

R277-437 received final approval by the Utah State Board of Education on November 1, 2018. R277-437 is published in the December 1, 2018 Utah State Bulletin, subject to a 30-day comment period, with a first possible effective date of January 9, 2019.

**R277. Education, Administration.**

**R277-437. Open Enrollment~~[Student Enrollment Options]~~.**

**R277-437-~~[2]~~1. Authority and Purpose.**

~~[A. This rule is authorized by Utah Constitution Article X, Section 3 which places general control and supervision of the public school system under the Board, by 53E-3-501(1)(b) which directs the Board to establish rules and minimum standards for access to programs and by 53G-6-405 which directs the Board to provide a formula by rule for resident students who attend school districts under Section 53G-6-401 et seq. This rule is consistent with federal laws and regulations, including the Individuals with Disabilities Act (IDEA), 20 U.S.C., Chapter 33, Section 1412 as amended by Public Law 102-119, and the Elementary and Secondary Education Act of 2001 (ESEA), P.L. 107-110.]~~

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Subsection 53G-6-405, which directs the Board to provide a formula by rule for resident students to attend school districts under 53G-6-401.

~~[B](2).~~ The purpose of this rule is:

~~[(1)]a~~ to establish necessary definitions;

~~[(2)]b~~ to establish a formula for the residual per pupil expenditure for school districts to reimburse each other for full and part-time nonresident students;

~~[(3)]c~~ to summarize school, school district, and state responsibilities under Section 53G-6-401; and

~~[(4)]d~~ to provide a standard statewide open enrollment form required under Subsection 53G-6-402(4)(b)(ii).

**R277-437-~~[1]~~2. Definitions.**

~~[A.](1)~~ "Available school or program" means a school or program currently designated

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under the law and this rule by a district as open to nonresident students.

~~[B. "Board" means the Utah State Board of Education.]~~

~~[D.](2) "Nonresident student" means a student attending or seeking to attend a school other than the designated school of residence.~~

~~[C.](3) ["District of residence"] "Resident district" means a student's school district of residence under Section 53G-6-302.~~

~~[E.](4) "[Residual] Resident district's per student expenditure" means the expenditure based on the most recent State Superintendent's Annual Report according to the following formula calculated by the Superintendent:~~

~~[(1)a] [F]take total expenditures before interfund transfer for:~~

~~[(a)i] maintenance and operation;~~

~~[(b)ii] tort liability; and~~

~~[(c)iii] capital projects[-];~~

~~[(2)b] [S]subtract the following from the sum of [(1)](4)(a), above:~~

~~[(a)i] resident district's taxes collected under the Minimum School Program;~~

~~[(b)ii] state revenue;~~

~~[(c)iii] federal revenue; and~~

~~[(d)iv] expenditures for site acquisition or new facility construction, which [(new facility construction)] includes remodeling that increases building square footage or other major remodeling[-], if approved by the USOE Director of Finance[-]; and~~

~~[(3)c] [D]divide the remainder of (4)(a) and (4)(b) [(1) and (2)] above by the total student membership of the district as reported in the most recent annual year-end Membership Report. [~~State Superintendent's Annual Report~~].~~

~~[F. "Safety emergency" means a situation in which:~~

~~—— (1) enrollment in a specific school is necessary to protect the health of the student as determined by a specific medical recommendation from a medical doctor; or~~

~~—— (2) enrollment in a specific school is necessary to protect the emotional or physical safety of a student, based on documentation/evidence provided by the student's previous~~

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~~school, the parent(s)/guardian(s), a clinical psychologist who is tracking the student, or cumulative information.]~~

[G.](5) "School of residence" means the school which a student would normally attend in the student's district of residence.

[H.](6) "School into which the school's students feed" for purposes of this rule means school boundaries and feeder systems as determined by the local board of education which may change over time.

(7) "Split enrollment" means a student that is enrolled in two or more LEAs simultaneously during a school year.

~~[I. "Serious infraction of the law or school rules" means chronic misbehavior by a student which is likely, if it were to continue after the student was admitted, to endanger persons or property, cause serious disruptions in the school, or to place unreasonable burdens on school staff.~~

~~———J. "USOE" means the Utah State Office of Education.]~~

### **R277-437-3. Local School Board and District Responsibilities.**

[A.](1) A local school board shall have policies describing procedures for a student[s] to follow in applying to attend school[s] other than the the[ir] student's respective schools of residence.

(2) A Local school board[s] shall designate which schools and programs will be available for open enrollment during the coming school year consistent with the definitions and timelines of ~~[Section 53G-6-401 et seq]~~ Title 53G, Chapter 6, Part 4, School District Enrollment.

[B.](3) The school district shall adjust timelines for open enrollment applications if the district is developing a district-wide reconfiguration of [its] the district's schools consistent with Subsection 53G-6-401(1).

[C.](4) A school district may establish longer or broader timelines for enrollment than required by law.

[D.](5) If construction, remodeling, or other circumstances beyond the control of the

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local school board do not reasonably permit the local school board to make sufficiently accurate enrollment projections for a given school to determine whether the school should be designated as available for open enrollment for the coming year, the local board shall designate delays and procedures consistent with Subsection 53G-6-402(4)(c).

~~[E.](6)(a)~~ As required under Subsection 53G-6-405(2), a resident district shall pay to a nonresident district one-half of the resident district's ~~[residual]~~ per student expenditure for each resident student properly registered in the nonresident district.

(b) A resident district may pay a nonresident district any additional amount if agreed upon by both districts.

(c) No payments shall be made pursuant to this rule for split enrollment of a student.

(d) Funding for students who are split enrolled shall be provided to the participating LEAs in accordance with Section R277-419-6.

(7) An agreement between the resident district and a nonresident district may be made prior to the acceptance of a requesting student and shall be done outside of the Statewide Online Education Program process described in R277-726.

~~[F.](8) [Each]~~ A local school board shall establish a procedure to consider appeals of ~~[any]~~ a student's denial of initial or continued enrollment of a nonresident student under Subsection 53G-6-404(1).

~~[G.](9)~~ A local school board ~~[of education]~~ may deny a student's request for enrollment ~~[of nonresident students]~~ for a reason~~[s]~~ identified in Title 53G, Chapter 6, Part 4, School District Enrollment~~[R277-437-1]~~.

~~[H.](10)~~ This rule does not govern eligibility for nonresident students to participate in activities supervised by the Utah High School Activities Association (UHSAA)~~[if students transfer under Section 53G-6-401]~~.

**R277-437-4. Special Education Open Enrollment Requirements. [State Board of Education Responsibilities.**

~~—— A. Capacity for special education classrooms shall:~~

~~—— (1) be consistent with Utah Special Education Caseload Guidelines; and~~

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~~—— (2) depend on staffing and funding constraints of the receiving school district.~~

~~—— B. A model standard enrollment options application form shall be available on the USOE website.]~~

(1) When considering an open enrollment request for a student who qualifies for special education services, a nonresident district shall:

(a) consider the individual needs of the student and whether the nonresident district can meet the student's needs when determining whether there is capacity to accept the student; and

(b) establish policies and procedures for open enrollment that do not have the effect of discriminating against a student who qualifies for special education services.

(2) The policies and procedures described in Subsection (1), as applied or implemented, may not lead to the categorical denial of accepting a nonresident student who qualifies for special education services.

(3) The Superintendent may provide model policies that meet the requirements of this section.

#### **R277-437-5. Transportation.**

(1) A school resident district may transport the district's [its] students to schools in other districts under Subsection 53G-6-405(3)(b)(i).

**KEY: public education, enrollment options**

**Date of Enactment or Last Substantive Amendment: February 7, 2014**

**Notice of Continuation: December 16, 2013**

**Authorizing, and Implemented, or Interpreted Law: Art X Sec 3; 53E-3-401(1)(b); 53G-6-405; 53G-6-401 et**