

**A-Engrossed**  
**Senate Bill 215**

Ordered by the Senate March 2  
Including Senate Amendments dated March 2

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Superintendent of Public Instruction Susan Castillo for Department of Education)

**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.

Defines "person in parental relationship" for purposes of school district residency. [*Allows child to continue through end of school year to attend school child attended prior to placement by public agency.*] Modifies requirements for school admission of persons who are between ages 19 and 21.

Declares emergency, effective July 1, 2007.

**A BILL FOR AN ACT**

1  
2 Relating to student admission; creating new provisions; amending ORS 339.115 and 339.133; and de-  
3 claring an emergency.

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

5 **SECTION 1.** ORS 339.133 is amended to read:

6 339.133. (1) Except as provided in subsection (3), (4), (5) or (7) of this section, children between  
7 the ages of 4 and 18 shall be considered resident for school purposes in the school district in which  
8 their parents, guardians or persons in parental relationship to them reside.

9 (2) Nonemancipated individuals between the ages of 4 and 18 living outside the geographic area  
10 of the school district for such reasons as attending college, military service, hospital confinement  
11 or employment away from home shall be considered resident in the district in which their parents,  
12 guardians or persons in parental relationship to them reside.

13 (3) Individuals considered legally emancipated from their parents shall be considered resident  
14 in the district in which they actually reside, irrespective of the residence of their parents, guardians  
15 or persons in parental relationship.

16 (4) Children placed by public or private agencies who are living in substitute care programs li-  
17 censed, certified or approved shall be considered resident in the school district in which they reside  
18 by placement of the public or private agency.

19 (5)(a) Notwithstanding subsection (4) of this section, when a juvenile court determines that it is  
20 in a child's best interest to continue to attend the school that the child attended prior to placement  
21 by a public agency, the child:

22 (A) Shall be considered resident for school purposes in the school district in which the child  
23 resided prior to the placement; and

24 (B) May continue to attend the school the child attended prior to the placement through the  
25 highest grade level of the school.

26 (b) The public agency that has placed the child shall be responsible for providing the child with

**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 transportation to and from school when the need for transportation is due to the placement by the  
2 public agency.

3 (c) Paragraph (b) of this subsection applies only to a public agency for which funds have been  
4 designated for the specific purpose of providing a child with transportation to and from school under  
5 this subsection.

6 (6) Persons living temporarily in a school district for the primary purpose of attending a district  
7 school may not be considered legally resident of the district in which they are living temporarily,  
8 but shall be considered resident in the district in which they, their parents, guardians or persons in  
9 parental relationship to them maintain residency.

10 (7) Except as provided in ORS 327.006 (7) and 335.090, persons whose legal residence is not  
11 within the district but who attend school in the district with the written consent of the affected  
12 district school boards shall be considered to be residents of the district in which the person attends  
13 school for purposes of the receipt by that district of State School Fund moneys for the person.

14 (8) For the purposes of [subsection (4) of] this section[.]:

15 (a) **“Person in parental relationship” means an adult who has physical custody of a child**  
16 **or resides in the same household as the child, interacts with the child daily, provides the**  
17 **child with food, clothing, shelter and incidental necessities and provides the child with nec-**  
18 **essary care, education and discipline. “Person in parental relationship” does not mean a**  
19 **person with a power of attorney or other written delegation of parental responsibilities if the**  
20 **person does not have other evidence of a parental relationship.**

21 (b) “Substitute care program” means family foster care, family group home care, parole foster  
22 care, family shelter care, adolescent shelter care and professional group care.

23 **SECTION 2.** ORS 339.115 is amended to read:

24 339.115. (1) Except as provided in ORS 339.141, authorizing tuition for courses not part of the  
25 regular school program, the district school board shall admit free of charge to the schools of the  
26 district all persons between the ages of 5 and 19 who reside within the school district. A person  
27 whose 19th birthday occurs during the school year shall continue to be eligible for a free and ap-  
28 appropriate public education for the remainder of the school year. A district school board may admit  
29 nonresident persons, determine who is not a resident of the district and fix rates of tuition for  
30 nonresidents.

31 (2)(a) A district must admit an otherwise eligible person who has not yet attained 21 years of  
32 age prior to the beginning of the current school year if the person is[.]:

33 [(a)] receiving special education and has not yet received a regular high school diploma[; or].

34 (b) **A district may admit an otherwise eligible person who is not receiving special educa-**  
35 **tion and who has not yet attained 21 years of age prior to the beginning of the current school**  
36 **year if the person is shown to be in need of additional education in order to receive a diploma.**

37 (3) The obligation to make a free appropriate public education available to individuals with  
38 disabilities 18 through 21 years of age who are incarcerated in an adult correctional facility applies  
39 only to those individuals who, in their last educational placement prior to their incarceration in the  
40 adult correctional facility:

41 (a) Were identified as being a child with a disability as defined in ORS 343.035; or

42 (b) Had an individualized education program as described in ORS 343.151.

43 (4) For purposes of subsection (3) of this section, “adult correctional facility” means:

44 (a) A local correctional facility as defined in ORS 169.005;

45 (b) A regional correctional facility as defined in ORS 169.620; or

1 (c) A Department of Corrections institution as defined in ORS 421.005.

2 (5) An otherwise eligible person under subsection (2) of this section whose 21st birthday occurs  
3 during the school year shall continue to be eligible for a free appropriate public education for the  
4 remainder of the school year.

5 (6) The person may apply to the board of directors of the school district of residence for ad-  
6 mission after the 19th birthday as provided in subsection (1) of this section. A person aggrieved by  
7 a decision of the local board may appeal to the State Board of Education. The decision of the state  
8 board is final and not subject to appeal.

9 (7) Notwithstanding ORS 339.133 (1), a school district shall not exclude from admission a child  
10 located in the district solely because the child does not have a fixed place of residence or solely  
11 because the child is not under the supervision of a parent, guardian or person in a parental re-  
12 lationship.

13 (8) Notwithstanding subsection (1) of this section, a school district:

14 (a) May for the remaining period of an expulsion deny admission to the regular school to a  
15 resident student who is expelled from another school district; and

16 (b) Shall for at least one calendar year from the date of the expulsion and if the expulsion is for  
17 more than one calendar year, may for the remaining period of time deny admission to the regular  
18 school program to a student who is under expulsion from another school district for an offense that  
19 constitutes a violation of a school district policy adopted pursuant to ORS 339.250 (6).

20 (9) A child entering the first grade during the fall term shall be considered to be six years of  
21 age if the sixth birthday of the child occurs on or before September 1. A child entering kindergarten  
22 during the fall term shall be considered to be five years of age if the fifth birthday of the child oc-  
23 curs on or before September 1. However, nothing in this section prevents a district school board  
24 from admitting free of charge a child whose needs for cognitive, social and physical development  
25 would best be met in the school program, as defined by policies of the district school board, to enter  
26 school even though the child has not attained the minimum age requirement but is a resident of the  
27 district.

28 **SECTION 3. The amendments to ORS 339.115 and 339.133 by sections 1 and 2 of this 2007**  
29 **Act first apply to the 2007-2008 school year.**

30 **SECTION 4. This 2007 Act being necessary for the immediate preservation of the public**  
31 **peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect**  
32 **July 1, 2007.**