

Open Enrollment Law

Utah Code 53G-6-4-401 to 407

“Shall” vs “May”

“The school administrator of the requested school **shall** accept the transferring student subject to the conditions...”

“The school administrator **may** allow provisional enrollment of a nonresident student...”

Some provisions of permit law in state code or district policy are “shall” provisions, which does not legally allow a choice - compliance is required.

Some provisions are “may” provisions - something can be done at the discretion of the local school board.

The choice of words in the open enrollment statutes and policy is critical; some items cannot be waived or changed because they are mandated through the use of “shall” instead of “may”.



Open Enrollment Capacity

90%

(or maximum minus 40)

90% capacity will be determined by Planning & Enrollment.

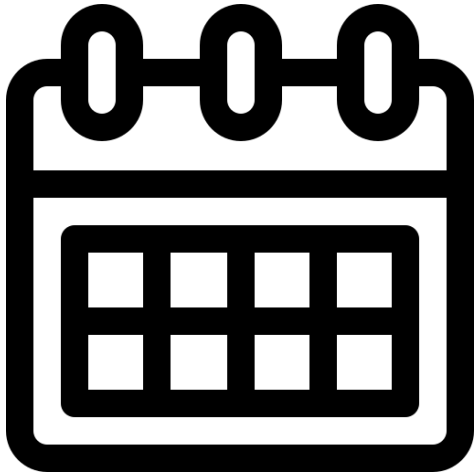
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Each school board has the responsibility in state code to provide educational services for their own resident students and, within certain guidelines and conditions, to nonresident students.

Each local school board determines a school's maximum capacity by determining the number of students who could be served if each "instructional station" had enrollment equal to the district average.

If a school's enrollment is at or below the open enrollment threshold, the local school board shall admit nonresident students wishing to attend. The school board may also choose to allow enrollment of nonresident students when a school is above the enrollment threshold.

The open enrollment threshold is the greater of A) 90% of maximum capacity or B) maximum capacity minus 40 students. The late enrollment threshold is the greater of 90% of the school's adjusted capacity (the total number of students who could be served in a building if each teacher had a class size equal to the district's average for that grade (elementary) or similar class (secondary)).



Timeline

OPEN ENROLLMENT:

From December 1 to the third Friday in February.

LATE ENROLLMENT:

From the third Friday in February to the Friday before school starts for the upcoming school year.

OR

Any point during the current school year.

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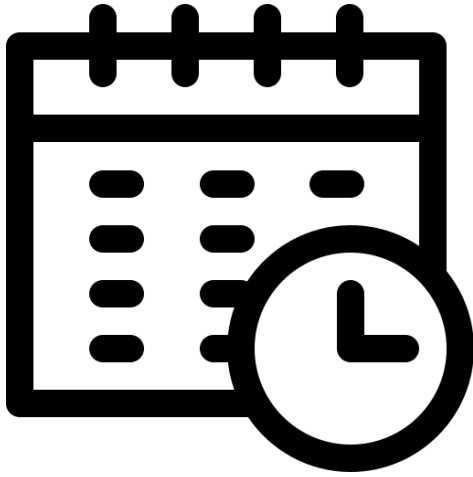
Windows may be delayed by the school board when accurate projections cannot be made.

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The local school board has the responsibility to distribute information on how to apply for open enrollment and must meet the following timetable:

- From December 1 through the third Friday in February: make applications for early enrollment available
- From the third Friday in February onward: Late enrollment for the next school year enrollment
- At any point during the current year: Late enrollment for the current year

The timetable can be delayed if projections cannot be accurately made due to construction, remodeling, revision/creation of boundaries, or other circumstances beyond the board's control. The delay may only go 4 weeks beyond the date when accurate projections can be made.



Notifications

OPEN ENROLLMENT: Six weeks

LATE ENROLLMENT (next year): Two weeks

LATE ENROLLMENT (current year): Two weeks

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Statute requires the following notifications of acceptance/denial of permits:

- Open Enrollment: Within six weeks or by March 31: Notification of acceptance or rejection for early enrollment applications
- Open Enrollment: Within two weeks of receipt or by the Friday before school begins: Notification of acceptance or rejection of late enrollment applications for the next school year
- Late Enrollment: Within two weeks of receipt for the current school year
- Written notification to the student's originating district when they are accepted into another district on permit
- Written notification of all parties for grade reconfigurations

Capacity of Grade / Program

Academic Achievement of Student

Prioritizing Intradistrict Transfers

Previous Discipline

English Proficiency

Maintaining Heterogeneity

Athletics

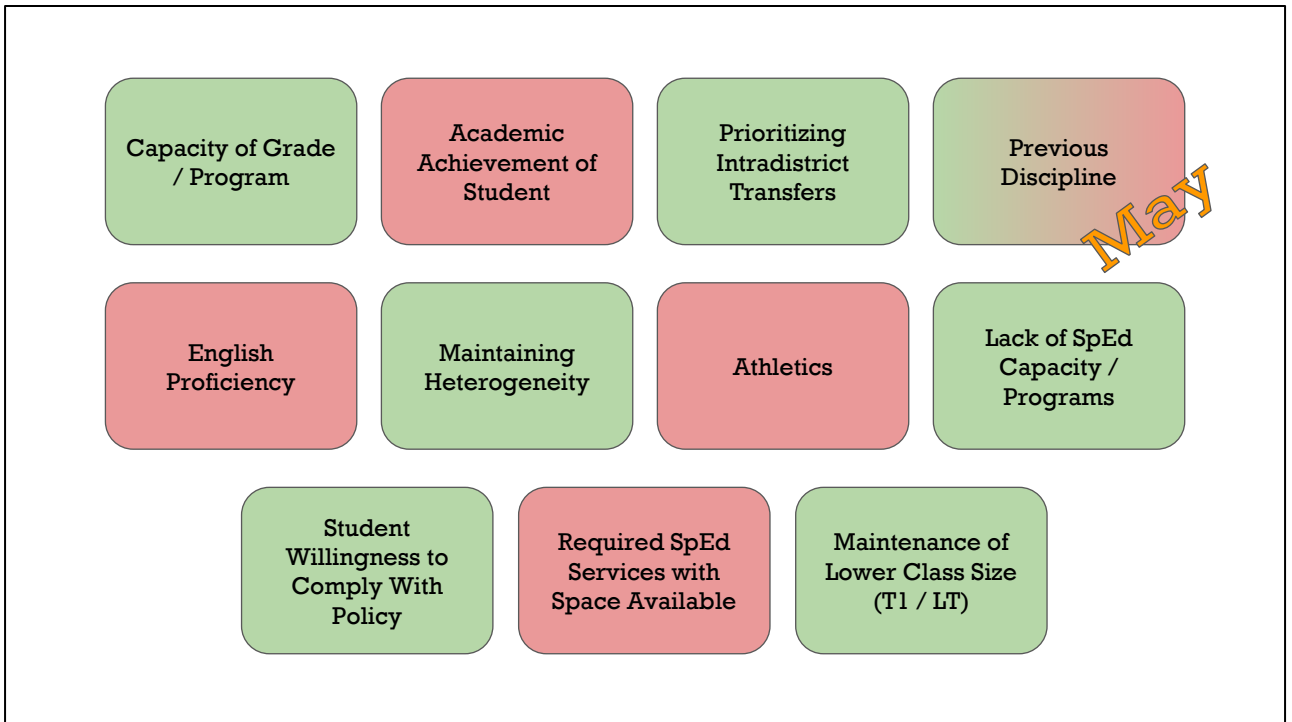
Lack of SpEd Capacity / Programs

Student Willingness to Comply With Policy

Required SpEd Services with Space Available

Maintenance of Lower Class Size (T1 / LT)

These items are among many used by schools to approve or deny a permit request. Some are allowed in statute and some are not.



Items in green are allowable for approving/denying an open enrollment permit under statute

(https://le.utah.gov/xcode/Title53G/Chapter6/53G-6-S403.html?v=C53G-6-S403_2019051420190514):

- Capacity of a grade level (elementary) or comprehensive program (secondary)
- Giving priority to transfers of students inside a district over students outside the district
- “Maintenance of heterogeneous student populations if necessary to avoid violation of constitutional or statutory rights of students”
- Student willingness to comply with district policy
- Maintaining lower class sizes in the following two instances only: 2) in a Title I school that uses federal, state, and local money to reduce class sizes for the purpose of improving student achievement; or 2) in a school that uses school trust money to reduce class size

Special Education programs may be used as a reason for denying a permit only when a program a student needs is not available at the school where the student has applied (for instance, a student who has a placement in a self-contained support classroom could be denied a permit at a school that does not have such a SCSC because schools do not have an obligation to create programs that do not already exist).

Items in red are not allowable for approving/denying an open enrollment permit under statute:

- Academic achievement
- English proficiency
- Athletic ability
- Requiring special education services when a program exists and space is available

Previous discipline *may* be used as grounds for denying a permit (which is why the box is colored both red and green); however, statute only allows denying a permit on disciplinary reasons when a student has “committed serious infractions of the law or school policies, including policies of the district in which enrollment is sought; or 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.” Students with previous discipline issues can be enrolled on a provisional permit outlining the conditions a student must meet to continue to enroll. **This is the only provisional permit allowable in state statute.**

Parents and students have the statutory right to appeal ANY permit denial to the local school board.



Remain in force until:

- Graduation/Moving to the next level
- Change in Utah residency
- Suspension or expulsion
- Resident student enrollment surpasses threshold

Be appealed to the local school board when denied



Cannot be “transferred” between schools in the same year.

May

Cannot be “transferred” between levels as a student advances.

Cannot be revoked if a student moves to a new location within the state.

Cannot cover additional members of the same family - one permit per student.

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A permit remains in force until graduation, change in Utah residency, suspension or expulsion, or enrollment of resident students surpasses the enrollment threshold (determined by the district).

A permit cannot transfer between multiple schools in the same year (having received a permit at School A does not allow you automatically enroll at School B in the same district). A permit at one level does not guarantee a permit at the next level.

Once a student has enrolled on a permit, their place of residency is not important. A student who applied for a permit to a West Jordan school when the student was living in Taylorsville may move to any other location in the state and remain on permit.

A permit is issued on a single-student basis; all students in a family must apply for and receive their own permit.



Revokes?

Can revoke on suspension or expulsion.

Can revoke at parent request or due to transfer of enrollment.

Can revoke at district direction (Last In, First Out) when enrollment will exceed open enrollment threshold.

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A permit may be revoked if a student is suspended or expelled from school. These are the only allowable items in state statute. A permit cannot be revoked for non-attendance or poor grades.

A permit may be revoked at parent request or when a parent notifies the school that they have enrolled elsewhere.

Permit may be revoked when a district determines that enrollment at a school will exceed the open enrollment threshold.



JSD Policies and Procedures

Statute allows for a local school board and district administration to make additional provisions to the open enrollment process. The following are the JSD provisions.

JSD Board Permit Priorities

High School	Middle School	Elementary School
<ol style="list-style-type: none">1. All juniors wishing to remain in their current school as seniors for the following school year are guaranteed a permit.2. Children of employees working at the school.3. Sophomores wishing to remain in their current school as juniors.4. Students who live within 2.0 miles (driving) of the school.5. Students living within the District.6. Anyone who does not fall into these categories.	<ol style="list-style-type: none">1. Children of employees working at the school.2. 8th-grade students wishing to remain in their current school as 9th-graders for the following school year.3. 7th-grade students wishing to remain in their current school as 8th-graders for the following school year.4. Students who live within 2.0 miles (driving) of the school.5. Students living within the District.6. Anyone who does not fall into these categories.	<ol style="list-style-type: none">1. Children of employees working at the school are guaranteed a permit.2. Fifth-grade students wishing to remain in their current school as 6th-graders for the following school year.3. Students who live within 1.5 miles (driving) of the school.4. Students currently enrolled at the school where they are seeking a permit.5. Siblings of students who will be on permit at the school for the following school year.6. Students living within the District.7. Anyone who does not fall into these categories.

During the month of December, all permits are ranked on priority level, regardless of the date the permit application was submitted. In early January, a lottery is held and permits are awarded based on priority level. From January through the end of the open enrollment period in February, permits are awarded on a first-come, first-serve basis. When open enrollment ends, permits are awarded based on space available under staffing ratios.

	Program Participant	Sibling of Participant
ALPS	Enrolled according to testing and placement procedures.	<p>Can receive a permit for kindergarten.</p> <p>1st Grade: Qualify for ALPS or apply for traditional permit.</p>
DLI	Placed according to established priorities in first grade: siblings of participants, school boundary students, JSD boundary students, other district students	<p>Can receive a permit for kindergarten if they commit to enroll in DLI.</p> <p>1st Grade: Enroll in DLI or apply for traditional permit.</p>

Participants in district programs (ALPS, DLI, Special Education placement, and appeal hearing placement) must be put on a permit when they attend a school outside of their boundary; however, this is NOT an open enrollment permit. These permits are entered by the school or relevant district department based on qualification for the program.

Permits processed through PowerSchool are open enrollment permits and remain in effect until revoked or the student advances to the next level. Permits for district programs only remain in effect until participation in the program ends.

If a school makes participants in a district program apply for an open enrollment permit through PowerSchool and grants those permits, the student may remain at the school until they change levels, regardless of participation in the program that originally brought the student to the school.

Tier I

Up to 100% of traditional capacity without portables

After discussion with their administrator of schools, principals **may** decide to accept permits above 90% and up to 100% of capacity.

Tier II

100% of traditional capacity with up to 6 portables

The principal **may** request authorization to approve permits up to 100% of capacity plus 6 portables. Approval from the administrator of schools and notification of the Board of Education are required.

Tier III

100% of traditional capacity with more than 6 portables

The principal **may** request authorization to approve permits up to 100% of capacity plus more than 6 portables. Cabinet approval and Board discussion are required.

School administrators wishing to enroll above the open enrollment threshold must follow these procedures and obtain the approvals listed, depending on the numbers they hope to enroll and the numbers of portables at their building.

	Prior to December		December 1 to January					January to 3 rd Friday in Feb for Early; until Friday before school year for Late		
Planning & Enrollment	Determine building capacity.						January Lottery			
School Administrator		Determine and set number of seats.			Approve permits.					Late permits: approve as needed
Secretary or Registrar			Import permits. Verify information (student ID, birthdate, priorities, etc.). Can begin enrollment / pre-enrollment.			Move to waitlist. Notify parents.		Offer permits. Notify parents. Late permits: Continue to import, verify		Complete enrollment.
Parent			Apply for permit.						Accept permit.	

This slide shows a simplified view of the timeline of the open enrollment permit process.

Please note that the only individual with authorization to approve a permit is the local school administrator.

“Administration” or “the District”

II. **Administrative Policy**

The Administration shall administer the open enrollment program according to the following administrative policy provisions and in accordance with Utah Code § [53G-6-402](#) and [403 \(2018\)](#):


2. The District shall not be required to provide any program that it has not previously provided to its own students. If the District does not offer a program that the student requires, that fact shall be considered in reviewing the student's application.

Statute and policy refer to two types of administration:

Administration (usually with a capital A): District administration. The only responsibility or involvement that District administration has in the open enrollment process is to establish and administer the program.

“administrator”

B. Accepting Permit Students

The school administrator of the requested school shall accept the transferring student subject to the conditions set forth in document  “School Permit Procedures” and subject to the following:

1. Space, staff, and programs are available to accommodate the student.
2. The District shall not be required to provide any program that it has not previously provided to its own students. If the District does not offer a program that the student requires, that fact shall be considered in reviewing the student's application.
3. The student has not committed serious infractions of the law or school rules, including rules of the requested school/District.
4. The student has not been guilty of chronic misbehavior that would, if it were to continue after the student was admitted, endanger persons or property, cause serious disruptions in the school, or place unreasonable burdens on school staff.
5. The school administrator may allow provisional enrollment of a nonresident student with prior behavior problems when conditions have been set under which the student would be permitted to enroll or continue.
6. Standards may not include previous academic performance (i.e. test scores, grades), athletic or other extra-curricular ability

administration (with a lowercase a): School administration. School administrators shall (must) accept open enrollment applications when school enrollment is below the 90% threshold. Administrators may accept students provisionally who have prior behavioral problems.

District administration (in particular, the Planning and Enrollment team of Student Services) does not have the authority under statute to grant or deny a permit request. Parents referred to Planning and Enrollment to “appeal” a permit denial will be referred back to the local school administrator.

Who decides the number of seats?

Who verifies information on permits?

Who approves permits?

**Who can be given a provisional
permit?**

Who decides the number of seats? District administration

Who verifies information on permits? School secretaries or registrars

Who approves permits? School administrators

Who can be given a provisional permit? Students with prior behavioral problems.