



NEBO SCHOOL DISTRICT BOARD OF EDUCATION POLICIES AND PROCEDURES

SECTION: J - Students
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1. PURPOSE AND PHILOSOPHY

The Board of Education of Nebo School District desires to establish student enrollment and school transfer procedures in accordance with Utah law to provide legally compliant, consistent, and equitable practices among all the schools in Nebo School District.

2. DEFINITIONS

- 2.1 **“Adjusted capacity”** is the total number of students who can be enrolled in a school if the class size is at least equal to the district’s average class size for the corresponding grade in an elementary school and a similar class in a secondary school. Adjusted Capacity for each school is established by the Board of Education.
- 2.2 **“Administrative Transfer”** occurs when a student is moved from their resident school to a nonresident school at the sole discretion of the district. Administrative Transfers are utilized under special and unique circumstances to address the critical educational needs of a student. An Administrative Transfer shall be approved by the resident and nonresident school administrators and/or the district’s Student Services Coordinator. An Administrative Transfer may also be made by the respective Director of Elementary Education or Director of Secondary Education. An Administrative Transfer may occur when the district determines a student would be better served by being transferred to another school or program within the district for any of the following reasons: (a) student discipline; (b) providing appropriate educational services for “at-risk” students, special education students, and Section 504 students; or (c) any other reason deemed to be in the best interest of the student and/or the district.
- 2.3 **“Custodial parent(s)”** or **“parent(s)”** means the natural or adoptive father and/or mother of a minor student who has legal custody rights. In the event of divorce, the court generally designates either the mother or the father as the “custodial parent” in the Divorce Decree or other order of the court. In some situations, the court designates both mother and father as the “custodial parents.”
- 2.4 **“Custody”** is defined in Section 3 below.

- 2.5** “**Early Enrollment**” is the period of time when an application may be submitted to the district requesting admission to a school that is not a student’s resident school for the next school year. Utah State Board of Education Standard Open Enrollment Applications for Early Enrollment are accepted beginning December 1st through the third Friday in February for admission for the next school year.
- 2.6** “**Exigent circumstances**” generally means circumstances beyond the control of an individual(s).
- 2.7** “**Late Enrollment**” is the period of time when an application may be submitted to the district requesting admission to a school that is not a student’s resident school for the next or current school year. Utah State Board of Education Standard Open Enrollment Applications for Late Enrollment are submitted after the third Friday in February for admission for the next school year, or for admission for the current school year.
- 2.8** “**Legal guardian(s)**” means a person or persons who has been appointed by the court and vested with legal custody rights and responsibilities to manage the affairs of a minor student.
- 2.9** “**Maximum Capacity**” is the total number of students who can be enrolled in a school if each of the classrooms were to have an enrollment at least equal to the district’s average class size for the corresponding grade in an elementary school and a similar class in a secondary school. Maximum Capacity for each school is established by the Board of Education.
- 2.10** “**Minor student**” is defined as a child who has reached the age of six (6) years but has not reached the age of eighteen (18) years, but does not include an emancipated minor.
- 2.11** “**Nonresident student**” is a student who lives outside the boundaries of their assigned school attendance area.
- 2.12** “**Open Enrollment**” refers to those enrollment procedures prescribed by Utah Code Ann., §53A-2-201 et seq., Utah Admin. Code, R277-437, and Section 6 of this policy.
- 2.13** “**Open Enrollment Threshold**” is the maximum number of students to be enrolled in a school during Early Enrollment and Late Enrollment which is determined as follows:
- 2.13.1** Early Enrollment Threshold is the projected enrollment that is the greater of ninety percent (90%) of the “Maximum Capacity”; or “Maximum Capacity” minus forty (40) students.
- 2.13.2** Late Enrollment Threshold is the actual school enrollment that is the greater of ninety percent (90%) of “Adjusted Capacity”; or “Adjusted Capacity” minus forty (40) students.
- 2.14** “**Power of Attorney**” is a legal instrument, signed and notarized by an individual(s) who has legal custody of a minor student, that designates a responsible adult as the student’s custodian and grants the designated adult authority to take any appropriate action on behalf of the student, including authorization of education and medical services. A “Power of Attorney” does not confer legal guardianship (see Utah Code Ann., §53A-2-201(4)). Both the granting party and the designated adult shall agree to: (a) assume responsibility for any fees or other charges relating to the student’s education; AND (b) if eligible for fee waivers, provide the district with all financial information requested by the district for purposes of determining eligibility for fee waivers (see Utah Code Ann., §53A-2-201(3)).
- 2.15** “**Responsible adult**” is defined as an individual twenty-one (21) years of age or older who is willing and able to provide reasonably adequate food, clothing, shelter, and supervision for a minor student (see Utah Code Ann., §53A-2-202(1)).

3. CUSTODY

The school needs to determine the individual(s) who has custody over a minor student prior to enrollment in school. The individual(s) who has custody rights over a minor student is responsible for the educational matters of the student.

- 3.1 A parent(s) generally have custody rights over their minor student. In cases of divorce, the Divorce Decree or other order of the court typically states which party is awarded “primary physical custody” over the minor children. Generally, either the mother or the father is designated as the “custodial parent” even if both parties are awarded “joint legal custody” over the minor children. In the event the court determines that both parties are awarded “joint physical custody,” then mother and father are both considered the “custodial parents.”
- 3.2 In certain situations where parental rights have been terminated or suspended by circumstances or prior court order, a court may appoint a legal guardian(s) in the best interests of the minor student. In that event, the legal guardian(s) is given the custody rights over the minor student.
- 3.3 In limited situations as specifically provided by Utah law and this policy, a person who has legal custody over a minor student may issue a “Power of Attorney” to a responsible adult. In that event, the responsible adult is given the custody rights over the minor student.

4. STUDENT ENROLLMENT

Utah Code Ann. §53A-2-201(1) provides that the school district of residence of a minor student is where the custodial parent or legal guardian resides. Accordingly, a student who lives with his/her custodial parent(s) or legal guardian(s) and resides within the geographical boundaries of Nebo School District is considered a resident of the district for school enrollment. A minor student must be enrolled in the district as a resident if the student lives in the district with his/her custodial parent(s) or legal guardian(s). A resident student is to be enrolled in the particular school/program in which boundaries he/she resides or is assigned by the district, unless an intra-district school transfer is approved as provided in Section 5 below. However, there are certain circumstances wherein a minor student may be enrolled in Nebo School District even though the student does not reside with his/her custodial parent(s) or legal guardian(s). These particular circumstances are described in Paragraphs 4.1 and 4.2 below.

4.1 Custodial Parent(s) / Legal Guardian(s) of a Minor Student Lives out of Nebo School District but within the State of Utah:

- 4.1.1 A minor student must be enrolled in the district as a resident if the student lives in the district and is in custody of or supervised by a Utah State agency (i.e., foster parents). Documentation of the custody or supervision by the Utah State agency shall be provided to and approved by the Coordinator of Student Services or his/her designee(s).
- 4.1.2 A minor student must be enrolled in the district as a resident if the student lives in the district and is supervised by an approved child placement agency (i.e., proctor parents). The agency must be licensed by the State of Utah and satisfy all education and support coordination requirements. The agency shall pay all student fees, deposits, or other charges in accordance with Utah law and district policy (See Utah Code Ann., §62A-2-108.1 and §62A-4a-606). Documentation of the supervision by the agency shall be provided to and approved by the Coordinator of Student Services or his/her designee(s).
- 4.1.3 A minor student may be enrolled in the district as a resident if the student lives in the district with a responsible adult resident of the district if a determination has been made by the Coordinator of Student Services or his/her designee(s) that all of the following criteria are satisfied: (a) the student’s physical, mental, moral, or emotional health is best served; (b) exigent circumstances exist that cannot be

appropriately addressed under the Open Enrollment procedures set forth in Section 6 below (see Utah Code Ann., §53A-2-207, et seq. and Utah Admin. Code, R277-437); AND (c) the enrollment of the student does not violate any other law or rule of the Utah State Board of Education. Enrollment of the minor student under this paragraph requires the responsible adult resident to be issued an appropriate Power of Attorney by the individual(s) who has legal custody of the minor student.

- 4.1.4 A minor student may be enrolled in the district as a resident if the student lives in the district with a responsible adult resident of the district under the Open Enrollment procedures described in Section 6 below. All Open Enrollment applications are processed and approved by the Coordinator of Student Services or his/her designee(s). Enrollment of the minor student under this paragraph requires the responsible adult resident to be issued an appropriate Power of Attorney by the individual(s) who has legal custody of the minor student.
- 4.1.5 A minor student must be enrolled in the district as a resident if the student lives in the district and is “emancipated” either by: (a) marriage; (b) court order; OR (c) a determination by an authorized state administrative agency.
- 4.1.6 A minor student must be enrolled in the district as a resident if the student lives in the district and is deemed “homeless” under the Stewart B. McKinney Homeless Assistance Act, 42 U.S.C. Section 11431 (see also Nebo School District – Students in Homeless Situations Policy #JECC and Utah Admin. Code, R277-616. All “homeless” determinations shall be approved by the Coordinator of Student Services or his/her designee(s).

4.2 Custodial Parent(s) of a Minor Student Lives outside the State of Utah:

- 4.2.1 A minor student must be enrolled in the district as a resident if the student lives in the district with his/her legal guardian(s). Tuition will be charged if provided for in a court order or a determination has been made by the Coordinator of Student Services or his/her designees that the primary purpose for the legal guardianship is for educational purposes or to attend school in the district.
- 4.2.2 A minor student may be enrolled in the district as a resident if the student lives in the district with his/her non-custodial parent or grandparent(s) and a determination has been made by the Coordinator of Student Services or his/her designee(s) that all of the following criteria are satisfied: (a) the non-custodial parent or grandparent(s) is considered a responsible adult; (b) the student’s presence in the district is not for the primary purpose of attending school; (c) the student’s physical, mental, moral, or emotional health is best served; AND (d) the student is prepared to abide by district and school policies and rules. Enrollment of the minor student under this paragraph requires the non-custodial parent or grandparent(s) to be issued an appropriate Power of Attorney by the individual(s) who has legal custody of the minor student.
- 4.2.3 A minor student must be enrolled in the district as a resident if the student lives in the district and is “emancipated” either by: (a) marriage; (b) court order; OR (c) a determination by an authorized state administrative agency.
- 4.2.4 A minor student must be enrolled in the district as a resident if the student lives in the district and is deemed “homeless” under the Stewart B. McKinney Homeless Assistance Act, 42 U.S.C. Section 11431 (see also Nebo School District – Students in Homeless Situations Policy #JECC and Utah Admin. Code, R277-616. All “homeless” determinations shall be approved by the Coordinator of Student Services or his/her designee(s).
- 4.2.5 A minor student may be enrolled in the district as a resident if the student lives in the district and is supervised by a Utah State agency under an Interstate Compact

effectuated through Utah State Human Services and an analogous agency in another state. Tuition must be paid unless the Utah State agency has assumed all financial responsibility for the student (see Utah Code Ann., §62A-2-108.1 and §62A-4a-606). Students to be enrolled under this provision shall be approved by the Coordinator of Student Services or his/her designee(s).

- 4.2.6** A minor student may be enrolled in the district as a resident if the student lives in the district and is an approved foreign exchange student by the Utah State Office of Education (i.e., J-1 Visa students). Tuition must be paid unless the foreign exchange program and student satisfy the requirements of Utah Code Ann. §53A-2-206 and Utah Admin. Code, R277-615. Students to be enrolled under this paragraph shall be approved by the Coordinator of Student Services or his/her designee(s). Enrollment of the minor student under this provision requires the responsible adult resident to be issued an appropriate Power of Attorney by the individual(s) who has legal custody of the minor student.
- 4.2.7** A minor student may be enrolled in the district as a resident if the student lives in the district and is an approved foreign student (i.e., F-1 Visa students). Tuition must be paid. Students to be enrolled under this paragraph shall be approved by the Coordinator of Student Services or his/her designee(s). Enrollment of the minor student under this provision requires the responsible adult resident to be issued an appropriate Power of Attorney by the individual(s) who has legal custody of the minor student.

5. IN-DISTRICT STUDENT SCHOOL TRANSFERS

In an effort to retain the benefits of neighborhood schools, to maintain strong school and community loyalty, and to promote stability and predictability of student enrollment numbers, it is strongly preferred that students in the district enroll and attend the schools in the boundaries in which they reside. Notwithstanding this preference, students may attend another school within the district through the Open Enrollment procedures or through an Administrative Transfer.

- 5.1 Open Enrollment:** The Open Enrollment option is available to in-district resident students whose custodial parent(s) or legal guardian(s) live in the State of Utah. Open Enrollment allows a student to enroll in and attend a school in Nebo School District other than the school in which boundaries he/she resides. The terms and conditions of the Open Enrollment option are set forth in Utah Code Ann., §53A-2-201, et seq. and Utah Admin. Code, R277-437 (see Section 6 below).
- 5.2 Administrative Transfer:** The district may, in its sole discretion, transfer a student to a nonresident school for special and unique circumstances to address the critical academic needs of a student. Administrative Transfers are generally done in situations when the student's specific academic needs cannot be adequately addressed at the resident school. Some examples of reasons that generally do not warrant an Administrative Transfer include, but are not limited to: (a) the student desires to attend the same school with certain friends; (b) teacher preference; (c) program choice; and (d) athletic participation. Administrative Transfers may be granted for any of the following reasons: (a) student discipline; (b) providing appropriate educational services for "at-risk" students, special education students, and Section 504 students; or (c) any other reason deemed to be in the best interest of the student and/or the district.
- 5.2.1** Administrative Transfers are reserved only for students who are residents of the district. The principal of the receiving school shall consult with the principal of the resident school to assist in evaluating the transfer. Either or both principals may request a meeting with the student and his/her custodial parent(s) / legal guardian(s) to gather more information relative to the proposed transfer. The district's Coordinator of Student Services, Elementary Director, or Secondary Director may also be involved, as appropriate, in regards to a proposed transfer.

- 5.2.2** Administrative Transfers of secondary school students shall include a transcript, attendance record, and a discipline report from the resident school. In addition, if a secondary school student desires to participate in Utah High School Activities Association (UHSAA) sponsored athletics, the custodial parent(s) / legal guardian(s) must complete the Nebo School District Athletic Eligibility and Transfer Form(s) and the UHSAA Transfer of Eligibility Forms, if applicable. All transfers must be in compliance with Utah law, Nebo School District policies, Utah State Board of Education rules, and the constitution, bylaws, policies, and rules of UHSAA.
- 5.2.3** Administrative Transfers should not be utilized if: (a) the reasons do not concern the critical academic needs of a student; (b) the student's specific needs can be adequately addressed at the resident school; (c) there is a need to maintain appropriate student-teacher ratios in a particular grade, class, program, or school; (d) the student has committed serious infractions of the law, violated district or school policies and rules, or has been guilty of chronic misbehavior; (e) the proposed transfer could reasonably cause disruptions in the receiving school or place unreasonable burdens on school personnel; or (f) the proposed transfer is not in the best interests of the student and/or the school.
- 5.2.4** Administrative Transfers must be approved by both the receiving school and the resident school principals and/or the district Student Services Coordinator. An Administrative Transfer may also be made by the respective Director of Elementary Education or Director of Secondary Education. The receiving principal may allow for provisional enrollment of the student and establish terms and conditions under which enrollment would be permitted or continued. Such students must remain in good standing by maintaining acceptable citizenship, attendance, and grades. If the student fails to abide by these terms and conditions, the student will be returned to his/her resident school. Administrative Transfers are granted on an individual student basis, and there are no transfer guarantees for siblings, neighbors, or friends.
- 5.2.5** The custodial parent(s) / legal guardian(s) of students who are subject to an Administrative Transfer may be responsible to provide transportation or otherwise assure that the student gets safely to and from school.
- 5.2.6** In the elementary schools, an Administrative Transfer is for the current grade (school year) only. Administrative Transfers must be effectuated for subsequent years in an elementary school and when transitioning from elementary school to junior high school.
- 5.2.7** In secondary schools, an Administrative Transfer is for all grades within that school. In the event an Administrative Transfer was approved for a particular junior high school, the Administrative Transfer does not extend to the next designated high school in the system.

6. OPEN ENROLLMENT (EARLY AND LATE)

The Open Enrollment option is available only to in-district students and out-of-district students whose custodial parent(s) or legal guardian(s) live in the State of Utah. Open Enrollment allows a student to enroll in and attend a school in Nebo School District other than the school in which boundaries he/she resides. A student has a better opportunity of being accepted through Early Enrollment rather than Late Enrollment. Accordingly, Early Enrollment should be the preferred method of transferring a student. The terms and conditions of the Open Enrollment option are set forth below in this Section 6 and in Utah Code Ann., §53A-2-207, et seq. and Utah Admin. Code, R277-437.

6.1 District Responsibilities:

- 6.1.1** The Coordinator of Student Services, prior to September 30th, shall provide information about the district and its schools, programs, policies, and procedures to all students who are residents of the State of Utah who have expressed an interest in applying to attend schools in Nebo School District other than their respective school of residence.
- 6.1.2** The district shall designate which schools and programs will be available for Open Enrollment during the coming school year.
- 6.1.3** 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 in accordance with applicable Utah laws and regulations.
- 6.1.4** For each school in the district, the district shall post on its website the following information: (a) the school's Maximum Capacity; (b) the school's Adjusted Capacity; (c) the school's projected enrollment in the calculation of the Open Enrollment Threshold; (d) the school's actual enrollment on October 1, January 2, and April 1; (e) the number of nonresident student enrollment requests; (f) the number of accepted nonresident student enrollment requests; and (g) the number of resident students transferring to another school.

6.2 Application for Early Enrollment

- 6.2.1** Early Enrollment transfers shall be submitted to the district on the Utah State Board of Education Standard Open Enrollment Application form and the applicable Nebo School District Open Enrollment Documentation for Elementary or Secondary Students form. Said application forms are available at the district office and at the schools. The student's custodial parent(s) / legal guardian(s) must submit properly completed application forms to the office of the Coordinator of Student Services at the district office.
- 6.2.2** Applications must be timely submitted. Applications are accepted beginning December 1st through the third Friday in February for initial enrollment to begin the following school year in the requested school/program of the district. After the third Friday in February, no further applications for Early Enrollment will be accepted.
- 6.2.3** The student's custodial parent(s) / legal guardian(s) may request on their application a particular school/program from a list of those that are open for enrollment as identified by the district. The district shall determine which schools are open for enrollment during the coming school year. Schools may be closed by the district if the estimated enrollment of the school/program exceeds the applicable Open Enrollment Thresholds for Early Enrollment ("Maximum Capacity").
- 6.2.4** The student's application shall identify the reason(s) for enrolling in the requested school/program in the district.
- 6.2.5** The student's parent or legal guardian shall receive written notification within six (6) weeks after receipt of the application by the district or by March 31st, whichever is later, as to whether the application has been accepted or denied.
- 6.2.6** All submitted applications must also include a five dollar (\$5.00) processing fee.

6.3 Application for Late Enrollment

6.3.1 Late Enrollment transfers shall be submitted to the district on the Utah State Board of Education Standard Open Enrollment Application form and the applicable Nebo School District Open Enrollment Documentation for Elementary or Secondary Students form. Said application forms are available at the district office and at the schools. The student’s custodial parent(s) / legal guardian(s) must submit properly completed application forms to the Office of the Coordinator of Student Services at the district office.

6.3.2 Secondary Schools:

6.3.2.1 When considering Late Enrollment applications for the next school year in secondary schools (which applications are filed at the district office after the third Friday in February through May 31st), custodial parent(s) / legal guardian(s) will receive notification of acceptance or denial of the application no earlier than June 1st and no later than June 15th.

6.3.2.2 When considering Late Enrollment applications for the next school year in secondary schools (which applications are filed at the district office on or after June 1st), custodial parent(s) / legal guardian(s) will receive notification of acceptance or denial of the application no earlier than August 1st and no later than the Friday before the new school year begins.

6.3.3 Elementary Schools: When considering Late Enrollment applications for the next school year in elementary schools (which applications are filed at the district office after the third Friday in February), custodial parent(s) / legal guardian(s) will receive notification of acceptance or denial of the application no earlier than August 1st and no later than the Friday before the new school year begins.

6.3.4 The student’s custodial parent(s) / legal guardian(s) may request on their application a particular school/program from a list of those that are open for enrollment as identified by the district. Schools may be closed by the district if the estimated enrollment of the school/program exceeds the applicable Open Enrollment Thresholds for Late Enrollment (“Adjusted Capacity”).

6.3.5 When considering Late Enrollment applications during the school year, custodial parent(s) / legal guardian(s) will receive notification of acceptance or denial of the application within two (2) weeks after receipt of the application by the district.

6.3.6 The student’s application shall identify the reason(s) for enrolling in the requested school/program of the district.

6.3.7 All submitted applications must also include a five dollar (\$5.00) processing fee.

6.4 Acceptance and Rejections of Applications.

6.4.1 Criteria for the acceptance or rejection of Open Enrollment applications include the following:

6.4.1.1 In an elementary school, the capacity of a grade level.

6.4.1.2 The ability to maintain a heterogeneous student population.

6.4.1.3 Maintenance of reduced class sizes in a Title I school that uses federal, state, and local monies to reduce class sizes for the purpose of improving student achievement, or in a school that uses school trust monies to reduce class size.

6.4.1.4 Not offering, or having capacity in, an elementary or secondary special education class or other special program the student requires.

- 6.4.1.5 The willingness of a prospective student to comply with district and school policies.
 - 6.4.1.6 Giving priority to intradistrict transfers over interdistrict transfers.
 - 6.4.1.7 Serious infractions of law or school rules, chronic misbehavior which is likely to endanger persons, property, cause serious disruptions in the school, or place unreasonable burdens on the school staff.

- 6.4.2 Criteria for the acceptance or rejection of Open Enrollment applications may not include the following:
 - 6.4.2.1 Previous academic achievement.
 - 6.4.2.2 Athletic or other extracurricular ability.
 - 6.4.2.3 Special education services for which space is available.
 - 6.4.2.4 Proficiency in the English language.
 - 6.4.2.5 The student's race, color, religion, gender, national origin, disability, or any other classification protected by law.
 - 6.4.2.6 Previous disciplinary proceedings, except that an application may be denied for a student who has committed serious infractions of law or school rules, including rules of the district in which enrollment is sought, or has been guilty of chronic misbehavior which would, if it were to continue after the student was admitted, endanger persons, property, cause serious disruptions in the school, or place unreasonable burdens on school staff. Notwithstanding the foregoing, the district may, in its sole and absolute discretion, provide for provisional enrollment of a student with prior behavior problems and establish terms and conditions under which enrollment of the student would be permitted or continued.

- 6.5 The district's Student Services office shall provide written notification to the student's parent(s) / legal guardian(s) of acceptance or justification for the rejection of any Early Enrollment applications and Late Enrollment applications within the time periods set forth above.

- 6.6 The district's Student Services office shall also provide written notification to the resident school district upon acceptance of a nonresident student for enrollment.

- 6.7 Students transferring schools under the Open Enrollment procedures shall be eligible for extracurricular activities at the school consistent with eligibility standards as applied to students that reside within the school attendance area. Notwithstanding the foregoing, students are subject to eligibility guidelines established by the Utah State Board of Education and UHSAA regarding student participation in interscholastic competition. There is no presumption of eligibility for participation in UHSAA sanctioned activities for students transferring schools under these Open Enrollment procedures. School transfers may adversely affect the student's eligibility to participate in athletics sanctioned by UHSAA. All transfers must be in compliance with Utah law, Nebo School District policies, Utah State Board of Education rules, and the constitution, bylaws, policies, and rules of UHSAA. Nebo School District encourages students who choose to be involved with accelerated teams, summer leagues, club sports, etc. to participate on teams whose members live in the same school boundaries. In addition, the student must receive approval to attend the next school in the feeder system before registering or trying-out for any groups or teams associated with that school. For example, a student may have attended a junior high school under these Open Enrollment procedures. The student's custodial parent(s) / legal guardian(s) would have to submit application and receive approval for their student to attend a high school that is not the student's resident high school. Ninth grade students can only participate on the high school teams and programs in which boundaries the student resides. The student's resident school is determined by the address of their custodial parent(s) / legal guardian(s) and the school boundary area associated with that address.

- 6.8 Students who enroll in schools/programs through the Open Enrollment procedures are subject to compliance with all district and school policies, rules, and procedures.

- 6.9** Once enrolled in a nonresident school/program, the student may remain enrolled subject to compliance with all district and school policies, rules, and procedures established for all students, and the student is not required to submit annual or periodic applications unless one of the following occurs:
- 6.9.1** The student graduates from high school;
 - 6.9.2** The student is no longer a Utah resident;
 - 6.9.3** The student is suspended or expelled from school; OR
 - 6.9.4** The district determines that enrollment within the particular school/program will exceed Open Enrollment Threshold capacities.
- 6.10** The determination of which nonresident student(s) will be excluded from continued enrollment in the district during a subsequent year (as per Paragraph 6.9.4 above) is based upon time in the district, with those most recently enrolled being excluded first and the use of a lottery system when multiple nonresident students have the same number of school days in the school. Nonresident students who will not be permitted to continue their enrollment shall be notified no later than March 15th of the current school year. Nonresident students may be eligible for relocation in other open schools/programs in the district in accordance with Utah Admin. Code, R277-437.
- 6.11** The custodial parent(s) / legal guardian(s) of a student enrolled in a school that is not the student's school of residence may remove the student from that school for enrollment in another public school by submitting notice of intent to enroll the student in the district of residence or another nonresident district.
- 6.12** The district shall designate the schools which students shall attend as they progress from elementary school to junior high school and then to high school. School boundaries are established by the district using nondiscriminatory criteria in order to maintain stability and predictability of student enrollment numbers. Students who attend a particular school/program under the Open Enrollment procedures are not automatically enrolled in the next designated junior high school or high school. Students must submit another Open Enrollment application for each school or program.
- 6.13** A student who is enrolled in a school that is not the student' school of residence because school bus service is not provided between the student's neighborhood and the school for residence for safety reasons: (a) shall be allowed to continue to attend the school until the student finishes the highest grade level offered; and (b) shall be allowed to attend the Junior High School and High School into which the school's students feed until the student graduates from high school.
- 6.14** A student may be allowed to enroll in a nonresident school that is determined to be "closed" by the district due to the Open Enrollment Threshold if: (a) enrollment in a specific school is necessary to protect the emotional or physical safety of a student, based on sufficient documentation and evidence; (b) if a sibling currently attends that school; OR (c) if a parent / legal guardian is an employee of the school. Any school enrollments permitted under the provisions of this paragraph are done so in the sole and absolute discretion of the district.
- 6.15** No student who resides in the attendance area of a school within the district shall be displaced or excluded because of students transferring from outside the school attendance area under these Open Enrollment procedures.
- 6.16** Notwithstanding the dates set forth in the policy for submitting applications and notifying custodial parent(s) / legal guardian(s) of acceptance or rejection of applications, the Board of Education may delay the dates if it is not able to make a reasonably accurate projection of the Early Enrollment school capacity or Late Enrollment school capacity of a school due

to: (a) school construction or remodeling; (b) drawing or revision of school boundaries; or (c) other circumstances beyond the control of the district. The delay may extend no later than four (4) weeks beyond the date the Board of Education is able to make a reasonably accurate projection of the Early Enrollment school capacity or Late Enrollment school capacity of a school.

6.17 A student who transfers between schools, whether effective on the first day of the school year or after the school year has begun, by exercising an Open Enrollment option under this policy may not transfer to a different school during the same school year by exercising an Open Enrollment option. This restriction on transfer does not apply to a student transfer made for “health or safety reasons.” For purposes hereof, “health or safety reasons” are situations in which enrollment in a specific school/program is necessary: (a) to protect the health of the student as determined by a specific medical recommendation from a medical doctor; or (b) to protect the emotional or physical safety of a student, based on documentation/evidence provided by the student’s previous school, the custodial parent(s) / legal guardian(s), a clinical psychologist who is tracking the student, or cumulative information.

6.18 Appeal Process:

6.18.1 Denial of the initial or continuing enrollment of a student under the Open Enrollment procedures may be appealed in writing by the student’s custodial parent(s) / legal guardian(s) to the Coordinator of Student Services within ten (10) calendar days from the date of the notice of the denial. Failure to appeal within the above time period shall constitute a waiver of rights to contest the denial of enrollment.

6.18.2 An Appeals Committee formed by the Coordinator of Student Services shall hear and rule on all Open Enrollment appeals. The parent(s) / legal guardian(s) pursuing the appeal must present persuasive evidence to the Appeals Committee that the Open Enrollment application was inappropriately denied. The Appeals Committee shall render a written decision to the student’s parent(s) / legal guardian(s), including a statement of their right to request in writing an appeal before the Superintendent within ten (10) calendar days.

6.18.3 If no request for an appeal is received within the ten (10) calendar days, the Appeals Committee’s decision is final. If a request for an appeal is received within the time period, the Superintendent shall schedule and conduct a hearing and issue a written decision to the student’s parent(s) / legal guardian(s) concerning the enrollment. The Superintendent’s written decision shall also include a statement of their right to request in writing an appeal before the Board of Education within ten (10) calendar days.

6.18.4 If no request for an appeal is received within the ten (10) calendar days, the Superintendent’s decision is final. If a request for an appeal is received within the time period, the Board of Education shall schedule and conduct a hearing and issue a written decision to the student’s parent(s) / legal guardian(s) concerning the enrollment. The Board of Education’s decision is the final decision of the district. The Board’s decision shall be upheld in any subsequent judicial or non-judicial proceedings unless the Board’s decision is found, by clear and convincing evidence, to be in violation of applicable law or regulation, or to be arbitrary and capricious.

6.19 Funding:

6.19.1 A nonresident student who enrolls in Nebo School District is considered a resident of this district for purposes of state funding.

6.19.2 A resident district shall pay the nonresident district for each of the resident district's students who enroll in the nonresident district one-half ($\frac{1}{2}$) of the amount by which the resident district's per student expenditure exceeds the value of the state's contribution, and if a student is enrolled in a nonresident district for less than a full year, the resident district shall pay a portion of the amount set forth above based on the percentage of school days the student is enrolled in the nonresident district.

6.20 Transportation: The custodial parent(s) / legal guardian(s) of students enrolled in a school/program under these Open Enrollment procedures are responsible to provide transportation or otherwise assure that the student gets safely to and from school. The district may provide bus transportation for nonresident students on a "space available" basis on established and approved routes within the district to the school/program of attendance so long as the student's presence does not increase the cost of the bus route.

7. STUDENT REGISTRATION FOR UTAH RESIDENTS

In order to comply with Utah law and to insure proper student placement, Nebo District requires the following documents and information to be provided to the school prior to student registration of Utah residents:

- 7.1** A certified copy of the student's birth certificate. In the absence of a birth certificate, other sufficient and reliable documentation proving the student's identity and age must be provided to the school along with a signed and notarized affidavit explaining why a birth certificate cannot be provided.
- 7.2** A complete and updated immunization record. In the absence of an immunization record, an immunization exemption form must be completed and submitted to the school.
- 7.3** Proof of residency. The Utah State Office of Education recommends three (3) separate documents to show proof of residency, including, but not limited to, records of mortgage payments or lease payments, an affidavit from the landlord, utility bills, valid driver's license, vehicle registration, valid passport, voter registration documentation, and church or religious records.
- 7.4** For secondary students, a report card or check-out form from the previous school attended, along with a copy of the student's transcript or transcript authorization request.
- 7.5** A social security number is encouraged but not required. Students are encouraged to provide their social security numbers for the purposes of identification.
- 7.6** The payment of student fees, or waiver of fees documentation has been completed and submitted to the school.
- 7.7** The student's cumulative educational file and other educational records or information relevant to the student.

8. STUDENT REGISTRATION FOR NON-UTAH RESIDENTS

In order to comply with Utah law and to insure proper student placement, Nebo District requires the following documents and information to be provided to the school prior to student registration of non-Utah residents:

- 8.1** Schools shall not register nonresident, foreign exchange, or privately placed foreign students without authorization from the Coordinator of Student Services.
- 8.2** Students whose custodial parent(s) / legal guardian(s) are not a resident of the State of Utah may be required to pay tuition. If applicable, tuition shall be paid in full prior to the enrollment and registration of the student in school. Tuition determinations and payments shall be handled by the Coordinator of Student Services.

- 8.3 All documentation and information described in Section 7 above.
- 8.4 The payment of student fees, or waiver of fees documentation has been completed and submitted to the school.

EXHIBITS

Nebo School District – Determination of Residency Status or School Transfer

REFERENCES

Utah Code Ann. §53A-2-201, et seq.

Utah Code Ann. §62A-2-108.1

Utah Code Ann. §62A-4a-606 et seq.

Utah Admin. Code, R277-437

Utah Admin. Code, R277-616

Stewart B. McKinney Homeless Assistance Act, 42 U.S.C. §11431

FORMS

Nebo School District Administrative Transfer

Utah State Office of Education Standard Open Enrollment Application

Nebo School District Open Enrollment Documentation for Elementary Students

Nebo School District Open Enrollment Documentation for Secondary Students

**NEBO SCHOOL DISTRICT
DETERMINATION OF RESIDENCY STATUS OR SCHOOL TRANSFER**

STATUS OF STUDENTS REQUESTING ADMISSION	MUST ADMIT AS RESIDENT	MAY ADMIT AS RESIDENT	MAY ADMIT UNDER "OPEN ENROLLMENT" ¹³	REQUIRES "POWER OF ATTORNEY" ¹²	MUST ADMIT IF MEETS MCKINNEY CRITERIA	CHARGE TUITION	MAY ADMIT UNDER "ADMINISTRATIVE TRANSFER" ¹⁵
1. Custodial parent or legal guardian of minor¹ lives in district:							
a. Student lives in district with custodial parent or legal guardian.	√						
b. Resident student lives in district but wishes to transfer to another school in the district outside his/her school's boundary area.			X				√
2. Custodial parent or legal guardian of minor¹ lives out of district but within Utah:							
a. Student lives in district and is in custody of or supervised by a Utah State agency. (i.e., foster parents) (Need documentation)	X						
b. Student lives in district and is supervised by an approved ² child placement agency. (i.e., proctor parents) (Need documentation)	X						
c. Student lives with a responsible ³ adult resident of the district, but custodial parent or legal guardian lives elsewhere in the state.		X	X	X			
d. Student lives in district and is emancipated. ⁴	√ X						
e. Student lives in district and is homeless. ⁵					√ X		
3. Custodial parent of minor¹ lives outside Utah:							
a. Student lives with person designated by the court as legal guardian. ¹⁴	√ X					X ⁶	
b. Student lives with non-custodial parent or grandparent. ⁷		X		X			
c. Student lives in district and is emancipated. ⁴	√ X						
d. Student lives in the district and is homeless. ⁵					√ X		
e. Student is supervised by a Utah State agency under an Interstate Compact. ⁸		X				X ⁹	
f. Student is a USOE approved ¹⁰ exchange student. (i.e., J-1 Visa students)		X		X		X ¹⁰	
g. Foreign student with an F-1 Visa. ¹¹		X		X		X	

FOOTNOTES

1 A “minor student” is under the age of 18 years. Students 18 years of age or older are adults and entitled to choose their own residence. Students may be required to conform to the same rules as minors if they wish to attend the regular high school instead of the adult high school.

2 Agency must be licensed by the State of Utah and meet education support and coordination requirements. Agency shall pay student fees, deposits, or other charges in accordance with state law and district policy. (See Utah Code Ann., §62A-2-108.1 and §62A-4a-606).

3 A resident 21 years of age or older who is willing and able to provide reasonably adequate food, clothing, shelter, and supervision for the child (see Utah Code Ann., §53A-2-202(1)), and a determination has been made in accordance with district policy that all of the following criteria are satisfied:

1. The student’s physical, mental, moral, or emotional health is best served;
2. Exigent circumstances exist that cannot be appropriately addressed under Utah Code Ann., §53A-2-207 (“Open Enrollment”); AND
3. Does not violate any other law or rule of the Utah State Board of Education.

4 A “minor student” (under 18 years of age) can only be emancipated by: (a) marriage; (b) court order; OR (c) determination by an authorized state administrative agency.

5 A “minor student” (under 18 years of age) who does not have a fixed, regular, and adequate residence. (See Utah Admin. Code, R277-616 and Stewart B. McKinney Homeless Assistance Act, 42 U.S.C. §11431, et seq.).

6 Payment of tuition may be determined by court order. The proposed legal guardian must execute a signed statement or Affidavit stating the primary reason for the legal guardianship. Tuition should be charged if the primary purpose for the legal guardianship is for educational purposes or to attend school in the district (i.e., because student had discipline problems at previous school district, s/he wants to enroll in Nebo School District). No tuition should be charged if the guardianship is necessary for circumstances beyond the student’s control (i.e., parent died, parent incarcerated, etc.).

7 Recommend that non-custodial parent have the court modify the custody order changing custody of the child to the non-custodial parent. In the absence of a modified court order, the student may still be admitted as a resident if: (a) the student resides with the non-custodial parent or a grandparent; (b) the non-custodial parent or grandparent obtains a Power of Attorney from the custodial parent; (c) the non-custodial parent or grandparent is willing and able to provide reasonably adequate food, clothing, shelter, and supervision for the child (see Utah Code Ann., §53A-2-202(1)); AND (d) a determination has been made in accordance with district policy that all of the following criteria are satisfied:

1. The student’s presence in the district is not for the primary purpose of attending school;
2. The student’s physical, mental, moral, or emotional health is best served; AND
3. The student is prepared to abide by district and school policies and rules.

8 A legal contract between states which must be effectuated through Utah State Human Services and an analogous agency in another state. (See Utah Code Ann., §62A-4a-701, et seq.)
9 Student must be admitted to school. Tuition must be paid unless the Utah State agency has assumed all financial responsibility for the student in which case the student is to be viewed as falling under category 1. b. (See Utah Code Ann., §62A-2-108.1 and §62A-4a-606).

10 Exchange program and student must satisfy requirements of Utah Code Ann., §53A-2-206 and Utah Admin. Code, R277-615; otherwise student pays tuition.

11 All foreign students with an F-1 Visa must be approved by the Student Services Coordinator, live with a responsible adult with a Power of Attorney, and pay tuition.

12 A Power of Attorney issued by the party who has legal custody of the minor student designating the “responsible adult” as the student’s custodian and granting the “responsible adult” authority to take any appropriate action on behalf of the student, including authorization for education and medical services in the interest of the student. A Power of Attorney does not confer legal guardianship (see Utah Code Ann., §53A-2-201(4)). Both the granting party and the “responsible adult” empowered by the Power of Attorney shall agree to:

1. Assume responsibility for any fees or other charges relating to the child’s education; AND
2. If eligibility for fee waivers is claimed, provide the district with all financial information requested by the district for purposes of determining eligibility for fee waivers. (See Utah Code Ann., §53A-2-201(3)).

13 Follow procedures set forth in Nebo School District Policy Student Enrollment #JECB. (See Utah Code Ann., §53A-2-201, et seq. and Utah Admin. Code, R277-437).

14 Generally, a legal guardianship is required to enroll a student who lives in the district but whose custodial parent lives outside the State of Utah. The legal guardianship requirement applies to the student’s grandparent, brother, sister, aunt, uncle, or any other relative, friend, or person.

15 “Administrative Transfers” are reserved for resident students and are permitted in very special and unique circumstances to address the critical needs of a student. Administrative Transfers require the approval of the Principals of both the receiving school and the sending school and/or the Coordinator of Student Services. Administrative Transfers may also be effectuated by the respective Director of Elementary Education or Director of Secondary Education. Students transferred on Administrative Transfer may be placed on a “guest contract” which list conditions of attendance (i.e., no failing grades, no discipline problems, 80% attendance, etc.).