

1 OPEN ENROLLMENT REVISIONS

2 2008 GENERAL SESSION

3 STATE OF UTAH

4 Chief Sponsor: Julie Fisher

5 Senate Sponsor: Dan R. Eastman

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12

13 LONG TITLE

14 General Description:

15 This bill modifies provisions allowing students to attend public schools other than their
16 school of residence.

17 Highlighted Provisions:

18 This bill:

- 19 ▶ provides for an early and a late enrollment period during which a student may apply
20 for enrollment in a school that is not the student's school of residence;
- 21 ▶ establishes different open enrollment thresholds, below which a school is open for
22 enrollment of nonresident students, for the early and late enrollment periods;
- 23 ▶ modifies standards for accepting or rejecting an application for enrollment; and
- 24 ▶ requires local school boards to post data on the school district's website regarding
25 school capacity and applications for enrollment of nonresident students.

26 Monies Appropriated in this Bill:

27 None

28 Other Special Clauses:

29 None

30 Utah Code Sections Affected:

31 AMENDS:

32 53A-2-207, as last amended by Laws of Utah 2003, Chapters 221 and 224

33 53A-2-208, as repealed and reenacted by Laws of Utah 1993, Chapter 119

34 53A-2-210, as last amended by Laws of Utah 1993, Chapter 119

35 53A-2-213, as last amended by Laws of Utah 2007, Chapter 306

36 ENACTS:

37 53A-2-206.5, Utah Code Annotated 1953



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

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

41 **53A-2-206.5. Definitions.**

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

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

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

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

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

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

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

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

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

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

65 (4) "Late enrollment" means application:

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

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

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

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

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

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

79 (7) "Open enrollment threshold" means:

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

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

82 (ii) maximum capacity minus 40 students; and

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

84 (i) 90% of adjusted capacity; or

85 (ii) adjusted capacity minus 40 students.

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

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

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

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

93 **53A-2-207. Open enrollment options -- Procedures -- Processing fee -- Continuing**
94 **enrollment.**

95 (1) Each local school board is responsible for providing educational services consistent
96 with Utah state law and rules of the State Board of Education for each student who resides in
97 the district and, as provided in [~~Sections 53A-2-207~~] this section through [~~53A-2-211~~] Section
98 53A-2-213 and to the extent reasonably feasible, for any student who resides in another district
99 in the state and desires to attend a school in the district.

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

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

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

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

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

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

115 (i) distribution to interested parties of information about the school or school district

116 and how to apply for admission;

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

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

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

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

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

126 (B) within two weeks after receipt of the application by the district or by the Friday
127 before the new school year begins, whichever is later, for applications submitted during the late
128 enrollment period for admission in the next school year; and

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

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

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

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

141 (A) school construction or remodeling;

142 (B) drawing or revision of school boundaries; or

143 (C) other circumstances beyond the control of the local school board.

144 (ii) The delay may extend no later than four weeks beyond the date the local school
145 board is able to make a reasonably accurate projection of the early enrollment school capacity
146 or late enrollment school capacity of a school.

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

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

- 152 (a) the student graduates;
- 153 (b) the student is no longer a Utah resident;
- 154 (c) the student is suspended or expelled from school; or
- 155 (d) the district determines that enrollment within the school [~~in question~~] will exceed
156 [~~90% of maximum capacity during the coming school year~~] the school's open enrollment
157 threshold.

158 (7) (a) Determination of which nonresident students will be excluded from continued
159 enrollment in a [~~nonresident district~~] school during a subsequent year under Subsection
160 (6)[~~(b)~~](d) is based upon time in the [~~district~~] school, with those most recently enrolled being
161 excluded first and the use of a lottery system when multiple nonresident students have the same
162 number of school days in the school.

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

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

- 169 (a) the district of residence [~~for the subsequent year to the district of attendance no later~~
170 ~~than March 31 of the current school year~~]; or
- 171 (b) [~~submitting notice of intent to enroll the student in~~] another nonresident district [~~for~~

172 the subsequent school year to the current district of attendance, together with a letter of
173 acceptance from the proposed district of attendance, no later than March 31 of the current
174 school year, or].

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

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

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

184 (10) (a) Except as provided in Subsection (10)(c), a student who transfers between
185 schools, whether effective on the first day of the school year or after the school year has begun,
186 by exercising an open enrollment option under this section may not transfer to a different school
187 during the same school year by exercising an open enrollment option under this section.

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

190 (c) A local school board may adopt a policy allowing a student to exercise an open
191 enrollment option more than once in a school year.

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

195 (a) shall be allowed to continue to attend the school until the student finishes the
196 highest grade level offered; and

197 (b) shall be allowed to attend the middle school, junior high school, or high school into
198 which the school's students feed until the student graduates from high school.

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

200 **53A-2-208. Rules for acceptance and rejection of applications.**

201 (1) (a) A local school board shall adopt rules governing acceptance and rejection of
 202 applications required under Section 53A-2-207.

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

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

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

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

211 (c) not offering [a], or having capacity in, an elementary or secondary special education
 212 or other special program the student requires; [and]

213 (d) maintenance of reduced class sizes:

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

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

217 [~~(d)~~] (e) willingness of prospective students to comply with district policies[-]; and

218 (f) giving priority to intradistrict transfers over interdistrict transfers.

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

220 (i) previous academic achievement[-];

221 (ii) athletic or other extracurricular ability[-];

222 (iii) the fact that the student requires special education services for which space is
 223 available[-];

224 (iv) proficiency in the English language[-]; or

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

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

227 (i) have committed serious infractions of the law or school rules, including rules of the

228 district in which enrollment is sought[;]; or

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

231 (A) endanger persons[;] or property[;];

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

233 (C) place unreasonable burdens on school staff.

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

237 (4) (a) The State Board of Education, in consultation with the Utah High School
238 Activities Association, shall establish policies regarding nonresident student participation in
239 interscholastic competition.

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

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

245 (a) the school's maximum capacity;

246 (b) the school's adjusted capacity;

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

249 (d) actual enrollment on October 1, January 2, and April 1;

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

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

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

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

254 **53A-2-210. Funding.**

255 (1) A student who enrolls in a nonresident district is considered a resident of that

256 district for purposes of state funding.

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

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

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

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

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

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

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

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

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

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

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

281 **53A-2-213. Intradistrict transfers for students impacted by boundary changes --**
282 **Transportation of students who transfer within a district.**

283 [~~(1) (a) A local school board shall allow students who reside within the district to attend~~

284 any school within the district, subject to the same requirements established in Sections
285 53A-2-207 through 53A-2-209, except that a district may adopt a later date for accepting
286 intradistrict transfer applications.]

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

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

294 [~~(i)~~] (b) In granting interdistrict and intradistrict transfers to a particular school, the
295 local school board shall take into consideration the fact that an applicant's brother or sister is
296 attending the school or another school within the district.

297 (2) (a) A district shall receive transportation monies under Sections 53A-17a-126 and
298 53A-17a-127 for resident students who enroll in schools other than the regularly assigned
299 school on the basis of the distance from the student's residence to the school the student would
300 have attended had the intradistrict attendance option not been used.

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