

# House Bill 2773

Sponsored by Representative HAYDEN; Representatives BOLES, BONHAM, LEIF, NEARMAN, NOBLE, POST

## 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**.

Removes sunset on provisions that allow certain nonresident students to attend public schools as resident students for purposes of State School Fund distributions.

Declares emergency, effective July 1, 2019.

## A BILL FOR AN ACT

1  
2 Relating to resident status of students; creating new provisions; amending ORS 339.127 and 339.133  
3 and section 24, chapter 72, Oregon Laws 2018; repealing sections 21 and 22, chapter 718, Oregon  
4 Laws 2011; and declaring an emergency.

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

6 **SECTION 1.** (1) **Section 21, chapter 718, Oregon Laws 2011, as amended by section 9,**  
7 **chapter 434, Oregon Laws 2013, and section 1, chapter 60, Oregon Laws 2016, is repealed.**

8 (2) **Section 22, chapter 718, Oregon Laws 2011, as amended by sections 18 and 19, chapter**  
9 **60, Oregon Laws 2016, is repealed.**

10 **SECTION 2.** Section 24, chapter 72, Oregon Laws 2018, is amended to read:

11 **Sec. 24.** (1) The amendments to ORS 339.133 by section 23 [*of this 2018 Act*], **chapter 72,**  
12 **Oregon Laws 2018, become operative on July 1, [2020] 2019.**

13 (2) The amendments to ORS 339.133 by section 23 [*of this 2018 Act*], **chapter 72, Oregon Laws**  
14 **2018, apply to State School Fund distributions commencing with the [2020-2021] 2019-2020 distrib-**  
15 **utions.**

16 **SECTION 3.** ORS 339.133, as amended by section 6, chapter 690, Oregon Laws 2017, and  
17 sections 19, 21 and 23, chapter 72, Oregon Laws 2018, is amended to read:

18 339.133. (1) As used in this section:

19 (a) "Foster care" means substitute care for children placed by the Department of Human Ser-  
20 vices or a tribal child welfare agency away from their parents and for whom the department or  
21 agency has placement and care responsibility, including placements in foster family homes, foster  
22 homes of relatives, group homes, emergency shelters, residential facilities, child care institutions and  
23 preadoptive homes.

24 (b)(A) "Person in parental relationship" means an adult who has physical custody of an indi-  
25 vidual or resides in the same household as the individual, interacts with the individual daily, pro-  
26 vides the individual with food, clothing, shelter and incidental necessities and provides the  
27 individual with necessary care, education and discipline.

28 (B) "Person in parental relationship" does not mean a person with a power of attorney or other  
29 written delegation of parental responsibilities if the person does not have other evidence of a par-  
30 ental relationship.

31 (c) "School district of origin" means the school district where an individual was a resident be-

**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 fore:

2 (A) The individual was placed into foster care; or

3 (B) The foster care placement of the individual changed.

4 (d) "School of origin" means the school that an individual attended before:

5 (A) The individual was placed into foster care; or

6 (B) The foster care placement of the individual changed.

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

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

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

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

21 (4)(a) An individual who is between the ages of 4 and 21 and who is placed in foster care shall  
22 be considered a resident of:

23 (A) The school district of origin; or

24 (B) The school district where the individual resides due to placement by the Department of  
25 Human Services or a tribal child welfare agency if a juvenile court determines it is not in the best  
26 interest of the individual to continue attending the school of origin or any other school in the school  
27 district of origin, based on consideration of all factors relating to the individual's best interests.

28 (b) If a juvenile court makes a determination that it is not in the best interest of the individual  
29 to continue attending the school of origin, the individual shall be immediately enrolled in a new  
30 school, even if the individual is unable to produce records normally required for enrollment.

31 (c) Individuals who are residents of their school district of origin pursuant to paragraph (a)(A)  
32 of this subsection shall:

33 (A) Remain in the individual's school district of origin and, if applicable, the individual's school  
34 of origin for the duration of the individual's time in foster care; and

35 (B) Be provided, free of charge, transportation between the individual's home and the  
36 individual's school district of origin or, if applicable, the individual's school of origin.

37 (d) The Department of Education, the Department of Human Services, tribal child welfare  
38 agencies and school districts shall collaborate to ensure that the provisions of this subsection are  
39 implemented.

40 (5)(a) Except as provided in ORS 327.006 (7) and 335.090, an individual whose legal residence is  
41 not within the district but who attends school in the district is considered a resident in the district  
42 in which the individual attends school if the individual receives:

43 (A) Written consent from both of the affected district school boards as provided by policies  
44 adopted by the boards[.]; or

45 (B) Written consent from the district school board for the district in which the school

1 **is located as provided by section 9, chapter 718, Oregon Laws 2011.**

2 (b) An individual whose legal residence is not within the district but who attends school in the  
3 district is considered a resident in the district in which the individual attends school if:

4 (A) The legal residence of the individual had been in the district in which the individual attends  
5 school before a boundary change was made to the district;

6 (B) The legal residence of the individual is no longer in the district in which the individual at-  
7 tends school because of the boundary change; and

8 (C) The individual has had the same legal residence and has continuously been enrolled in a  
9 school in the district since the boundary change.

10 **(6)(a) Individuals who are foreign exchange students and who are residing in Oregon in  
11 a dormitory operated by a school district are considered to be residents of the school district  
12 in which the dormitory is located.**

13 **(b) For the purpose of this subsection:**

14 **(A) An individual may not be considered to be a foreign exchange student for more than  
15 one school year.**

16 **(B) An individual may be considered to be a resident of a school district as provided by  
17 this subsection only if, for the 2010-2011 school year, the school district had foreign exchange  
18 students who would have been considered residents under the provisions of this subsection.**

19 **(C) The number of individuals who may be considered residents under the provisions of  
20 this subsection may not increase relative to the number who would have been considered  
21 residents under the provisions of this subsection for the 2010-2011 school year.**

22 **(c) As used in this subsection, “foreign exchange student” means an individual who at-  
23 tends school in Oregon under a cultural exchange program and whose parent, guardian or  
24 person in parental relationship resides in another country.**

25 **SECTION 4. (1) The amendments to ORS 339.133 by section 3 of this 2019 Act become  
26 operative on July 1, 2019.**

27 **(2) The amendments to ORS 339.133 by section 3 of this 2019 Act apply to State School  
28 Fund distributions commencing with the 2019-2020 distributions.**

29 **SECTION 5.** ORS 339.133, as amended by section 6, chapter 690, Oregon Laws 2017, sections  
30 19, 21 and 23, chapter 72, Oregon Laws 2018, and section 3 of this 2019 Act is amended to read:

31 339.133. (1) As used in this section:

32 (a) “Foster care” means substitute care for children placed by the Department of Human Ser-  
33 vices or a tribal child welfare agency away from their parents and for whom the department or  
34 agency has placement and care responsibility, including placements in foster family homes, foster  
35 homes of relatives, group homes, emergency shelters, residential facilities, child care institutions and  
36 preadoptive homes.

37 (b)(A) “Person in parental relationship” means an adult who has physical custody of an indi-  
38 vidual or resides in the same household as the individual, interacts with the individual daily, pro-  
39 vides the individual with food, clothing, shelter and incidental necessities and provides the  
40 individual with necessary care, education and discipline.

41 (B) “Person in parental relationship” does not mean a person with a power of attorney or other  
42 written delegation of parental responsibilities if the person does not have other evidence of a par-  
43 ental relationship.

44 (c) “School district of origin” means the school district where an individual was a resident be-  
45 fore:

1 (A) The individual was placed into foster care; or

2 (B) The foster care placement of the individual changed.

3 (d) "School of origin" means the school that an individual attended before:

4 (A) The individual was placed into foster care; or

5 (B) The foster care placement of the individual changed.

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

9 (b) 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 their guardians or persons in parental relationship to them reside.

13 (c) Individuals living temporarily in a school district for the primary purpose of attending a  
14 district school may not be considered resident in the district in which they are living temporarily,  
15 but shall be considered resident in the district in which they, their parents, their guardians or per-  
16 sons in parental relationship to them reside.

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

20 (4)(a) An individual who is between the ages of 4 and 21 and who is placed in foster care shall  
21 be considered a resident of:

22 (A) The school district of origin; or

23 (B) The school district where the individual resides due to placement by the Department of  
24 Human Services or a tribal child welfare agency if a juvenile court determines it is not in the best  
25 interest of the individual to continue attending the school of origin or any other school in the school  
26 district of origin, based on consideration of all factors relating to the individual's best interests.

27 (b) If a juvenile court makes a determination that it is not in the best interest of the individual  
28 to continue attending the school of origin, the individual shall be immediately enrolled in a new  
29 school, even if the individual is unable to produce records normally required for enrollment.

30 (c) Individuals who are residents of their school district of origin pursuant to paragraph (a)(A)  
31 of this subsection shall:

32 (A) Remain in the individual's school district of origin and, if applicable, the individual's school  
33 of origin for the duration of the individual's time in foster care; and

34 (B) Be provided, free of charge, transportation between the individual's home and the  
35 individual's school district of origin or, if applicable, the individual's school of origin.

36 (d) The Department of Education, the Department of Human Services, tribal child welfare  
37 agencies and school districts shall collaborate to ensure that the provisions of this subsection are  
38 implemented.

39 (5)(a) Except as provided in ORS 327.006 (7) and 335.090, an individual whose legal residence is  
40 not within the district but who attends school in the district is considered a resident in the district  
41 in which the individual attends school if the individual receives:

42 (A) Written consent from both of the affected district school boards as provided by policies  
43 adopted by the boards; or

44 (B) Written consent from the district school board for the district in which the school is located  
45 as provided by section 9, chapter 718, Oregon Laws 2011.

1 (b) An individual whose legal residence is not within the district but who attends school in the  
 2 district is considered a resident in the district in which the individual attends school if:

3 (A) The legal residence of the individual had been in the district in which the individual attends  
 4 school before a boundary change was made to the district;

5 (B) The legal residence of the individual is no longer in the district in which the individual at-  
 6 tends school because of the boundary change; and

7 (C) The individual has had the same legal residence and has continuously been enrolled in a  
 8 school in the district since the boundary change.

9 *[(6)(a) Individuals who are foreign exchange students and who are residing in Oregon in a  
 10 dormitory operated by a school district are considered to be residents of the school district in which  
 11 the dormitory is located.]*

12 *[(b) For the purpose of this subsection:]*

13 *[(A) An individual may not be considered to be a foreign exchange student for more than one  
 14 school year.]*

15 *[(B) An individual may be considered to be a resident of a school district as provided by this  
 16 subsection only if, for the 2010-2011 school year, the school district had foreign exchange students who  
 17 would have been considered residents under the provisions of this subsection.]*

18 *[(C) The number of individuals who may be considered residents under the provisions of this sub-  
 19 section may not increase relative to the number who would have been considered residents under the  
 20 provisions of this subsection for the 2010-2011 school year.]*

21 *[(c) As used in this subsection, "foreign exchange student" means an individual who attends school  
 22 in Oregon under a cultural exchange program and whose parent, guardian or person in parental re-  
 23 lationship resides in another country.]*

24 **SECTION 6. (1) The amendments to ORS 339.133 by section 5 of this 2019 Act become**  
 25 **operative on July 1, 2020.**

26 **(2) The amendments to ORS 339.133 by section 5 of this 2019 Act apply to State School**  
 27 **Fund distributions commencing with the 2020-2021 distributions.**

28 **SECTION 7.** ORS 339.127, as amended by section 23, chapter 60, Oregon Laws 2016, is amended  
 29 to read:

30 339.127. (1) A district school board that admits nonresident students by giving consent as de-  
 31 scribed in ORS 339.133 *[(5)(a)]* **(5)(a)(A)** may not consider race, religion, sex, sexual orientation,  
 32 ethnicity, national origin, disability, health, whether a student has an individualized education pro-  
 33 gram, the terms of an individualized education program, income level, residence, proficiency in the  
 34 English language, athletic ability or academic records when:

35 (a) Determining whether to give consent; or

36 (b) Establishing any terms of consent.

37 (2) A district school board that is considering whether to admit a nonresident student by giving  
 38 consent may require only the following information prior to deciding whether to give consent:

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

40 (b) Information about whether the school district may be prevented or otherwise limited from  
 41 providing consent as provided by ORS 339.115 (8);

42 (c) Information about whether the student may be given priority as provided by subsection (4)  
 43 of this section; and

44 (d) Information about which schools the student prefers to attend.

45 (3)(a) A district school board that is considering whether to admit a nonresident student by

1 giving consent 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 give consent to the stu-  
4 dent:

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

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

11 (B) Request or require the student to participate in an interview, to tour any of the schools or  
12 facilities of the school district or to otherwise meet with any representatives of a school or a school  
13 district prior to the district school board deciding whether to give consent to the student.

14 (C) Request any information used to supplement the information described in subsection (2) of  
15 this section prior to deciding whether to give consent to the student.

16 (b) Nothing in this subsection prevents a student from voluntarily touring any of the schools or  
17 facilities of a school district or from requesting or receiving any information from a school or the  
18 school district.

19 (4)(a) A district school board that gives consent as described in ORS 339.133 [(5)(a)] **(5)(a)(A)**  
20 may limit the number of students to whom consent is given. The district school board must make  
21 the determination whether to limit the number of students to whom consent is given by an annual  
22 date established by the board.

23 (b) If the number of students seeking consent exceeds any limitations imposed by the district  
24 school board, the board must give consent to students based on an equitable lottery selection pro-  
25 cess. The process may give priority to students who:

26 (A) Have siblings currently enrolled in a school of the same school district for which the student  
27 seeks admission;

28 (B) Previously had received consent as provided by subsection (10) of this section because of a  
29 change in legal residence; or

30 (C) Attended a public charter school located in the same district for which the student seeks  
31 admission for at least three consecutive years, completed the highest grade offered by the public  
32 charter school and did not enroll in and attend school in another district following completion of  
33 the highest grade offered by the public charter school.

34 (c) A district school board may revise the maximum number of students to whom consent will  
35 be given at a time other than the annual date established by the board if there are no pending ap-  
36 plications for consent.

37 (5) A district school board that is requested to give consent to allow a resident student to be  
38 admitted by another school district as described in ORS 339.133 [(5)(a)] **(5)(a)(A)** may not consider  
39 race, religion, sex, sexual orientation, ethnicity, national origin, disability, health, whether a student  
40 has an individualized education program, the terms of an individualized education program, income  
41 level, residence, proficiency in the English language, athletic ability or academic records when de-  
42 termining whether to give consent.

43 (6) If a district school board decides to not give consent to a student, the board must provide  
44 a written explanation to the student.

45 (7)(a) For a nonresident student who receives consent to be admitted to a school district as de-

1 scribed in ORS 339.133 [(5)(a)] **(5)(a)(A)**, a district school board may:

2 (A) Determine the length of time for which consent is given; and

3 (B) Revoke consent for failure to comply with minimum standards for behavior or attendance,  
4 but may not revoke consent for failure to meet standards for academics.

5 (b) Any limitations in length of time for consent, as allowed under paragraph (a) of this sub-  
6 section, must be applied consistently among all students to whom consent is given. The length of  
7 time for which consent is given shall not be affected by any changes in the legal residence of the  
8 student if the student wishes to continue to attend the schools of the school district.

9 (c) If consent is revoked as provided by paragraph (a) of this subsection, a student may not re-  
10 quest consent from the same school district that revoked the consent for the school year following  
11 the school year in which the consent was revoked.

12 (8) For a resident student who receives consent to be admitted to another school district as  
13 described in ORS 339.133 [(5)(a)] **(5)(a)(A)**, a district school board may not impose any limitations  
14 on the length of time for which consent is given to the student. The board may not require the  
15 student to receive consent more than one time to be admitted to the same school district, regardless  
16 of any time limitations imposed by the district school board under paragraph (a) of this subsection.

17 (9)(a) A school district that provides consent to nonresident students to attend the schools of  
18 the school district may not expend moneys received from the State School Fund or as Local Re-  
19 venues, as described in ORS 327.011, to advertise openings for nonresident students if the adver-  
20 tisements are:

21 (A) Located outside the boundaries of the school district, including advertisements that are  
22 made by signage or billboards; or

23 (B) Directed to nonresident students, including:

24 (i) Advertisements that are targeted to nonresident students through direct mail or online mar-  
25 keting;

26 (ii) Television or radio advertisements; or

27 (iii) Newspaper advertisements, unless the advertisement is in a newspaper that primarily serves  
28 the residents of the school district.

29 (b) Notwithstanding paragraph (a)(A) of this subsection, if a school is located outside the  
30 boundaries of the school district, the school district may advertise openings for nonresident students  
31 on the property of the school.

32 (c) Nothing in this subsection:

33 (A) Prohibits a school district from providing information or advertisements to nonresident stu-  
34 dents if the parents of the students request the information or advertisements.

35 (B) Prohibits a public charter school from advertising openings.

36 (10) Notwithstanding any other provision of this section, a district school board that is re-  
37 quested to give consent as described in ORS 339.133 [(5)(a)] **(5)(a)(A)** must give consent to a student  
38 whose legal residence changes to a different school district:

39 (a) During the school year, to enable the student to complete the school year in the school dis-  
40 trict; or

41 (b) During the summer prior to the school year, to enable the student to complete the school  
42 year following the summer in the school district.

43 (11) Nothing in this section:

44 (a) Requires a district school board to admit students for whom priority may be given under  
45 subsection (4)(b) of this section if the board imposes limitations on the number of students admitted

1 by consent.

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

4 (c) Prevents a district school board from requesting information or giving consent to a student  
5 in the event of:

6 (A) An emergency to protect the health, safety or welfare of the student; or

7 (B) A hardship of the student, as determined based on rules adopted by the State Board of Ed-  
8 ucation.

9 (d) Prevents a district school board from establishing minimum standards for behavior and at-  
10 tendance that a student must maintain to remain enrolled in the schools of the school district.

11 **SECTION 8. This 2019 Act being necessary for the immediate preservation of the public**  
12 **peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect**  
13 **July 1, 2019.**

14