

28 **53A-2-210**, as last amended by Laws of Utah 1993, Chapter 119

29 **53A-2-213**, as last amended by Laws of Utah 2007, Chapter 306

30 ENACTS:

31 **53A-2-206.5**, Utah Code Annotated 1953



33 *Be it enacted by the Legislature of the state of Utah:*

34 Section 1. Section **53A-2-206.5** is enacted to read:

35 **53A-2-206.5. Definitions.**

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

37 (1) "Early enrollment" means application prior to the third Friday in February for
38 admission for the next school year to a school that is not a student's school of residence.

39 (2) (a) "Early enrollment school capacity" or "maximum capacity" means the total
40 number of students who could be served in a school building if each of the building's
41 instructional stations were to have the enrollment specified in Subsection (2)(b).

42 (b) (i) Except as provided in Subsection (2)(b)(ii):

43 (A) for an elementary school, an instructional station shall have an enrollment at least
44 equal to the school district's average class size for the corresponding grade; and

45 (B) for a middle, junior, or senior high school, an instructional station shall have an
46 enrollment at least equal to the district's average class size for similar classes.

47 (ii) (A) A local school board shall determine the instructional station capacity for
48 laboratories, physical education facilities, shops, study halls, self-contained special education
49 classrooms, facilities jointly financed by the school district and another community agency for
50 joint use, and similar rooms.

51 (B) Capacity for self-contained special education classrooms shall be based upon
52 students per class as defined by State Board of Education and federal special education
53 standards.

54 (3) (a) "Instructional station" means a classroom, laboratory, shop, study hall, or
55 physical education facility to which a local board of education could reasonably assign a class,
56 teacher, or program during a given class period.

57 (b) More than one instructional station may be assigned to a classroom, laboratory,
58 shop, study hall, or physical education facility during a class period.

59 (4) "Late enrollment" means application:

60 (a) after the third Friday in February for admission for the next school year to a school
61 that is not the student's school of residence; or

62 (b) for admission for the current year to a school that is not the student's school of
63 residence.

64 (5) (a) "Late enrollment school capacity" or "adjusted capacity" means the total number
65 of students who could be served in a school if each teacher were to have the class size specified
66 in Subsection (5)(b).

67 (b) (i) An elementary school teacher shall have a class size at least equal to the district's
68 average class size for the corresponding grade.

69 (ii) A middle, junior, or senior high school teacher shall have a class size at least equal
70 to the district's average class size for similar classes.

71 (6) "Nonresident student" means a student who lives outside the boundaries of the
72 school attendance area.

73 (7) "Open enrollment threshold" means:

74 (a) for early enrollment, a projected school enrollment level that is the greater of:

75 (i) 90% of the maximum capacity; or

76 (ii) maximum capacity minus 40 students; and

77 (b) for late enrollment, actual school enrollment that is the greater of:

78 (i) 90% of adjusted capacity; or

79 (ii) adjusted capacity minus 40 students.

80 (8) "Projected school enrollment" means the current year enrollment of a school as of
81 October 1, adjusted for projected growth for the next school year.

82 (9) "School attendance area" means an area established by a local school board from
83 which students are assigned to attend a certain school.

84 (10) "School of residence" means the school to which a student is assigned to attend
85 based on the student's place of residence.

86 Section 2. Section **53A-2-207** is amended to read:

87 **53A-2-207. Open enrollment options -- Procedures -- Processing fee -- Continuing**
88 **enrollment.**

89 (1) Each local school board is responsible for providing educational services consistent

90 with Utah state law and rules of the State Board of Education for each student who resides in
91 the district and, as provided in [~~Sections 53A-2-207~~] this section through [~~53A-2-211~~] Section
92 53A-2-213 and to the extent reasonably feasible, for any student who resides in another district
93 in the state and desires to attend a school in the district.

94 [~~(2)(a) The State Board of Education shall adopt rules defining school capacities and~~
95 ~~average daily membership thresholds for use in determining whether a school must be open for~~
96 ~~enrollment of nonresident students.~~]

97 (2) (a) A school is open for enrollment of nonresident students if the enrollment level
98 is at or below the open enrollment threshold.

99 (b) If a school's [~~average daily membership~~] enrollment falls below the open
100 enrollment threshold [~~designated by the State Board of Education~~], the local school board shall
101 allow [~~students who do not reside within the district to also~~] a nonresident student to enroll in
102 the school.

103 (3) A local school board [~~of education~~] may [~~also~~] allow enrollment of nonresident
104 students in a school [~~which~~] that is operating above the [~~average daily membership~~] open
105 enrollment threshold [~~for mandatory enrollment of nonresident students~~].

106 (4) (a) A local school board shall adopt policies describing procedures for nonresident
107 students to follow in applying for entry into the district's schools.

108 (b) Those procedures shall provide, as a minimum, for:

109 (i) distribution to interested parties of information about the school or school district
110 and how to apply for admission;

111 (ii) use of standard application forms prescribed by the State Board of Education;

112 (iii) submission of applications from December 1 through the third Friday in February
113 by those seeking admission during the early enrollment period for the following year;

114 (iv) submission of applications by those seeking admission during the late enrollment
115 period;

116 [~~(iv)~~] (v) written notification to the student's parent or legal guardian of acceptance or
117 rejection of an application;

118 (A) within six weeks after receipt of the application by the district or by March 31,
119 whichever is later[?], for applications submitted during the early enrollment period;

120 (B) within two weeks after receipt of the application by the district or by the Friday

121 before the new school year begins, whichever is later, for applications submitted during the late
 122 enrollment period for admission in the next school year; and

123 (C) within two weeks after receipt of the application by the district, for applications
 124 submitted during the late enrollment period for admission in the current year; and

125 [(v)] (vi) written notification to the resident [district] school for intradistrict transfers
 126 or the resident district for interdistrict transfers upon acceptance of a nonresident student for
 127 enrollment[; and].

127a **H→ (c)(i) Notwithstanding the dates established in Subsection (4)(b) for submitting**
 127b **applications and and notifying parents of acceptance or rejection of an application, a local**
 127c **school board may delay the dates if a local school board is not able to make a reasonably**
 127d **accurate projection of the early enrollment school capacity or late enrollment school capacity**
 127e **of a school due to:**

127f **(A) school construction or remodeling;**

127g **(B) drawing or revision of school boundaries; or**

127h **(C) or other circumstances beyond the control of the local school board.**

127i **(ii) The delay may extend no later than four weeks beyond the date the local school**
 127j **board is able to make a reasonably accurate projection of the early enrollment school capacity**
 127k **or late enrollment school capacity of a school. ←H**

128 [(vi) admission of students at times other than that permitted under standard policies if
 129 the board determines that there are conditions of special need which warrant consideration.]

130 (5) A school district may charge a one-time \$5 processing fee, to be paid at the time of
 131 application.

132 (6) An enrolled nonresident student shall be permitted to remain enrolled in [~~the~~
 133 ~~nonresident district's schools~~] a school, subject to the same rules and standards as resident
 134 students, without renewed applications in subsequent years unless one of the following occurs:

135 (a) the student graduates;

136 (b) the student is no longer a Utah resident;

137 (c) the student is suspended or expelled from school; or

138 (d) the district determines that enrollment within the school [~~in question~~] will exceed
 139 [~~90% of maximum capacity during the coming school year~~] the school's open enrollment
 140 threshold.

141 (7) (a) Determination of which nonresident students will be excluded from continued
 142 enrollment in a [~~nonresident district~~] school during a subsequent year under

142a Subsection (6) **H→ [(b)] (d) ←H**

143 is based upon time in the [~~district~~] school, with those most recently enrolled being excluded
144 first and the use of a lottery system when multiple nonresident students have the same number
145 of school days in the school.

146 (b) Nonresident students who will not be permitted to continue their enrollment shall
147 be notified no later than March 15 of the current school year.

148 (8) The parent or guardian of a student enrolled in a [~~nonresident district~~] school that is
149 not the student's school of residence may withdraw the student from that [~~district~~] school for
150 enrollment in another [~~district~~] public school by [~~:(a)~~] submitting notice of intent to enroll the
151 student in;

152 (a) the district of residence [~~for the subsequent year to the district of attendance no later~~
153 ~~than March 31 of the current school year~~]; or

154 (b) [~~submitting notice of intent to enroll the student in~~] another nonresident district [~~for~~
155 ~~the subsequent school year to the current district of attendance, together with a letter of~~
156 ~~acceptance from the proposed district of attendance, no later than March 31 of the current~~
157 ~~school year; or~~].

158 [~~(c) if the parent desires to change the student's enrollment during the school year or~~
159 ~~after March 31, by obtaining approval from both the district of attendance and the district in~~
160 ~~which enrollment is sought.~~]

161 (9) Unless provisions have previously been made for enrollment in another school, a
162 nonresident district releasing a student from enrollment shall immediately notify the district of
163 residence, which shall enroll the student in the resident district and take such additional steps
164 as may be necessary to ensure compliance with laws governing school attendance.

165 [~~(10) Subsection (6)(d) does not apply to a student who was attending a nonresident~~
166 ~~school or district prior to January 1, 1993.~~]

167 (10) (a) ~~H→~~ **[A] Except as provided in Subsection (10)(c), a ←H** student who transfers
167a between schools, whether effective on the first day of
168 the school year or after the school year has begun, by exercising an open enrollment option
169 under this section may not transfer to a different school during the same school year by
170 exercising an open enrollment option under this section.

171 (b) The restriction on transfers specified in Subsection (10)(a) does not apply to a
172 student transfer made for health or safety reasons.

172a ~~H→~~ **(c) A local school board may adopt a policy allowing a student to exercise an open**
172b **enrollment option more than once in a school year.**

172c **(11) Notwithstanding Subsections (2) and (6)(d), a student who is enrolled in a**
172d **school that is not the student's school of residence, because school bus service is not provided**
172e **between the student's neighborhood and school of residence for safety reasons:**

172f **(a) shall be allowed to continue to attend the school until the student finishes the highest**
172g **grade level offered; and**

172h **(b) shall be allowed to attend the middle school, junior high school, or high school into**
172i **which the school's students feed until the student graduates from high school.** ←H

173 Section 3. Section 53A-2-208 is amended to read:

174 **53A-2-208. Rules for acceptance and rejection of applications.**

175 (1) (a) A local school board shall adopt rules governing acceptance and rejection of

176 applications required under Section 53A-2-207.

177 (b) The rules adopted under Subsection (1)(a) shall include policies and procedures to
178 assure that decisions regarding enrollment requests are administered fairly without prejudice to
179 any student or class of student, except as provided in Subsection (2).

180 (2) Standards for accepting or rejecting an application for enrollment may include:

181 (a) for an elementary school, the capacity of the [~~program, class,~~] grade level[~~, or~~
182 ~~school building~~];

183 (b) maintenance of heterogeneous student populations if necessary to avoid violation of
184 constitutional or statutory rights of students;

185 (c) not offering ~~H~~→ [a] , or having capacity in, an elementary or secondary special
185a education [~~;~~ ~~Title 1 school~~]; or other special ~~←H~~ program the student requires; [~~and~~]

185b ~~H~~→ (d) maintenance of reduced class sizes:

185c (i) in a Title 1 school that uses federal, state, and local monies to reduce class sizes for
185d the purpose of improving student achievement; or

185e (ii) in a school that uses school trust monies to reduce class size;

186 [~~(d)~~] (e) ~~←H~~ willingness of prospective students to comply with district policies[~~;~~]; and

187 ~~H~~→ [~~(e)~~] (f) ~~←H~~ giving priority to intradistrict transfers over interdistrict transfers.

188 (3) (a) Standards for accepting or rejecting applications for enrollment may not
189 include:

190 (i) previous academic achievement[~~;~~];

191 (ii) athletic or other extracurricular ability[~~;~~];

192 (iii) the fact that the student requires special education services for which space is
193 available[~~;~~];

194 (iv) proficiency in the English language[~~;~~]; or

195 (v) previous disciplinary proceedings, except as provided in Subsection (3)(b).

196 (b) A board may provide for the denial of applications from students who:

197 (i) have committed serious infractions of the law or school rules, including rules of the
198 district in which enrollment is sought[~~;~~]; or

199 (ii) have been guilty of chronic misbehavior which would, if it were to continue after
200 the student was admitted[~~;~~];

201 (A) endanger persons[~~;~~] or property[~~;~~];

202 (B) cause serious disruptions in the school[~~;~~]; or

203 (C) place unreasonable burdens on school staff.

204 (c) A board may also provide for provisional enrollment of students with prior
205 behavior problems, establishing conditions under which enrollment of a nonresident student
206 would be permitted or continued.

207 (4) ~~H~~→ (a) ~~←H~~ The State Board of Education, in consultation with the Utah High School
207a Activities

208 Association, shall establish policies regarding nonresident student participation in
209 interscholastic competition.

209a ~~H~~→ (b) Nonresident students shall be eligible for extracurricular activities at a public
209b school consistent with eligibility standards as applied to students that reside within the school
209c attendance area, except as provided by policies established under Subsection (4)(a). ~~←H~~

210 (5) For each school in the district, the local school board shall post on the school
211 district's website:

212 (a) the school's maximum capacity;

213 (b) the school's adjusted capacity;

214 (c) the school's projected enrollment used in the calculation of the open enrollment
 215 threshold;

216 (d) actual enrollment ~~for each semester~~ **for each semester** on October 1, January 2, and April 1 ;

217 (e) the number of nonresident student enrollment requests;

218 (f) the number of nonresident student enrollment requests accepted; and

219 (g) the number of resident students transferring to another school.

220 Section 4. Section **53A-2-210** is amended to read:

221 **53A-2-210. Funding.**

222 (1) A student who enrolls in a nonresident district is considered a resident of that
 223 district for purposes of state funding.

224 (2) The State Board of Education shall adopt rules providing that:

225 (a) the resident district pay the nonresident district, for each of the resident district's
 226 students who enroll in the nonresident district, 1/2 of the amount by which the resident
 227 district's per student expenditure exceeds the value of the state's contribution[-]; and

228 (b) if a student is enrolled in a nonresident district for less than a full year, the resident
 229 district shall pay a portion of the amount specified in Subsection (2)(a) based on the percentage
 230 of school days the student is enrolled in the nonresident district.

231 (3) (a) Except as provided in this Subsection (3), the parent or guardian of a
 232 nonresident student shall arrange for the student's own transportation to and from school.

233 (b) The State Board of Education may adopt rules under which nonresident students
 234 may be transported to their schools of attendance if:

235 (i) the transportation of students to schools in other districts would relieve
 236 overcrowding or other serious problems in the district of residence and the costs of
 237 transportation are not excessive; or

238 (ii) the Legislature has granted an adequate specific appropriation for that purpose.

239 (c) A receiving district shall provide transportation for a nonresident student on the
 240 basis of available space on an approved route within the district to the school of attendance if
 241 district students would be eligible for transportation to the same school from that point on the
 242 bus route and the student's presence does not increase the cost of the bus route.

243 (d) Nothing in this section shall be construed as prohibiting the resident district or the
 244 receiving district from providing bus transportation on any approved route.

245 (e) Except as provided in Subsection (3)(b), the district of residence may not claim any
 246 state transportation costs for students enrolled in other school districts.

247 Section 5. Section **53A-2-213** is amended to read:

248 **53A-2-213. Intradistrict transfers for students impacted by boundary changes --**
 249 **Transportation of students who transfer within a district.**

250 [~~(1)(a) A local school board shall allow students who reside within the district to~~
 251 ~~attend any school within the district, subject to the same requirements established in Sections~~
 252 ~~53A-2-207 through 53A-2-209, except that a district may adopt a later date for accepting~~
 253 ~~intradistrict transfer applications.]~~

254 [~~(b) If a board extends the date for acceptance of applications, then the notification~~
 255 ~~dates shall be adjusted accordingly.]~~

256 [~~(c)(i)~~ (1) In adjusting school boundaries, a local school board shall strive to avoid
 257 requiring current students to change schools and shall, to the extent reasonably feasible,
 258 accommodate parents who wish to avoid having their children attend different schools of the
 259 same level because of boundary changes which occur after one or more children in the family
 260 begin attending one of the affected schools.

261 ~~H~~→ [f] **(ii) In granting interdistrict and intradistrict transfers to a particular**
 261a **school, the local**
 262 **school board shall take into consideration the fact that an applicant's brother or sister is**
 263 **attending the school or another school within the district.** ~~[j]~~ ← ~~H~~

264 (2) (a) A district shall receive transportation monies under Sections 53A-17a-126 and
 265 53A-17a-127 for resident students who enroll in schools other than the regularly assigned
 266 school on the basis of the distance from the student's residence to the school the student would
 267 have attended had the intradistrict attendance option not been used.

268 (b) The parent or guardian of the student shall arrange for the student's transportation to
 269 and from school, except that the district shall provide transportation on the basis of available
 270 space on an approved route within the district to the school of the student's attendance if the
 271 student would be otherwise eligible for transportation to the same school from that point on the
 272 bus route and the student's presence does not increase the cost of the bus route.

Legislative Review Note
as of 1-28-08 1:42 PM

Office of Legislative Research and General Counsel

H.B. 349 - Open Enrollment Revisions

Fiscal Note

2008 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill may require some funding reallocation among districts and charter schools depending upon the number of students transferring in and out of the schools.
