

A-Engrossed
House Bill 2748

Ordered by the House April 16
Including House Amendments dated April 16

Sponsored by COMMITTEE ON 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.

Prohibits district school board from charging tuition for nonresident students. **Allows exception.**

Requires specified district school boards to submit report to interim legislative committees related to education.

Takes effect July 1, 2014.

[Declares emergency, effective July 1, 2013.]

A BILL FOR AN ACT

1
2 Relating to tuition for nonresident students; creating new provisions; amending ORS 327.006, 335.090,
3 339.115, 339.133 and 339.141 and section 20, chapter 718, Oregon Laws 2011, and section 5,
4 chapter _____, Oregon Laws 2013 (Enrolled House Bill 2747); and prescribing an effective
5 date.

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

7 **SECTION 1.** ORS 339.115 is amended to read:

8 339.115. (1) Except as provided in ORS 339.141, authorizing tuition for courses not part of the
9 regular school program, the district school board shall admit free of charge to the schools of the
10 district all persons between the ages of 5 and 19 who reside within the school district. A person
11 whose 19th birthday occurs during the school year shall continue to be eligible for a free and ap-
12 propriate public education for the remainder of the school year. A district school board may admit
13 nonresident persons, determine who is not a resident of the district and fix rates of tuition for
14 *[nonresidents]* **persons who are not residents of this state.**

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

17 (A) Receiving special education and has not yet received a high school diploma as described in
18 ORS 329.451 (2); or

19 (B) Receiving special education and has received a modified diploma, an extended diploma or
20 an alternative certificate as described in ORS 329.451.

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

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

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 adult correctional facility:

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

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

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

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

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

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

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

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

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

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

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

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

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

34 **SECTION 2.** ORS 327.006 is amended to read:

35 327.006. As used in ORS 327.006 to 327.133, 327.348 and 327.731:

36 (1) "Aggregate days membership" means the sum of days present and absent, according to the
37 rules of the State Board of Education, of all resident pupils when school is actually in session during
38 a certain period. The aggregate days membership of kindergarten pupils shall be calculated on the
39 basis of a half-day program.

40 (2)(a) "Approved transportation costs" means those costs as defined by rule of the State Board
41 of Education and is limited to those costs attributable to transporting or room and board provided
42 in lieu of transporting:

43 (A) Elementary school students who live at least one mile from school;

44 (B) Secondary school students who live at least 1.5 miles from school;

45 (C) Any student required to be transported for health or safety reasons, according to supple-

1 mental plans from districts that have been approved by the state board identifying students who are
2 required to be transported for health or safety reasons, including special education;

3 (D) Preschool children with disabilities requiring transportation for early intervention services
4 provided pursuant to ORS 343.224 and 343.533;

5 (E) Students who require payment of room and board in lieu of transportation;

6 (F) A student transported from one school or facility to another school or facility when the
7 student attends both schools or facilities during the day or week; and

8 (G) Students participating in school-sponsored field trips that are extensions of classroom
9 learning experiences.

10 (b) "Approved transportation costs" does not include the cost of constructing boarding school
11 facilities.

12 (3) "Average daily membership" or "ADM" means the aggregate days membership of a school
13 during a certain period divided by the number of days the school was actually in session during the
14 same period. However, if a district school board adopts a class schedule that operates throughout
15 the year for all or any schools in the district, average daily membership shall be computed by the
16 Department of Education so that the resulting average daily membership will not be higher or lower
17 than if the board had not adopted such schedule.

18 (4) "Consumer Price Index" means the Consumer Price Index for All Urban Consumers of the
19 Portland, Oregon, Metropolitan Statistical Area, as compiled by the United States Department of
20 Labor, Bureau of Labor Statistics.

21 (5) "Kindergarten" means a kindergarten program that conforms to the standards and rules
22 adopted by the State Board of Education.

23 (6) "Net operating expenditures" means the sum of expenditures of a school district in
24 kindergarten through grade 12 for administration, instruction, attendance and health services, op-
25 eration of plant, maintenance of plant, fixed charges and tuition for resident students attending in
26 another [*district*] **state**, as determined in accordance with the rules of the State Board of Education,
27 but net operating expenditures does not include transportation, food service, student body activities,
28 community services, capital outlay, debt service or expenses incurred for nonresident students.

29 (7)(a) "Resident pupil" means any pupil:

30 (A) Whose legal school residence is within the boundaries of a school district reporting the pu-
31 pil, if the district is legally responsible for the education of the pupil, [*except that "resident pupil"*
32 *does not include a pupil who pays tuition or for whom the parent pays tuition or for whom the district*
33 *does not pay*] **the district does not receive tuition for the pupil, and, if applicable, the district**
34 **pays** tuition for placement outside the [*district*] **state**; or

35 (B) Whose legal residence is not within the boundaries of the district reporting the pupil but
36 who attends school in the district with the written consent of the district school board where the
37 school is located as provided by ORS 339.133 (5).

38 (b) A pupil is not considered to be a resident pupil under paragraph (a)(A) of this subsection if
39 the pupil is attending school in another school district pursuant to a contract under ORS 339.125
40 and in the prior year was considered to be a resident pupil in another school district under para-
41 graph (a)(B) of this subsection. The pupil shall continue to be considered a resident of another
42 school district under paragraph (a)(B) of this subsection.

43 (c) A pupil is not considered to be a resident pupil under paragraph (a)(B) of this subsection if
44 the pupil is attending school in a school district pursuant to ORS 339.133 (5) and in the prior year
45 was considered to be a resident pupil under paragraph (a)(A) of this subsection because the pupil

1 was attending school in another school district pursuant to a contract under ORS 339.125. The pupil
2 shall continue to be considered a resident pupil under paragraph (a)(A) of this subsection.

3 (d) "Resident pupil" includes a pupil admitted to a school district under ORS 339.115 (7).

4 (8) "Standard school" means a school meeting the standards set by the rules of the State Board
5 of Education.

6 (9) "Tax" and "taxes" includes all taxes on property, excluding exempt bonded indebtedness, as
7 those terms are defined in ORS 310.140.

8 **SECTION 3.** ORS 327.006, as amended by section 7, chapter 704, Oregon Laws 2011, is amended
9 to read:

10 327.006. As used in ORS 327.006 to 327.133, 327.348 and 327.731:

11 (1) "Aggregate days membership" means the sum of days present and absent, according to the
12 rules of the State Board of Education, of all resident pupils when school is actually in session during
13 a certain period. The aggregate days membership of kindergarten pupils shall be calculated on the
14 basis of a half-day program for half-day kindergarten and on the basis of a full-day program for
15 full-day kindergarten.

16 (2)(a) "Approved transportation costs" means those costs as defined by rule of the State Board
17 of Education and is limited to those costs attributable to transporting or room and board provided
18 in lieu of transporting:

19 (A) Elementary school students who live at least one mile from school;

20 (B) Secondary school students who live at least 1.5 miles from school;

21 (C) Any student required to be transported for health or safety reasons, according to supple-
22 mental plans from districts that have been approved by the state board identifying students who are
23 required to be transported for health or safety reasons, including special education;

24 (D) Preschool children with disabilities requiring transportation for early intervention services
25 provided pursuant to ORS 343.224 and 343.533;

26 (E) Students who require payment of room and board in lieu of transportation;

27 (F) A student transported from one school or facility to another school or facility when the
28 student attends both schools or facilities during the day or week; and

29 (G) Students participating in school-sponsored field trips that are extensions of classroom
30 learning experiences.

31 (b) "Approved transportation costs" does not include the cost of constructing boarding school
32 facilities.

33 (3) "Average daily membership" or "ADM" means the aggregate days membership of a school
34 during a certain period divided by the number of days the school was actually in session during the
35 same period. However, if a district school board adopts a class schedule that operates throughout
36 the year for all or any schools in the district, average daily membership shall be computed by the
37 Department of Education so that the resulting average daily membership will not be higher or lower
38 than if the board had not adopted such schedule.

39 (4) "Consumer Price Index" means the Consumer Price Index for All Urban Consumers of the
40 Portland, Oregon, Metropolitan Statistical Area, as compiled by the United States Department of
41 Labor, Bureau of Labor Statistics.

42 (5) "Kindergarten" means a kindergarten program that conforms to the standards and rules
43 adopted by the State Board of Education.

44 (6) "Net operating expenditures" means the sum of expenditures of a school district in
45 kindergarten through grade 12 for administration, instruction, attendance and health services, op-

1 eration of plant, maintenance of plant, fixed charges and tuition for resident students attending in
2 another [*district*] **state**, as determined in accordance with the rules of the State Board of Education,
3 but net operating expenditures does not include transportation, food service, student body activities,
4 community services, capital outlay, debt service or expenses incurred for nonresident students.

5 (7)(a) “Resident pupil” means any pupil:

6 (A) Whose legal school residence is within the boundaries of a school district reporting the pu-
7 pil, if the district is legally responsible for the education of the pupil, [*except that “resident pupil”*
8 *does not include a pupil who pays tuition or for whom the parent pays tuition or for whom the district*
9 *does not pay*] **the district does not receive tuition for the pupil, and, if applicable, the district**
10 **pays** tuition for placement outside the [*district*] **state**; or

11 (B) Whose legal residence is not within the boundaries of the district reporting the pupil but
12 who attends school in the district with the written consent of the district school board where the
13 school is located as provided by ORS 339.133 (5).

14 (b) A pupil is not considered to be a resident pupil under paragraph (a)(A) of this subsection if
15 the pupil is attending school in another school district pursuant to a contract under ORS 339.125
16 and in the prior year was considered to be a resident pupil in another school district under para-
17 graph (a)(B) of this subsection. The pupil shall continue to be considered a resident of another
18 school district under paragraph (a)(B) of this subsection.

19 (c) A pupil is not considered to be a resident pupil under paragraph (a)(B) of this subsection if
20 the pupil is attending school in a school district pursuant to ORS 339.133 (5) and in the prior year
21 was considered to be a resident pupil under paragraph (a)(A) of this subsection because the pupil
22 was attending school in another school district pursuant to a contract under ORS 339.125. The pupil
23 shall continue to be considered a resident pupil under paragraph (a)(A) of this subsection.

24 (d) “Resident pupil” includes a pupil admitted to a school district under ORS 339.115 (7).

25 (8) “Standard school” means a school meeting the standards set by the rules of the State Board
26 of Education.

27 (9) “Tax” and “taxes” includes all taxes on property, excluding exempt bonded indebtedness, as
28 those terms are defined in ORS 310.140.

29 **SECTION 4.** ORS 335.090 is amended to read:

30 335.090. (1) The high school education of all children of school age resident within a school
31 district that does not operate a high school or that is not a component part of a union high school
32 district shall be the responsibility of the district.

33 (2) The district shall pay the tuition of all pupils resident within the district who are qualified
34 to attend and are attending a standard public high school [*either within or*] outside the state.

35 (3) The district shall provide for transportation to the nearest standard public high school which
36 pupils may attend. Reasonable board and room may be furnished instead of transportation if desired.
37 If the district arranges for the attendance of pupils at a standard public high school other than the
38 nearest one pupils may attend, then the district shall provide for transportation to the standard
39 public high school which the pupils are attending.

40 (4) The estimated cost of tuition and transportation or board and room instead of transportation
41 shall be included in and be a part of the budget and shall be levied as provided in ORS 335.095.

42 **SECTION 5.** ORS 339.141 is amended to read:

43 339.141. (1) For the purposes of this section:

44 (a) “Public charter school” has the meaning given that term in ORS 338.005.

45 (b) “Regular school program” means the regular curriculum provided in the required full-time

1 day sessions in the schools of the district, including public charter schools, for grades 1 through 12
2 and the school program for kindergarten during the period of approximately nine months each year
3 when the schools of the district or public charter schools are normally in operation and does not
4 include summer sessions or evening sessions.

5 (c) "Tuition" means payment for the cost of instruction and does not include fees authorized
6 under ORS 339.155.

7 (2) Except as provided in subsection (3) of this section, district school boards and public charter
8 schools may establish tuition rates to be paid by pupils receiving instruction in educational pro-
9 grams, classes or courses of study, including traffic safety education, which are not a part of the
10 regular school program. Tuition charges, if made, shall not exceed the estimated cost to the district
11 or public charter school of furnishing the program, class or course of study.

12 (3) Except as provided in ORS 336.805 for traffic safety education:

13 (a) [No] Tuition [shall] **may not** be charged to any [resident] pupil regularly enrolled in the
14 regular school program for special instruction received at any time in connection [therewith] **with**
15 **the regular school program, unless the pupil is not a resident of this state.**

16 (b) No program, class or course of study for which tuition is charged, except courses of study
17 beyond the 12th grade, shall be eligible for reimbursement from state funds.

18 **SECTION 6.** ORS 339.141, as amended by section 5, chapter 704, Oregon Laws 2011, is amended
19 to read:

20 339.141. (1) For the purposes of this section:

21 (a) "Public charter school" has the meaning given that term in ORS 338.005.

22 (b) "Regular school program" means the regular curriculum that is provided in the schools of
23 the school district, including public charter schools, and that is provided:

24 (A) As required full-day sessions in grades 1 through 12;

25 (B) As required half-day sessions in kindergarten or as optional full-day sessions in kindergarten;
26 and

27 (C) During the hours and months when the schools of the school district or public charter
28 schools are normally in operation, except summer sessions or evening sessions.

29 (c) "Tuition" means payment for the cost of instruction and does not include fees authorized
30 under ORS 339.155.

31 (2) Except as provided in subsection (3) of this section, district school boards and public charter
32 schools may establish tuition rates to be paid by pupils receiving instruction in educational pro-
33 grams, classes or courses of study, including traffic safety education, which are not a part of the
34 regular school program. Tuition charges, if made, shall not exceed the estimated cost to the district
35 or public charter school of furnishing the program, class or course of study.

36 (3) Except as provided in ORS 336.805 for traffic safety education:

37 (a) [No] Tuition [shall] **may not** be charged to any [resident] pupil regularly enrolled in the
38 regular school program for special instruction received at any time in connection [therewith] **with**
39 **the regular school program, unless the pupil is not a resident of this state.**

40 (b) No program, class or course of study for which tuition is charged, except courses of study
41 beyond the 12th grade, shall be eligible for reimbursement from state funds.

42 **SECTION 7. The amendments to ORS 327.006, 335.090, 339.115 and 339.141 by sections 1**
43 **to 6 of this 2013 Act first apply to the 2014-2015 school year.**

44 **SECTION 8. (1) Notwithstanding ORS 339.115 and 339.141, a district school board may fix**
45 **rates of tuition for students who are residents of this state and may charge tuition for in-**

1 instruction received in connection with the regular school program for those students only as
2 provided by this section.

3 (2) A district school board may accept students who are residents of this state for ad-
4 mission and charge those students tuition only if the district school board charged students
5 who are residents of this state tuition for the 2013-2014 school year.

6 (3)(a) A district school board that charges tuition as provided by this section:

7 (A) Must accept and process all applications;

8 (B) May not charge tuition for instruction received in connection with the regular school
9 program and may not impose or collect fees authorized under ORS 339.155 from a student if
10 the student is a resident of this state who:

11 (i) Qualifies for free or reduced priced lunches under the United States Department of
12 Agriculture's National School Lunch Program; or

13 (ii) Is a ward of a juvenile court, the Oregon Youth Authority or the Department of Hu-
14 man Services; and

15 (C) Must provide on an application for admission an explanation of the requirements with
16 which the district school board must comply as provided by subparagraphs (A) and (B) of this
17 paragraph.

18 (b) For the purpose of this subsection, if the number of students seeking admission to
19 the school district exceeds the number of students that the district school board has deter-
20 mined will be accepted for admission under subsection (4) of this section, the application of
21 a student described in paragraph (a)(B) of this subsection is subject to the admission process
22 described in subsection (4)(b) of this section.

23 (c) Nothing in this subsection gives priority for admission to a student described in par-
24 agraph (a)(B) of this subsection.

25 (4)(a) A district school board that charges tuition as provided by this section may impose
26 a limit on the number of students that the board will accept for admission under this section.

27 (b) If the number of students seeking admission exceeds the number of students that the
28 district school board has determined will be accepted for admission, the board shall admit
29 students based on an equitable lottery selection process. The process may give priority to
30 students who have siblings currently enrolled in a school of the school district.

31 (c)(A) Notwithstanding an equitable lottery selection process that is implemented as
32 provided by this subsection, a district school board may increase the limit imposed under
33 paragraph (a) of this subsection if the total expected revenue from tuition and State School
34 Fund distributions for all students of the school district is less than 80 percent of the total
35 expected revenue from tuition and State School Fund distributions that would have been
36 received if all students who are accepted under this section paid tuition.

37 (B) The increased limit as provided by this paragraph:

38 (i) May be restricted to allow the district school board to accept only students who will
39 pay tuition; and

40 (ii) May be allowed only until the percentage described in subparagraph (A) of this para-
41 graph equals 82 percent or less.

42 (5) If a district school board implements an equitable lottery selection process as pro-
43 vided by subsection (4) of this section and a student described in subsection (3)(a)(B) of this
44 section is selected, the board must accept the student and may not charge tuition or impose
45 or collect fees as described in subsection (3)(a)(B) of this section.

1 (6)(a) For each school year, the district school board shall determine whether a student:

2 (A) Qualifies for free or reduced priced lunches under the United States Department of
3 Agriculture's National School Lunch Program; or

4 (B) Is a ward of a juvenile court, the Oregon Youth Authority or the Department of
5 Human Services.

6 (b) For each school year that a student accepted as provided by this section qualifies for
7 a free or reduced priced lunch or is a ward, the district school board may not charge tuition
8 and the student shall be considered a resident of the school district as provided by ORS
9 339.133 (5).

10 (c) Any change in status as the result of a determination made under paragraph (a) of
11 this section does not affect the ability of the student to attend the schools of the school
12 district.

13 (7)(a) A parent or guardian of a student not described in subsection (3)(a)(B) of this
14 section who believes that payment of all or part of the tuition or other fees is a severe
15 hardship may request that the district school board waive in whole or in part the payment
16 of tuition or fees. The district school board shall waive the tuition or fees in whole or in part
17 upon a finding of severe hardship. A waiver is valid for one school year and shall be reviewed
18 annually.

19 (b) A district school board that charges tuition as provided by this section shall adopt
20 policies establishing factors that constitute a severe hardship under this subsection.

21 (c) If a district school board waives tuition in whole as provided by this subsection, the
22 student shall be considered a resident of the school district as provided by ORS 339.133 (5).

23 (d) Any change in waiver as the result of a review made under paragraph (a) of this
24 subsection does not affect the ability of the student to attend the schools of the school dis-
25 trict.

26 (8) A district school board that accepts students as provided by this section:

27 (a) Must accept those students as long as those students are entitled to a public educa-
28 tion under state or federal law; and

29 (b) May not accept any distributions from the State School Fund for any student who is
30 a resident of this state who pays tuition under this section, except as provided by subsections
31 (3)(a)(B) and (7)(c) of this section.

32 **SECTION 9.** (1) Section 8 of this 2013 Act first applies to students who are residents of
33 this state and who are accepted for the 2014-2015 school year.

34 (2) A district school board may take any action before the effective date of this 2013 Act
35 that is necessary to enable the district school board to comply with the requirements of
36 section 8 (3)(a)(C) of this 2013 Act.

37 **SECTION 10.** Section 20, chapter 718, Oregon Laws 2011, is amended to read:

38 **Sec. 20.** (1) The amendments to ORS 327.006, 329.485, 332.405, 339.115, 339.134 and 343.151 by
39 sections 11 to 14, 17 and 18 [of this 2011 Act], **chapter 718, Oregon Laws 2011**, become operative
40 on January 1, 2012.

41 (2) The amendments to ORS 339.133 by section 19 [of this 2011 Act], **chapter 718, Oregon Laws**
42 **2011**, become operative on July 1, [2017] **2014**.

43 (3) The amendments to ORS 339.133 by section 19 [of this 2011 Act], **chapter 718, Oregon Laws**
44 **2011**, first apply to the [2017-2018] **2014-2015** school year.

45 **SECTION 11.** ORS 339.133, as amended by sections 4 and 19, chapter 718, Oregon Laws 2011,

1 is amended to read:

2 339.133. (1)(a) Except as provided in subsections (2) to (5) of this section, children between the
3 ages of 4 and 18 shall be considered resident for school purposes in the school district in which their
4 parents, their guardians or persons in parental relationship to them reside.

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

9 (c) Persons living temporarily in a school district for the primary purpose of attending a district
10 school may not be considered resident in the district in which they are living temporarily, but shall
11 be considered resident in the district in which they, their parents, their guardians or persons in
12 parental relationship to them reside.

13 (2) 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, their
15 guardians or persons in parental relationship.

16 (3) Children placed by public or private agencies who are living in licensed, certified or ap-
17 proved substitute care programs shall be considered resident in the school district in which they
18 reside because of placement by a public or private agency.

19 (4)(a) Notwithstanding subsection (3) 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
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
30 designated for the specific purpose of providing a child with transportation to and from school under
31 this subsection.

32 (5) Except as provided in ORS 327.006 (7) and 335.090, persons whose legal residence is not
33 within the district but who attend school in the district are considered residents in the district in
34 which the persons attend school if those persons:

35 (a) Receive written consent from both of the affected district school boards as provided by pol-
36 icies adopted by the boards[.];

37 **(b) Attend the schools of the district as provided under section 8 of this 2013 Act and:**

38 **(A) Can be described as provided by section 8 (3)(a)(B) of this 2013 Act; or**

39 **(B) Has had tuition waived in whole as provided by section 8 (7)(c) of this 2013 Act; or**

40 **(c) Receive written consent from the district school board for the district in which the**
41 **school is located as provided by section 9, chapter 718, Oregon Laws 2011.**

42 (6) For the purposes of this section:

43 (a) "Person in parental relationship" means an adult who has physical custody of a child or re-
44 sides in the same household as the child, interacts with the child daily, provides the child with food,
45 clothing, shelter and incidental necessities and provides the child with necessary care, education

1 and discipline. "Person in parental relationship" does not mean a person with a power of attorney
2 or other written delegation of parental responsibilities if the person does not have other evidence
3 of a parental relationship.

4 (b) "Substitute care program" means family foster care, family group home care, parole foster
5 care, family shelter care, adolescent shelter care and professional group care.

6 **SECTION 12.** ORS 339.133, as amended by sections 4 and 19, chapter 718, Oregon Laws 2011,
7 and section 11 of this 2013 Act, is amended to read:

8 339.133. (1)(a) Except as provided in subsections (2) to (5) of this section, children between the
9 ages of 4 and 18 shall be considered resident for school purposes in the school district in which their
10 parents, their guardians or persons in parental relationship to them reside.

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

15 (c) Persons living temporarily in a school district for the primary purpose of attending a district
16 school may not be considered resident in the district in which they are living temporarily, but shall
17 be considered resident in the district in which they, their parents, their guardians or persons in
18 parental relationship to them reside.

19 (2) Individuals considered legally emancipated from their parents shall be considered resident
20 in the district in which they actually reside, irrespective of the residence of their parents, their
21 guardians or persons in parental relationship.

22 (3) Children placed by public or private agencies who are living in licensed, certified or ap-
23 proved substitute care programs shall be considered resident in the school district in which they
24 reside because of placement by a public or private agency.

25 (4)(a) Notwithstanding subsection (3) of this section, when a juvenile court determines that it is
26 in a child's best interest to continue to attend the school that the child attended prior to placement
27 by a public agency, the child:

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

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

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

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

38 (5) Except as provided in ORS 327.006 (7) and 335.090, persons whose legal residence is not
39 within the district but who attend school in the district are considered residents in the district in
40 which the persons attend school if those persons:

41 (a) Receive written consent from both of the affected district school boards as provided by pol-
42 icies adopted by the boards; **or**

43 (b) Attend the schools of the district as provided under section 8 of this 2013 Act and:

44 (A) Can be described as provided by section 8 (3)(a)(B) of this 2013 Act; or

45 (B) Has had tuition waived in whole as provided by section 8 (7)(c) of this 2013 Act.[: or]

1 *[(c) Receive written consent from the district school board for the district in which the school is*
2 *located as provided by section 9, chapter 718, Oregon Laws 2011.]*

3 (6) For the purposes of this section:

4 (a) "Person in parental relationship" means an adult who has physical custody of a child or re-
5 sides in the same household as the child, interacts with the child daily, provides the child with food,
6 clothing, shelter and incidental necessities and provides the child with necessary care, education
7 and discipline. "Person in parental relationship" does not mean a person with a power of attorney
8 or other written delegation of parental responsibilities if the person does not have other evidence
9 of a parental relationship.

10 (b) "Substitute care program" means family foster care, family group home care, parole foster
11 care, family shelter care, adolescent shelter care and professional group care.

12 **SECTION 13. (1) The amendments to ORS 339.133 by section 12 of this 2013 Act become**
13 **operative on July 1, 2017.**

14 (2) The amendments to ORS 339.133 by section 12 of this 2013 Act first apply to the
15 2017-2018 school year.

16 **SECTION 14. (1) Each district school board that charges tuition as provided by section**
17 **8 of this 2013 Act must submit a report to the appropriate interim legislative committees**
18 **related to education.**

19 (2) The interim legislative committees to which a report is submitted as provided by
20 subsection (1) of this section must hold a public hearing to allow the district school boards
21 to make public comments regarding the reports.

22 (3) Reports submitted as provided by this section must be submitted:

23 (a) No later than October 1, 2014, if the district school board charges tuition as provided
24 by section 8 of this 2013 Act for the 2014-2015 school year.

25 (b) No later than October 1, 2016, if the district school board charges tuition as provided
26 by section 8 of this 2013 Act for the 2015-2016 or 2016-2017 school year.

27 **SECTION 15.** If House Bill 2747 becomes law, section 5, chapter __, Oregon Laws 2013 (En-
28 rolled House Bill 2747), is amended to read:

29 **Sec. 5. (1)(a)** A district school board that admits nonresident students and charges nonresident
30 students tuition may not consider race, religion, sex, sexual orientation, ethnicity, national origin,
31 disability, health, whether a student has an individualized education program, the terms of an indi-
32 vidualized education program, income level, residence, proficiency in the English language, athletic
33 ability or academic records when:

34 [(a)] (A) Determining whether to accept a nonresident student; or

35 [(b)] (B) Establishing the amount of tuition.

36 (b) Notwithstanding paragraph (a) of this subsection, a district school board may consider
37 income level after a student has been admitted if the parent or guardian of the student re-
38 quests a waiver as provided by section 8 (7) of this 2013 Act.

39 (2) A district school board that admits nonresident students and charges nonresident students
40 tuition may require a student seeking to attend the schools of the school district to provide the
41 following information:

42 (a) The name, contact information, date of birth and grade level of the student; and

43 (b) Information about whether the school district may be prevented or otherwise limited from
44 admitting the student as provided by ORS 339.115 (8).

45 (3) A district school board that admits nonresident students and charges nonresident students

1 tuition may not:

2 (a) Request or require any person to provide or have provided any of the following information
3 related to a student prior to the district school board deciding whether to admit the student:

4 (A) Information about the student's race, religion, sex, sexual orientation, ethnicity, national
5 origin, disability, health, whether a student has an individualized education program, the terms of
6 an individualized education program, income level, residence, proficiency in the English language
7 or athletic ability; or

8 (B) Academic records, including eligibility for or participation in a talented and gifted program
9 or special education and related services.

10 (b) Request or require the student to participate in an interview or to otherwise meet with any
11 representatives of a school or a school district prior to the district school board deciding whether
12 to admit the student.

13 (c) Request any information used to supplement the information described in subsection (2) of
14 this section prior to deciding whether to admit the student.

15 (4) If a district school board decides to deny admission to a nonresident student and to charge
16 the nonresident student tuition, the board must provide a written explanation to the student.

17 (5) Nothing in this section:

18 (a) Prevents a district school board from denying admission to a nonresident student as provided
19 by ORS 339.115 (8).

20 (b) Prevents a district school board from requesting information or admitting a student in the
21 event of an emergency to protect the health, safety or welfare of the student.

22 (c) **Prevents a district school board from requesting any information related to income**
23 **level for the purposes of complying with the provisions of section 8 (3)(a)(B), (4)(c), (6) or (7)**
24 **of this 2013 Act, or from requesting any information to confirm that a student is entitled to**
25 **a public education under state or federal law after the student has been admitted.**

26 **SECTION 16. This 2013 Act takes effect July 1, 2014.**

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