

2026 ISBA RESOLUTION NO. 14 (Adopted)

OPEN ENROLLMENT PROGRAM AND BUILDING CAPACITY LIMITS

WHEREAS, Senate Bill 1125 of the 2023 Legislative session modified Idaho Code 33-1402 to require districts to accept students from outside the district boundaries with few exceptions, and modified Idaho Code 33-1403 to not allow districts to transfer students based on capacity issues without parent consent; and

WHEREAS, Senate Bill 1125 has an exception for capacity per grade level, but not an exception for building capacity or program capacity; and

WHEREAS, CTE programs, gifted and talented programs, special education programs, and other similar programs are special programs run by districts; and

WHEREAS, many special programs contain multiple grade levels in a single building or program; and

WHEREAS, those special programs have limited capacity that is less than the grade level capacity of the building; and

WHEREAS, special programs often have legal, age, proficiency, or skill level requirements that must be met before being accepted into the program; and

WHEREAS, A building can be at capacity when some grades are over capacity, while other grades are below capacity.

NOW, THEREFORE BE IT RESOLVED,

- That the Idaho School Boards Association supports modifying Idaho Code 33-1402 to allow districts to make open enrollment decisions based on the current allowable exceptions and include both building capacity and special program capacity in those exceptions. Also, ISBA supports modifying Idaho Code 33-1402 to allow districts to list both building capacity and special program capacity in the required reporting sections.
- That Idaho Code 33-1403 be modified to allow districts to consider the enrollment requirements of special programs as an exception to the requirement.
- That Idaho Code 33-1403 section 4 be modified to add an exception that allows districts to transfer students to another school when the current school has reached or exceeded capacity without parent consent while still requiring parent notification.

Statement of Purpose

Open enrollment can be an important component of school choice. While we support the use of open enrollment to allow parents to make decisions about which school their student attends, the tying the only capacity exception to grade-level enrollment prevents district from providing students with the best opportunities.

Many districts have special programs such as Career Technical Education (CTE), gifted and talented programs, and self-contained special education. Those programs require specialized equipment, uniquely certified staff in hard to fill positions, and specialized facilities. The programs also have students from multiple grade levels and/or schools enrolled in the programs. Those programs often have to be accredited and reported under an existing traditional school. The traditional school may have capacity at a given grade level, but the special program may be at capacity. The district cannot easily add additional capacity due to the unique needs and requirements of the programs. As written, the law may not allow districts to deny enrollment to a special program if the prospective student's school or grade level has capacity. Changing the law that allow consideration of special program capacity will alleviate this issue.

Currently, it is possible for multiple grade levels in a building to be above capacity while one grade level is below capacity. As the law is written, a district would have to take open-enrolled students into the one grade level that is below capacity, even though it may cause the building to exceed its capacity. That can cause the district issues with fire code, staffing, lunch programs, etc. In addition to grade-level capacity, districts should be able to consider the building capacity when considering open enrollment. If a building has reached capacity, a district needs the ability to limit open enrollment.

Many special programs have legal, age, proficiency, or skill level requirements for entry into a special program. Gifted and talented programs often require that a student score at a certain level on entry exams to be eligible for the program. Special education programs can have age and/or legal requirements before services can be provided to the student. When these programs are also stand-alone schools, districts need the ability to verify that the open-enrolling students have met the same legal or skill requirements that in-district students must meet before allowing enrollment into the school/program. Districts need an exception that allows schools/programs to require open-enrolling students to meet the same requirements as in-district students when being considered for enrollment.

**Submitted by Boise School District
Bonneville School District**

Recommendation of the ISBA Executive Board: DO PASS

Karen Pyron, Region 7 Vice Chair, will present the Executive Board recommendation at the business session.

“This resolution passed by a vote of the membership in 2023, and this is a renewal of it as a part of the legislative platform. This ISBA Executive Board recommendation reflects ongoing conversations related to the overhaul of open enrollment from the 2023 legislative session. The current statutory framework does not reflect the needs of our districts to prioritize resident students in the areas of specialized programs such as special education, gifted and talented programs, career technical education, and more as a majority of these programs are not funded solely through state appropriations and are instead supported by property taxpayers.”

PASSED

AYES 6476

NAYS 304