

Instructions for Initiating a Right of First Refusal

drafted October 2010

Utah System of Higher Education (USHE) institutions primarily serve a specific geographic service area. A part of an institution's responsibilities is to provide concurrent enrollment opportunities to districts within this service area. For example, Weber State University works primarily with Ogden, Weber, and Davis districts while Dixie State College works with Washington district.

For various reasons, a district may want to offer concurrent enrollment courses that its primary USHE partner will not offer. In such situations, the primary USHE partner evokes the "first refusal" to offer the class and the district may approach other USHE institutions to partner to offer the class. This process is called Right of First Refusal (RFR). The RFR form documents the initial refusal and notifies the primary and secondary USHE partners of the conditions under which another USHE institution will partner to offer the concurrent enrollment class.

RFR agreements are initiated by school districts. Signed copies of the agreement should be kept on file by both USHE institutions and the district for five years.

COMMENTS ON THE PROCESS

1. A USHE primary partner cannot refuse to grant permission for a district to seek other USHE partners to offer a class: the primary partner can only indicate it refuses to offer a class and indicate how long, in academic years, it is sure it will not offer the class.
2. The secondary or proposed institution is not obligated to offer a class. Districts may have to contact more than one institution to find a secondary partner.
3. Districts do not have to secure an RFR from their primary partner for classes offered through distance education; however, many districts speak with their primary USHE partner first to ensure that institution is aware of the partnership with another college.
4. It is common for an institution to sign a RFR for a single year; however, if the institution is confident it will not offer a class for a number of years, that institution should approve an RFR for three to five years. This consideration cuts down on time spent to secure the RFR. It is also highly valuable in instances where a district must purchase textbooks for a class, ensuring that investment will be used for more than one year.
5. One RFR covers the course(s) listed for an entire district even though a specific high school is listed on the form. The district may choose to list additional high schools on a attached sheet of paper.
6. For Right of First Refusal situations where the RFR is deemed not necessary because a) the primary institution will offer the course, b) the primary institution does not offer the course to begin with, or c) the district seeks distance education delivery of the course, the Concurrent Enrollment program administrator is typically the only person signing for the USHE institution.

If the primary college waives offering the class for one, three, or five years, the CE administrator, department chair, dean, and chief academic officer generally sign the agreement. If a proposed institution declines offering a class, there may be one (CE administrator) to four signatures.

Historically, a principal or assistant principal signs for a high school; teachers do not sign RFR agreements. The superintendent, associate superintendent, or curriculum director sign for the district. One district signature alone will suffice as approval for the RFR.