

# House Bill 3149

Sponsored by Representative FLORES (at the request of Lynne Kamerman)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Allows appeal to Superintendent of Public Instruction of voluntary organization's decisions regarding student eligibility to participate in interscholastic activities.

Specifies that transfer students are presumed to be eligible to participate in interscholastic sports. Allows student to participate in sport offered at another school if school that student attends does not offer sport.

Modifies eligibility of homeschooled students to participate in interscholastic activities.

Declares emergency, effective July 1, 2007.

## A BILL FOR AN ACT

1  
2 Relating to interscholastic activities; creating new provisions; amending ORS 339.430, 339.450 and  
3 339.460; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 339.430 is amended to read:

6 339.430. (1) Voluntary organizations that desire to administer interscholastic activities shall ap-  
7 ply to the State Board of Education for approval.

8 (2) The board shall review the rules and bylaws of the voluntary organization to determine that  
9 the rules and bylaws do not conflict with state law or rules of the board.

10 (3) A voluntary organization must submit to the board for review any rules, or changes in rules,  
11 that specify the criteria for the placement of a school into an interscholastic activity district. A  
12 voluntary organization may not establish or change an interscholastic activity district until the  
13 board has approved the rules of the voluntary organization.

14 (4) If a voluntary organization meets the standards established under ORS 326.051 and its rules  
15 and bylaws do not conflict with state law or rules of the board, the board shall approve the organ-  
16 ization. An approved voluntary organization is qualified to administer interscholastic activities.

17 (5) The board may suspend or revoke its approval if an approved organization is found to have  
18 violated state law, rules of the board or subsection (3) of this section. If a voluntary organization  
19 is not approved or its approval is suspended or revoked, it may appeal the denial, suspension or  
20 revocation as a contested case under ORS chapter 183.

21 (6) **Except as provided in subsection (7) of this section**, a voluntary organization's decisions  
22 concerning interscholastic activities may be appealed to the board, which may hear the matter or  
23 by rule may delegate authority to a hearing officer to hold a hearing and enter a final order under  
24 ORS chapter 183. Such decisions may be appealed under ORS 183.482.

25 (7) **A voluntary organization's decisions regarding student eligibility to participate in**  
26 **interscholastic activities may be appealed to the Superintendent of Public Instruction. The**  
27 **superintendent may overturn the decision if the superintendent finds that the eligibility de-**  
28 **termination would result in unfair or unjust treatment of a student. The superintendent may**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.  
New sections are in **boldfaced** type.

1 **hold a hearing and enter a final order under ORS chapter 183. A voluntary organization may**  
 2 **not appeal a decision of the superintendent. A student may appeal a decision of the super-**  
 3 **intendent under ORS 183.482.**

4 **SECTION 2.** ORS 339.450 is amended to read:

5 339.450. (1) [No] A school, school district or association, whether public or private, [shall] **may**  
 6 **not** deny any grade or high school student the right to participate in interscholastic athletics solely  
 7 on the ground that the student transferred between schools or participated in athletics at another  
 8 school.

9 **(2) Every grade or high school student who transfers between schools shall be presumed**  
 10 **to be eligible to participate in interscholastic athletics.**

11 **(3) A school, school district or association may deem a student not eligible to participate**  
 12 **in interscholastic athletics if by a preponderance of the evidence the school, school district**  
 13 **or association finds that:**

14 **(a) The student was actively recruited or improperly enticed to transfer schools primarily**  
 15 **to participate in interscholastic athletics; and**

16 **(b) The student participated in an interscholastic athletic competition at another school**  
 17 **during that same school year.**

18 **(4) Notwithstanding subsection (3) of this section, a school, school district or association**  
 19 **may not deem a student not eligible to participate in interscholastic athletics if the principal**  
 20 **of each school the student attended during the school year states in writing that the reason**  
 21 **for the transfer was primarily for the student to participate in interscholastic activities.**

22 **(5) If a public or private school a student attends does not offer a sport, a student is el-**  
 23 **igible to participate in that sport at the nearest public or private school offering the sport**  
 24 **that is in the same school district as the school the student is attending. A student is eligible**  
 25 **for participation under this subsection regardless of whether the student participated in an**  
 26 **interscholastic competition in another sport at the school the student attends.**

27 **SECTION 3.** ORS 339.460 is amended to read:

28 339.460. (1) [*Homeschooled students shall not be denied by*] **A homeschooled student is eligible**  
 29 **to participate in interscholastic athletics at any public or private school located in the school**  
 30 **district in which the student resides. If there is no private school in the school district in**  
 31 **which the student resides, then the student is eligible to participate in interscholastic ath-**  
 32 **letics at the private school that is closest to the home of the student.**

33 **(2) A school district may not deny a homeschooled student** the opportunity to participate in  
 34 all interscholastic activities if the student fulfills the following conditions:

35 (a) The student must meet all school district eligibility requirements with the exception of:

36 (A) The school district's school or class attendance requirements; and

37 (B) The class requirements of the voluntary association administering interscholastic activities.

38 (b)(A) The student must achieve a minimum score on an examination from the list adopted by  
 39 the State Board of Education pursuant to ORS 339.035. The examination shall be taken at the end  
 40 of each school year and shall be used to determine eligibility for the following year. The minimum,  
 41 composite test score that a student must achieve shall place the student at or above the 23rd  
 42 percentile based on national norms. The parent or legal guardian shall submit the examination re-  
 43 sults to the school district; or

44 (B) A school district may adopt alternative requirements, in consultation with the parent or le-  
 45 gal guardian of a homeschooled student, that a student must meet to participate in interscholastic

1 activities, including but not limited to a requirement that a student submit a portfolio of work  
 2 samples to a school district committee for review to determine whether a student is eligible to  
 3 participate in interscholastic activities.

4 (c) Any public school student who chooses to be homeschooled must also meet the minimum  
 5 standards as described in paragraph (b) of this subsection. The student may participate while  
 6 awaiting examination results.

7 (d) Any public school student who has been unable to maintain academic eligibility shall be in-  
 8 eligible to participate in interscholastic activities as a homeschooled student for the duration of the  
 9 school year in which the student becomes academically ineligible and for the following year. The  
 10 student must take the required examinations at the end of the second year and meet the standards  
 11 described in paragraph (b) of this subsection to become eligible for the third year.

12 (e) The homeschooled student shall be required to fulfill the same responsibilities and standards  
 13 of behavior and performance, including related class or practice requirements, of other students  
 14 participating in the interscholastic activity of the team or squad and shall be required to meet the  
 15 same standards for acceptance on the team or squad. The homeschooled student must also comply  
 16 with all public school requirements during the time of participation.

17 [(f)] **(3) Except as provided in subsection (4) of this section,** a homeschooled student partic-  
 18 ipating in interscholastic activities must reside within the [*attendance boundaries of the school for*  
 19 *which the student participates*] **school district where the school at which the student partic-**  
 20 **ipates in interscholastic activities is located.**

21 **(4) If the school district in which the homeschooled student resides does not offer a**  
 22 **particular interscholastic activity in which the student wishes to participate and the activity**  
 23 **is available in a neighboring school district, the resident school district of the student shall**  
 24 **issue an interdistrict transfer to the student, subject to approval by the receiving school**  
 25 **district, to allow the student to participate in the interscholastic activity.**

26 [(2)] (5) As used in this section:

27 (a) "Board" means the State Board of Education.

28 (b) "Homeschooled students" are those children taught by private teachers, parents or legal  
 29 guardians as described in ORS 339.030.

30 (c) "Interscholastic activities" includes but is not limited to athletics, music, speech, and other  
 31 related activities.

32 **SECTION 4. The amendments to ORS 339.430, 339.450 and 339.460 by sections 1 to 3 of this**  
 33 **2007 Act first apply to the 2007-2008 school year.**

34 **SECTION 5. This 2007 Act being necessary for the immediate preservation of the public**  
 35 **peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect**  
 36 **July 1, 2007.**

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