

Senate Bill 215

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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**.

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 338.155, 338.165, 339.115,
3 339.133 and 340.070; repealing ORS 339.134; and declaring 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*] **end of the school year**.

26 (b) The public agency that has placed the child shall be responsible for providing the child with
27 transportation to and from school when the need for transportation is due to the placement by the
28 public agency.

29 (c) Paragraph (b) of this subsection applies only to a public agency for which funds have been

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 designated for the specific purpose of providing a child with transportation to and from school under
2 this subsection.

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

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

11 (8) For the purposes of [subsection (4) of] this section[,]:

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

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

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

21 339.115. (1) Except as provided in ORS 339.141, authorizing tuition for courses not part of the
22 regular school program, the district school board shall admit free of charge to the schools of the
23 district all persons between the ages of 5 and 19 who reside within the school district. A person
24 whose 19th birthday occurs during the school year shall continue to be eligible for a free and ap-
25 propriate public education for the remainder of the school year. A district school board may admit
26 nonresident persons, determine who is not a resident of the district and fix rates of tuition for
27 nonresidents.

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

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

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

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

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

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

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

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

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

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

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

1 remainder of the school year.

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

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

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

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

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

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

25 **SECTION 3.** ORS 338.155 is amended to read:

26 338.155. (1) Students of a public charter school shall be considered to be residents of the school
 27 district in which the public charter school is located for purposes of distribution of the State School
 28 Fund.

29 (2) A school district shall contractually establish, with any public charter school that is spon-
 30 sored by the board of the school district, payment for provision of educational services to the public
 31 charter school's students. The payment shall equal an amount per weighted average daily member-
 32 ship (ADMw) of the public charter school that is at least equal to:

33 (a) Eighty percent of the amount of the school district's General Purpose Grant per ADMw as
 34 calculated under ORS 327.013 for students who are enrolled in kindergarten through grade eight;
 35 and

36 (b) Ninety-five percent of the amount of the school district's General Purpose Grant per ADMw
 37 as calculated under ORS 327.013 for students who are enrolled in grades 9 through 12.

38 (3) A school district shall contractually establish, with any public charter school that is spon-
 39 sored by the State Board of Education and within the boundaries of the school district, payment for
 40 provision of educational services to the public charter school's students. The payment shall equal
 41 an amount per weighted average daily membership (ADMw) of the public charter school that is at
 42 least equal to:

43 (a) Ninety percent of the amount of the school district's General Purpose Grant per ADMw as
 44 calculated under ORS 327.013 for students who are enrolled in kindergarten through grade eight;
 45 and

1 (b) Ninety-five percent of the amount of the school district's General Purpose Grant per ADMw
2 as calculated under ORS 327.013 for students who are enrolled in grades 9 through 12.

3 (4) The estimated amount of each school district's General Purpose Grant per ADMw shall be
4 determined each year by the Department of Education and made available to all school districts.

5 (5) The school district in which the public charter school is located shall transfer an amount
6 per weighted average daily membership (ADMw) of the public charter school that is equal to 50
7 percent of the amount of the school district's General Purpose Grant per ADMw as calculated under
8 ORS 327.013 that is not paid to the public charter school through a contract created pursuant to
9 subsections (2) or (3) of this section to:

10 (a) Any school district in which the parent or guardian of or person in parental relationship to
11 a student of a public charter school resides pursuant to ORS 339.133 [*and 339.134*]; or

12 (b) The Department of Education if the State Board of Education is the sponsor of the public
13 charter school.

14 (6) The department may use any money received under this section for activities related to
15 public charter schools.

16 (7) A school district and a public charter school may negotiate to establish a payment for the
17 provision of educational services to the public charter school's students that is more than the min-
18 imum amounts specified in subsection (2) or (3) of this section.

19 (8) A school district shall send payment to a public charter school based on a contract negoti-
20 ated under this section within 10 days after receiving payments from the State School Fund pursuant
21 to ORS 327.095.

22 (9)(a) A public charter school may apply for any grant that is available to school districts or
23 nonchartered public schools from the Department of Education. The department shall consider the
24 application of the public charter school in the same manner as an application from a school district
25 or nonchartered public school.

26 (b) The department shall award any grant that is available to school districts based solely on
27 the weighted average daily membership (ADMw) of the school district directly to the public charter
28 school. This paragraph does not apply to any grant from the State School Fund.

29 **SECTION 4.** ORS 338.165 is amended to read:

30 338.165. (1) Notwithstanding ORS 338.155 (1), for purposes of this section, the "resident school
31 district" of a student who is eligible for special education and related services shall be the school
32 district in which the student's parent or guardian or person in parental relationship to the student
33 reside pursuant to ORS 339.133 [*and 339.134*].

34 (2) For students who attend public charter schools and are eligible for special education and
35 related services:

36 (a) The resident school district of the student shall be responsible for providing any required
37 special education and related services to the student; and

38 (b) Amounts from the State School Fund for those students shall be distributed through the
39 resident school district pursuant to this section.

40 (3) Notwithstanding ORS 338.155 (2), a resident school district of a student who is eligible for
41 special education and related services shall contractually establish, with any public charter school
42 in which the student is enrolled, payment for provision of special education and related services to
43 the student. If a student is enrolled in a public charter school and is eligible for special education
44 and related services an additional amount shall be added to the ADM of the public charter school
45 as described in ORS 327.013 (7)(a)(A). The payment per ADMw in the public charter school that is

1 attributable to the student who is eligible for special education and related services shall equal an
 2 amount that is at least equal to:

3 (a) 40 percent of the amount of the school district's General Purpose Grant per ADMw as cal-
 4 culated under ORS 327.013 for students who are enrolled in kindergarten through grade eight; and

5 (b) 47.5 percent of the amount of the school district's General Purpose Grant per ADMw as
 6 calculated under ORS 327.013 for students who are enrolled in grades 9 through 12.

7 (4) If the resident school district is not the sponsor of a public charter school, the resident
 8 school district for each ADMw that is attributable to a student enrolled in a public charter school
 9 who is eligible for special education and related services shall transfer five percent of the amount
 10 of the school district's General Purpose Grant per ADMw as calculated under ORS 327.013 to the
 11 sponsor of the public charter school.

12 (5) Notwithstanding subsection (3) of this section, a school district and a public charter school
 13 may negotiate on a case-by-case basis for an alternative distribution of funds other than the dis-
 14 tribution prescribed by subsection (3) of this section.

15 **SECTION 5.** ORS 340.070 is amended to read:

16 340.070. (1) The resident school district of an eligible student participating in the Expanded
 17 Options Program shall be responsible for providing any required special education and related ser-
 18 vices to the student. A student who requires special education and related services shall be con-
 19 sidered, for school purposes, a resident in the school district in which the student's parents or
 20 guardians or persons in parental relationship to the student reside, pursuant to ORS 339.133 [*and*
 21 *339.134*].

22 (2) If an eligible post-secondary institution intends to provide special education and related
 23 services to an eligible student participating in the Expanded Options Program, the institution shall
 24 enter into a written contract with the resident school district of the student. The contract shall in-
 25 clude at least the following:

26 (a) Allowance for the student to remain in the program during the pendency of any special ed-
 27 ucation due process hearing unless the parents or guardians and school district agree otherwise;

28 (b) Immediate notification to the resident school district if the institution suspects that a student
 29 participating in the program may have a disability and requires special education or related ser-
 30 vices;

31 (c) Immediate notification to the resident school district if the student who is receiving special
 32 education and related services has engaged in conduct that may lead to suspension or expulsion; and

33 (d) Immediate notification to the resident school district of any complaint made by the parents
 34 or guardians of the student regarding the student's participation in the program at the institution.

35 (3)(a) If an eligible post-secondary institution provides special education and related services
 36 under a contract with a resident school district, the institution shall comply with standards estab-
 37 lished by the State Board of Education under this section.

38 (b) The State Board of Education shall establish standards to be applied to post-secondary in-
 39 stitutions that provide special education and related services under a contract with a resident
 40 school district. The standards shall include at least the following minimum requirements:

41 (A) The implementation of special education and related services must be done as described in
 42 the eligible student's individualized education program as defined in ORS 343.035; and

43 (B) The institution shall maintain the confidentiality of education records in compliance with the
 44 federal Family Educational Rights and Privacy Act (20 U.S.C. 1232g).

45 **SECTION 6. ORS 339.134 is repealed.**

1 **SECTION 7.** The amendments to ORS 338.155, 338.165, 339.115, 339.133 and 340.070 by
2 sections 1 to 5 of this 2007 Act and the repeal of ORS 339.134 by section 6 of this 2007 Act
3 first apply to the 2007-2008 school year.

4 **SECTION 8.** This 2007 Act being necessary for the immediate preservation of the public
5 peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect
6 July 1, 2007.

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