange student in the event of a serious problem.
 - (b) The agency shall make a copy of the list available to each of its exchange students in the exchange student's native language.
- (8) Notwithstanding Subsection (2)(c)(i), a school district or charter school shall enroll a foreign exchange student if the foreign exchange student:
 - (a) is sponsored by an agency approved by the State Board of Education;
 - (b) attends the same school during the same time period that another student from the school is:
 - (i) sponsored by the same agency; and
 - (ii) enrolled in a school in a foreign country; and
 - (c) is enrolled in the school for one year or less.

Amended by Chapter 398, 2012 General Session

53A-2-206.5 Definitions.

As used in Sections 53A-2-207 through 53A-2-213:

- (1) "Early enrollment" means:
 - (a) except as provided in Subsection (1)(b), application prior to the third Friday in February for admission for the next school year to a school that is not a student's school of residence; and
 - (b) application prior to November 1 for admission for the next school year to a school that is not a student's school of residence if:
 - (i) the school district is doing a district wide grade reconfiguration of its elementary, middle, junior, and senior high schools; and
 - (ii) the grade reconfiguration described in Subsection (1)(b) will be implemented in the next school year.
- (2)
 - (a) "Early enrollment school capacity" or "maximum capacity" means the total number of students who could be served in a school building if each of the building's instructional stations were to have the enrollment specified in Subsection (2)(b).
 - (b)
 - (i) Except as provided in Subsection (2)(b)(ii):
 - (A) for an elementary school, an instructional station shall have an enrollment at least equal to the school district's average class size for the corresponding grade; and
 - (B) for a middle, junior, or senior high school, an instructional station shall have an enrollment at least equal to the district's average class size for similar classes.
 - (ii)
 - (A) A local school board shall determine the instructional station capacity for laboratories, physical education facilities, shops, study halls, self-contained special education classrooms, facilities jointly financed by the school district and another community agency for joint use, and similar rooms.
 - (B) Capacity for self-contained special education classrooms shall be based upon students per class as defined by State Board of Education and federal special education standards.
- (3)

- (a) "Instructional station" means a classroom, laboratory, shop, study hall, or physical education facility to which a local board of education could reasonably assign a class, teacher, or program during a given class period.
- (b) More than one instructional station may be assigned to a classroom, laboratory, shop, study hall, or physical education facility during a class period.
- (4) "Late enrollment" means application:
 - (a) after the third Friday in February for admission for the next school year to a school that is not the student's school of residence; or
 - (b) for admission for the current year to a school that is not the student's school of residence.
- (5)
 - (a) "Late enrollment school capacity" or "adjusted capacity" means the total number of students who could be served in a school if each teacher were to have the class size specified in Subsection (5)(b).
 - (b)
 - (i) An elementary school teacher shall have a class size at least equal to the district's average class size for the corresponding grade.
 - (ii) A middle, junior, or senior high school teacher shall have a class size at least equal to the district's average class size for similar classes.
- (6) "Nonresident student" means a student who lives outside the boundaries of the school attendance area.
- (7) "Open enrollment threshold" means:
 - (a) for early enrollment, a projected school enrollment level that is the greater of:
 - (i) 90% of the maximum capacity; or
 - (ii) maximum capacity minus 40 students; and
 - (b) for late enrollment, actual school enrollment that is the greater of:
 - (i) 90% of adjusted capacity; or
 - (ii) adjusted capacity minus 40 students.
- (8) "Projected school enrollment" means the current year enrollment of a school as of October 1, adjusted for projected growth for the next school year.
- (9) "School attendance area" means an area established by a local school board from which students are assigned to attend a certain school.
- (10) "School of residence" means the school to which a student is assigned to attend based on the student's place of residence.

Amended by Chapter 67, 2012 General Session

53A-2-207 Open enrollment options -- Procedures -- Processing fee -- Continuing enrollment.

- (1) Each local school board is responsible for providing educational services consistent with Utah state law and rules of the State Board of Education for each student who resides in the district and, as provided in this section through Section 53A-2-213 and to the extent reasonably feasible, for any student who resides in another district in the state and desires to attend a school in the district.
- (2)
 - (a) A school is open for enrollment of nonresident students if the enrollment level is at or below the open enrollment threshold.
 - (b) If a school's enrollment falls below the open enrollment threshold, the local school board shall allow a nonresident student to enroll in the school.

- (3) A local school board may allow enrollment of nonresident students in a school that is operating above the open enrollment threshold.
- (4)
 - (a) A local school board shall adopt policies describing procedures for nonresident students to follow in applying for entry into the district's schools.
 - (b) Those procedures shall provide, as a minimum, for:
 - (i) distribution to interested parties of information about the school or school district and how to apply for admission;
 - (ii) use of standard application forms prescribed by the State Board of Education;
 - (iii)
 - (A) submission of applications from December 1 through the third Friday in February by those seeking admission during the early enrollment period for the following year; or
 - (B) submission of applications from August 1 through November 1 by those seeking admission during the early enrollment period for the following year in a school district described in Subsection 53A-2-206.5(1)(b);
 - (iv) submission of applications by those seeking admission during the late enrollment period;
 - (v) written notification to the student's parent or legal guardian of acceptance or rejection of an application:
 - (A) within six weeks after receipt of the application by the district or by March 31, whichever is later, for applications submitted during the early enrollment period;
 - (B) within two weeks after receipt of the application by the district or by the Friday before the new school year begins, whichever is later, for applications submitted during the late enrollment period for admission in the next school year; and
 - (C) within two weeks after receipt of the application by the district, for applications submitted during the late enrollment period for admission in the current year;
 - (vi) written notification to the resident school for intradistrict transfers or the resident district for interdistrict transfers upon acceptance of a nonresident student for enrollment; and
 - (vii) written notification to the parents or legal guardians of each student that resides within the school district and other interested parties of the revised early enrollment period described in Subsection 53A-2-206.5(1)(b) if:
 - (A) the school district is doing a district wide grade reconfiguration of its elementary, middle, junior, and senior high schools; and
 - (B) the grade reconfiguration described in Subsection (4)(b)(vii)(A) will be implemented in the next school year.
 - (c)
 - (i) Notwithstanding the dates established in Subsection (4)(b) for submitting applications and notifying parents of acceptance or rejection of an application, a local school board may delay the dates if a local school board is not able to make a reasonably accurate projection of the early enrollment school capacity or late enrollment school capacity of a school due to:
 - (A) school construction or remodeling;
 - (B) drawing or revision of school boundaries; or
 - (C) other circumstances beyond the control of the local school board.
 - (ii) The delay may extend no later than four weeks beyond the date the local school board is able to make a reasonably accurate projection of the early enrollment school capacity or late enrollment school capacity of a school.
- (5) A school district may charge a one-time \$5 processing fee, to be paid at the time of application.

- (6) An enrolled nonresident student shall be permitted to remain enrolled in a school, subject to the same rules and standards as resident students, without renewed applications in subsequent years unless one of the following occurs:
 - (a) the student graduates;
 - (b) the student is no longer a Utah resident;
 - (c) the student is suspended or expelled from school; or
 - (d) the district determines that enrollment within the school will exceed the school's open enrollment threshold.
- (7)
 - (a) Determination of which nonresident students will be excluded from continued enrollment in a school during a subsequent year under Subsection (6)(d) is based upon time in the school, with those most recently enrolled being excluded first and the use of a lottery system when multiple nonresident students have the same number of school days in the school.
 - (b) Nonresident students who will not be permitted to continue their enrollment shall be notified no later than March 15 of the current school year.
- (8) The parent or guardian of a student enrolled in a school that is not the student's school of residence may withdraw the student from that school for enrollment in another public school by submitting notice of intent to enroll the student in:
 - (a) the district of residence; or
 - (b) another nonresident district.
- (9) Unless provisions have previously been made for enrollment in another school, a nonresident district releasing a student from enrollment shall immediately notify the district of residence, which shall enroll the student in the resident district and take such additional steps as may be necessary to ensure compliance with laws governing school attendance.
- (10)
 - (a) Except as provided in Subsection (10)(c), a student who transfers between schools, whether effective on the first day of the school year or after the school year has begun, by exercising an open enrollment option under this section may not transfer to a different school during the same school year by exercising an open enrollment option under this section.
 - (b) The restriction on transfers specified in Subsection (10)(a) does not apply to a student transfer made for health or safety reasons.
 - (c) A local school board may adopt a policy allowing a student to exercise an open enrollment option more than once in a school year.
- (11) Notwithstanding Subsections (2) and (6)(d), a student who is enrolled in a school that is not the student's school of residence, because school bus service is not provided between the student's neighborhood and school of residence for safety reasons:
 - (a) shall be allowed to continue to attend the school until the student finishes the highest grade level offered; and
 - (b) shall be allowed to attend the middle school, junior high school, or high school into which the school's students feed until the student graduates from high school.
- (12) Notwithstanding any other provision of this part, a student shall be allowed to enroll in any charter school or other public school in any district, including a district where the student does not reside, if the enrollment is necessary, as determined by the Division of Child and Family Services, to comply with the provisions of 42 U.S.C. Section 675.

Amended by Chapter 67, 2012 General Session

53A-2-208 Rules for acceptance and rejection of applications.

- (1)
 - (a) A local school board shall adopt rules governing acceptance and rejection of applications required under Section 53A-2-207.
 - (b) The rules adopted under Subsection (1)(a) shall include policies and procedures to assure that decisions regarding enrollment requests are administered fairly without prejudice to any student or class of student, except as provided in Subsection (2).
- (2) Standards for accepting or rejecting an application for enrollment may include:
 - (a) for an elementary school, the capacity of the grade level;
 - (b) maintenance of heterogeneous student populations if necessary to avoid violation of constitutional or statutory rights of students;
 - (c) not offering, or having capacity in, an elementary or secondary special education or other special program the student requires;
 - (d) maintenance of reduced class sizes:
 - (i) in a Title I school that uses federal, state, and local money to reduce class sizes for the purpose of improving student achievement; or
 - (ii) in a school that uses school trust money to reduce class size;
 - (e) willingness of prospective students to comply with district policies; and
 - (f) giving priority to intradistrict transfers over interdistrict transfers.
- (3)
 - (a) Standards for accepting or rejecting applications for enrollment may not include:
 - (i) previous academic achievement;
 - (ii) athletic or other extracurricular ability;
 - (iii) the fact that the student requires special education services for which space is available;
 - (iv) proficiency in the English language; or
 - (v) previous disciplinary proceedings, except as provided in Subsection (3)(b).
 - (b) A board may provide for the denial of applications from students who:
 - (i) have committed serious infractions of the law or school rules, including rules of the district in which enrollment is sought; or
 - (ii) have been guilty of chronic misbehavior which would, if it were to continue after the student was admitted:
 - (A) endanger persons or property;
 - (B) cause serious disruptions in the school; or
 - (C) place unreasonable burdens on school staff.
 - (c) A board may also provide for provisional enrollment of students with prior behavior problems, establishing conditions under which enrollment of a nonresident student would be permitted or continued.
- (4)
 - (a) The State Board of Education, in consultation with the Utah High School Activities Association, shall establish policies regarding nonresident student participation in interscholastic competition.
 - (b) Nonresident students shall be eligible for extracurricular activities at a public school consistent with eligibility standards as applied to students that reside within the school attendance area, except as provided by policies established under Subsection (4)(a).
- (5) For each school in the district, the local school board shall post on the school district's website:
 - (a) the school's maximum capacity;
 - (b) the school's adjusted capacity;
 - (c) the school's projected enrollment used in the calculation of the open enrollment threshold;
 - (d) actual enrollment on October 1, January 2, and April 1;

- (e) the number of nonresident student enrollment requests;
- (f) the number of nonresident student enrollment requests accepted; and
- (g) the number of resident students transferring to another school.

Amended by Chapter 346, 2008 General Session

53A-2-209 Denial of enrollment -- Appeal.

- (1) Denial of initial or continuing enrollment in a nonresident school may be appealed to the board of education of the nonresident district.
- (2) The decision of the board shall be upheld in any subsequent proceedings unless the board's decision is found, by clear and convincing evidence, to be in violation of applicable law or regulation, or to be arbitrary and capricious.

Repealed and Re-enacted by Chapter 119, 1993 General Session

53A-2-210 Funding.

- (1) A student who enrolls in a nonresident district is considered a resident of that district for purposes of state funding.
- (2) The State Board of Education shall adopt rules providing that:
 - (a) the resident district pay the nonresident district, for each of the resident district's students who enroll in the nonresident district, 1/2 of the amount by which the resident district's per student expenditure exceeds the value of the state's contribution; and
 - (b) if a student is enrolled in a nonresident district for less than a full year, the resident district shall pay a portion of the amount specified in Subsection (2)(a) based on the percentage of school days the student is enrolled in the nonresident district.
- (3)
 - (a) Except as provided in this Subsection (3), the parent or guardian of a nonresident student shall arrange for the student's own transportation to and from school.
 - (b) The State Board of Education may adopt rules under which nonresident students may be transported to their schools of attendance if:
 - (i) the transportation of students to schools in other districts would relieve overcrowding or other serious problems in the district of residence and the costs of transportation are not excessive; or
 - (ii) the Legislature has granted an adequate specific appropriation for that purpose.
 - (c) A receiving district shall provide transportation for a nonresident student on the basis of available space on an approved route within the district to the school of attendance if district students would be eligible for transportation to the same school from that point on the bus route and the student's presence does not increase the cost of the bus route.
 - (d) Nothing in this section shall be construed as prohibiting the resident district or the receiving district from providing bus transportation on any approved route.
 - (e) Except as provided in Subsection (3)(b), the district of residence may not claim any state transportation costs for students enrolled in other school districts.

Amended by Chapter 346, 2008 General Session

53A-2-211 Graduation credits.

- (1) A nonresident district shall accept credits toward graduation that were awarded by a school accredited or approved by the State Board of Education or a regional accrediting body recognized by the U.S. Department of Education.
- (2) A nonresident district shall award a diploma to a nonresident student attending school within the district during the semester immediately preceding graduation if the student meets graduation requirements generally applicable to students in the school.
- (3) A district may not require that a student attend school within the district for more than one semester prior to graduation in order to receive a diploma.

Amended by Chapter 119, 1993 General Session

**53A-2-213 Intradistrict transfers for students impacted by boundary changes --
Transportation of students who transfer within a district.**

- (1)
 - (a) In adjusting school boundaries, a local school board shall strive to avoid requiring current students to change schools and shall, to the extent reasonably feasible, accommodate parents who wish to avoid having their children attend different schools of the same level because of boundary changes which occur after one or more children in the family begin attending one of the affected schools.
 - (b) In granting interdistrict and intradistrict transfers to a particular school, the local school board shall take into consideration the fact that an applicant's brother or sister is attending the school or another school within the district.
- (2)
 - (a) A district shall receive transportation money under Sections 53A-17a-126 and 53A-17a-127 for resident students who enroll in schools other than the regularly assigned school on the basis of the distance from the student's residence to the school the student would have attended had the intradistrict attendance option not been used.
 - (b) The parent or guardian of the student shall arrange for the student's transportation to and from school, except that the district shall provide transportation on the basis of available space on an approved route within the district to the school of the student's attendance if the student would be otherwise eligible for transportation to the same school from that point on the bus route and the student's presence does not increase the cost of the bus route.

Amended by Chapter 346, 2008 General Session

53A-2-214 Online students' participation in extracurricular activities.

- (1) As used in this section:
 - (a) "Online education" means the use of information and communication technologies to deliver educational opportunities to a student in a location other than a school.
 - (b) "Online student" means a student who:
 - (i) participates in an online education program sponsored or supported by the State Board of Education, a school district, or charter school; and
 - (ii) generates funding for the school district or school pursuant to Subsection 53A-17a-103(4) and rules of the State Board of Education.
- (2) An online student is eligible to participate in extracurricular activities at:
 - (a) the school within whose attendance boundaries the student's custodial parent or legal guardian resides; or

- (b) the public school from which the student withdrew for the purpose of participating in an online education program.
- (3) A school other than a school described in Subsection (2)(a) or (b) may allow an online student to participate in extracurricular activities other than:
 - (a) interschool competitions of athletic teams sponsored and supported by a public school; or
 - (b) interschool contests or competitions for music, drama, or forensic groups or teams sponsored and supported by a public school.
- (4) An online student is eligible for extracurricular activities at a public school consistent with eligibility standards as applied to full-time students of the public school.
- (5) A school district or public school may not impose additional requirements on an online school student to participate in extracurricular activities that are not imposed on full-time students of the public school.
- (6)
 - (a) The State Board of Education shall make rules establishing fees for an online school student's participation in extracurricular activities at school district schools.
 - (b) The rules shall provide that:
 - (i) online school students pay the same fees as other students to participate in extracurricular activities;
 - (ii) online school students are eligible for fee waivers pursuant to Section 53A-12-103;
 - (iii) for each online school student who participates in an extracurricular activity at a school district school, the online school shall pay a share of the school district's costs for the extracurricular activity; and
 - (iv) an online school's share of the costs of an extracurricular activity shall reflect state and local tax revenues expended, except capital facilities expenditures, for an extracurricular activity in a school district or school divided by total student enrollment of the school district or school.
 - (c) In determining an online school's share of the costs of an extracurricular activity under Subsections (6)(b)(iii) and (iv), the State Board of Education may establish uniform fees statewide based on average costs statewide or average costs within a sample of school districts.
- (7) When selection to participate in an extracurricular activity at a public school is made on a competitive basis, an online student is eligible to try out for and participate in the activity as provided in this section.

Amended by Chapter 371, 2011 General Session