

Senate Bill 259

Sponsored by Senator THATCHER (at the request of Representative Kevin Mannix) (Presession filed.)

SUMMARY

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

Allows student who is resident of state to attend any public school of state.

Requires student to receive consent from school district to attend schools of school district if student is nonresident student. Requires school district to give consent, with limited exceptions.

Prohibits school districts from charging tuition or entering into contracts for admission for nonresident students.

Removes cap on percentage of students from school districts who may attend certain virtual public charter schools.

A BILL FOR AN ACT

1
2 Relating to school access; creating new provisions; amending ORS 327.006, 332.405, 335.090, 336.095,
3 337.150, 338.025, 338.125, 339.005, 339.115, 339.127 and 339.133; and repealing ORS 339.125 and
4 339.128.

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

6 **SECTION 1. (1) A resident of this state may enroll in any of the public schools of this**
7 **state as provided by this section.**

8 **(2) A student may enroll in the schools of a school district in which the student does not**
9 **reside by receiving consent under ORS 339.127. A student who receives consent from another**
10 **school district shall be considered a resident of that school district.**

11 **(3) A student may enroll in any of the schools of a school district without consideration**
12 **of attendance boundaries.**

13 **(4) Notwithstanding subsections (2) and (3) of this section, a school district may prohibit**
14 **a student from enrolling in a school if that:**

15 **(a) Student's enrollment would exceed the capacity of a program, class, grade level or**
16 **building.**

17 **(b) Student is requesting to participate in a school district's program, but does not meet**
18 **established eligibility criteria to participate in the school district's program.**

19 **(c) Student's enrollment would cause the school district to be out of compliance with a**
20 **court-ordered desegregation plan.**

21 **(d) Student is prevented or limited from enrollment due to a period of expulsion as pro-**
22 **vided by ORS 339.115 (8).**

23 **(5) When the number of students choosing to enroll in a school exceeds the capacity of**
24 **a program, class, grade level or building, the school district shall:**

25 **(a) Give preference to students who live in the attendance boundaries of the school; and**

26 **(b) Select remaining students through an equitable lottery process that may give priority**
27 **to students enrolled in the school for the previous school year or who have siblings enrolled**
28 **in the school.**

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 (6) A nonresident student may apply for consent by submitting an application, on a form
 2 prescribed by the Department of Education by rule, to a school district no later than August
 3 1 or November 30 of each year, unless a school district waives a deadline. The school district
 4 shall approve an application or provide reasons for not approving the application within 14
 5 days of receiving the application. The application shall be considered approved if the school
 6 district does not provide a notification of approval or denial within 14 days of receiving an
 7 application.

8 (7) A school district is not required to provide transportation to a school for a student
 9 who resides outside of the attendance boundaries of the school, but may allow the student
 10 to use existing bus routes and transportation services of the school district.

11 (8) A school district shall maintain a webpage that is accessible through a link that uses
 12 the words “Open Enrollment” or “School Choice” and is located on the home page of the
 13 school district’s publicly accessible website. The webpage must include information regarding
 14 the following:

15 (a) A summary of the school district’s open enrollment policies and procedures.

16 (b) The application process for open enrollment, including where to obtain an application.

17 (c) How a student will be notified if a school district gives consent to enroll.

18 (d) Deadlines and time lines for open enrollment.

19 (e) The student selection process.

20 (f) The eligibility criteria and enrollment process for any school district’s charter or
 21 magnet school.

22 (g) Eligibility of students who have transferred to participate in school activities.

23 (h) Contact information for a school district office or employee who is responsible for
 24 providing information and answering questions regarding the open enrollment process.

25 (9) The State Board of Education may adopt any rules necessary for the administration
 26 of this section.

27 **SECTION 2.** ORS 339.127 is amended to read:

28 339.127. (1) A district school board [*that admits*] **shall admit** nonresident students by giving
 29 consent as described in [*ORS 339.133 (5)(a)*] **this section.** A school district may not consider race,
 30 religion, sex, sexual orientation, gender identity, ethnicity, national origin, disability, health,
 31 whether a student has an individualized education program, the terms of an individualized education
 32 program, income level, residence, proficiency in the English language, athletic ability or academic
 33 records when **giving consent**.[:]

34 [*(a) Determining whether to give consent; or*]

35 [*(b) Establishing any terms of consent.*]

36 (2) A district school board that [*is considering whether to admit*] **gives consent to** a nonresident
 37 student [*by giving consent*] may require only the following information prior to [*deciding whether to*
 38 *give*] **giving** 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 1 (5) of this 2023 Act; 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*] **requested to give** 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*] **giving** consent to
4 the student:

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

11 **(iii) Athlete or sports records, including performance or eligibility to participate in**
12 **interscholastic activities or sports.**

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

16 (C) Request any information used to supplement the information described in subsection (2) of
17 this section prior to [*deciding whether to give*] **giving** consent to the student.

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

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

25 [*(b) If the number of students seeking consent exceeds any limitations imposed by the district school*
26 *board, the board must give consent to students based on an equitable lottery selection process. The*
27 *process may give priority to students who:*]

28 [*(A) Have siblings currently enrolled in a school of the same school district for which the student*
29 *seeks admission;*]

30 [*(B) Previously had received consent as provided by subsection (10) of this section because of a*
31 *change in legal residence;* *or*]

32 [*(C) Attended a public charter school located in the same district for which the student seeks ad-*
33 *mission for at least three consecutive years, completed the highest grade offered by the public charter*
34 *school and did not enroll in and attend school in another district following completion of the highest*
35 *grade offered by the public charter school.*]

36 [*(c) A district school board may revise the maximum number of students to whom consent will be*
37 *given at a time other than the annual date established by the board if there are no pending applications*
38 *for consent.*]

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

45 [*(6) If a district school board decides to not give consent to a student, the board must provide a*

1 *written explanation to the student.]*

2 [(7)(a) *For a nonresident student who receives consent to be admitted to a school district as de-*
3 *scribed in ORS 339.133 (5)(a), a district school board may:]*

4 [(A) *Determine the length of time for which consent is given; and]*

5 [(B) *Revoke consent for failure to comply with minimum standards for behavior or attendance, but*
6 *may not revoke consent for failure to meet standards for academics.]*

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

11 [(c) *If consent is revoked as provided by paragraph (a) of this subsection, a student may not request*
12 *consent from the same school district that revoked the consent for the school year following the school*
13 *year in which the consent was revoked.]*

14 [(8)] (4) *For a resident student who receives consent to be admitted to another school district*
15 *as described in ORS 339.133 (5)(a), a district school board may not impose any limitations on the*
16 *length of time for which consent is given to the student. The board may not require the student to*
17 *receive consent more than one time. [to be admitted to the same school district, regardless of any time*
18 *limitations imposed by the district school board under (7)(a)(A) of this section.]*

19 [(9)(a)] (5)(a) *A school district that provides consent to nonresident students to attend the*
20 *schools of the school district may not expend moneys received from the State School Fund or as*
21 *Local Revenues, as described in ORS 327.011, to advertise openings for nonresident students if the*
22 *advertisements are:*

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

25 (B) *Directed to nonresident students, including:*

26 (i) *Advertisements that are targeted to nonresident students through direct mail or online mar-*
27 *keting;*

28 (ii) *Television or radio advertisements; or*

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

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

34 (c) *Nothing in this subsection:*

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

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

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

41 [(a) *During the school year, to enable the student to complete the school year in the school district;*
42 *or]*

43 [(b) *During the summer prior to the school year, to enable the student to complete the school year*
44 *following the summer in the school district.]*

45 [(11)] (6) *Nothing in this section:*

1 *[(a) Requires a district school board to admit students for whom priority may be given under*
 2 *subsection (4)(b) of this section if the board imposes limitations on the number of students admitted by*
 3 *consent.]*

4 *[(b) (a) Prevents a district school board from denying admission to a nonresident student as*
 5 *provided by ORS 339.115 (8).*

6 *[(c) (b) Prevents a district school board from requesting information or giving consent to a*
 7 *student in the event of:*

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

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

11 *[(d) (c) Prevents a district school board from establishing minimum standards for behavior and*
 12 *attendance that a student must maintain to remain enrolled in the schools of the school district.*

13 **SECTION 3.** ORS 339.133 is amended to read:

14 339.133. (1) As used in this section:

15 (a)(A) “Foster care” means substitute care for children placed by the Department of Human
 16 Services or a tribal child welfare agency away from their parents and for whom the department or
 17 agency has placement and care responsibility, including placements in foster family homes, foster
 18 homes of relatives, group homes, emergency shelters, residential facilities, child care institutions and
 19 preadoptive homes.

20 (B) “Foster care” does not mean care for children whose parent or guardian voluntarily placed
 21 the child outside the child’s home with a public or private agency and for whom the child’s parent
 22 or guardian retains legal guardianship.

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

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

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

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

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

34 (d) “School of origin” means the school that an individual attended before:

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

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

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

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

44 (c) Individuals living temporarily in a school district for the primary purpose of attending a
 45 district school may not be considered resident in the district in which they are living temporarily,

1 but shall be considered resident in the district in which they, their parents, their guardians or per-
2 sons in parental relationship to them reside.

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

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

8 (A) The school district of origin; or

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

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

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

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

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

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

25 (5)(a) Except as provided in [*ORS 327.006 (6) and*] 335.090, an individual whose legal residence
26 is not within the district but who attends school in the district is considered a resident in the dis-
27 trict in which the individual attends school if the individual receives written consent from [*both of*
28 *the affected district school boards as provided by policies adopted by the boards*] **the school district**
29 **as provided by ORS 339.127.**

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

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

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

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

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

41 (b) For the purpose of this subsection:

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

44 (B) An individual may be considered to be a resident of a school district as provided by this
45 subsection only if, for the 2010-2011 school year, the school district had foreign exchange students

1 who would have been considered residents under the provisions of this subsection.

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

5 (c) As used in this subsection, "foreign exchange student" means an individual who attends
6 school in Oregon under a cultural exchange program and whose parent, guardian or person in par-
7 ental relationship resides in another country.

8 **SECTION 4.** ORS 339.115 is amended to read:

9 339.115. (1) Except as provided in ORS 339.141, authorizing tuition for courses not part of the
10 regular school program, the district school board shall admit free of charge to the schools of the
11 district all persons between the ages of 5 and 19 who reside within [*the school district*] **this state**.
12 A person whose 19th birthday occurs during the school year shall continue to be eligible for a free
13 and appropriate public education for the remainder of the school year. A district school board [*may*
14 *admit nonresident persons, determine who is not a resident of the district and fix rates of tuition for*
15 *nonresidents*] **shall admit nonresident persons as provided by ORS 339.127 and may admit**
16 **persons who are not residents of this state and fix rates of tuition for those persons.**

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

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

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

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

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

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

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

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

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

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

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

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

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

44 (7) Notwithstanding ORS 339.133 (2)(a), a school district shall not exclude **a child** from admis-
45 sion [*a child located in the district*] solely because the child does not have a fixed place of residence

1 or solely because the child is not under the supervision of a parent, guardian or person in a parental
2 relationship.

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

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

6 (b) Shall for at least one calendar year from the date of the expulsion and if the expulsion is for
7 more than one calendar year, may for the remaining period of time deny admission to the regular
8 school program to a student who is under expulsion from another school district for an offense that
9 constitutes a violation of a school district policy adopted pursuant to ORS 339.250 (7).

10 (9) Notwithstanding the minimum age requirement prescribed by ORS 339.010 and 339.020, a
11 district school board may admit free of charge a child whose needs for cognitive, social and physical
12 development would best be met in the school program, as defined by policies of the district school
13 board, to enter school even though the child has not attained the minimum age requirement [*but is*
14 *a resident of the district*].

15 **SECTION 5.** ORS 327.006 is amended to read:

16 327.006. As used in ORS 327.006 to 327.133, 327.348, 327.356 to 327.359 and 327.731.

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

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

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

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

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

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

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

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

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

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

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

45 (4) "Kindergarten" means a kindergarten program that conforms to the standards and rules

1 adopted by the State Board of Education.

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

8 (6)[(a)] "Resident pupil" means any pupil:

9 [(A)] (a) Whose legal school residence is within the boundaries of a school district reporting the
10 pupil, if the district is legally responsible for the education of the pupil, *except that "resident*
11 *pupil" does not include a pupil who pays tuition or for whom the parent pays tuition or for whom the*
12 *district does not pay tuition for placement outside the district; or*;

13 [(B)] (b) Whose legal residence is not within the boundaries of the district reporting the pupil
14 but who attends school in the district with the written consent of the district school board where
15 the school is located as provided by ORS 339.133 (5)(a)[.];

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

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

26 [(d) "Resident pupil" includes a pupil who is:]

27 [(A)] (c) **Who is** admitted to a school district under ORS 339.115 (7); or

28 [(B)] (d) **Who is** considered a resident under ORS 339.133 (5)(b).

29 (7) "Standard school" means a school meeting the standards set by the rules of the State Board
30 of Education.

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

33 **SECTION 6.** ORS 332.405 is amended to read:

34 332.405. (1) The district school board shall provide transportation for pupils or combinations of
35 pupils and other persons to and from school-related activities where required by law or when con-
36 sidered advisable by the board.

37 (2) The board may furnish board and room for pupils in lieu of transportation when reasonable
38 board and room can be provided at equal or less expense than transportation. The board may also
39 provide board and room in a facility that existed on July 1, 1998, or a replacement facility for that
40 facility, for pupils attending a district school as described in ORS 327.006 [(6)(a)(B)] (6)(b) or
41 through a power of attorney authorized under ORS 109.056 (2). This subsection does not apply to
42 a pupil who attends a district school through a power of attorney and who is a foreign exchange
43 student enrolled in a school under a cultural exchange program.

44 (3) The transportation costs or expenses for board and room shall be paid from funds available
45 to the district for that purpose.

1 (4) The district school board may expend district funds to improve or provide for pedestrian fa-
 2 cilities off district property if the board finds that the expenditure reduces transportation costs of
 3 the district and enhances the safety of pupils going to and from schools of the district.

4 **SECTION 7.** ORS 335.090 is amended to read:

5 335.090. (1) The high school education of all children of school age resident within a school
 6 district that does not operate a high school or that is not a component part of a union high school
 7 district shall be the responsibility of the district.

8 (2) **If the nearest standard public high school which pupils may attend is outside the**
 9 **state**, the district shall pay the tuition of all pupils resident within the district who are qualified
 10 to attend and are attending a standard public high school [*either within or*] outside the state.

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

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

18 **SECTION 8.** ORS 339.005 is amended to read:

19 339.005. As used in ORS 339.040 [*and 339.125*], unless the context requires otherwise, “adminis-
 20 trative office for the county” means the administrative office of the education service district or of
 21 a common school district that includes an entire county.

22 **SECTION 9.** ORS 336.095 is amended to read:

23 336.095. (1)(a) A school district that is not a union high school district must offer half-day
 24 kindergarten and may choose to offer full-day kindergarten.

25 (b) A public charter school may choose to offer half-day kindergarten or full-day kindergarten.

26 (c) The State Board of Education shall adopt by rule:

27 (A) Standards for half-day kindergarten and full-day kindergarten; and

28 (B) The minimum number of instructional hours required for half-day kindergarten and full-day
 29 kindergarten.

30 (d) Nothing in this subsection requires a school district to offer half-day kindergarten in a school
 31 where the school district offers full-day kindergarten.

32 (2) Every school district that is not a union high school district must provide kindergarten fa-
 33 cilities free of charge for the kindergarten children residing in the district by operating the facilities
 34 either singly or jointly with other districts or by contracting with public or private providers that
 35 conform to standards adopted by rule by the State Board of Education.

36 (3) Nothing in this section prevents a district school board from admitting free of charge a child
 37 [*who is a resident of the district and*] whose needs for cognitive, social and physical development
 38 would best be met in the school program, as defined by policies of the district school board, even
 39 though the child has not attained the minimum age requirement.

40 (4) Kindergarten that is offered as provided by subsection (1) of this section shall be funded in
 41 the same manner as other grades of the district are funded, except that the aggregate days mem-
 42 bership of children in kindergarten shall be calculated as provided by ORS 327.006.

43 (5) Kindergarten is an integral part of the public school system of this state.

44 **SECTION 10.** ORS 337.150 is amended to read:

45 337.150. (1) Subject to ORS 339.155, each district school board shall provide textbooks, pre-

1 scribed or authorized by law, for free use by all [*resident public school*] pupils enrolled in
 2 kindergarten through grade 12 **of the public schools of the school district.**

3 (2) Subject to ORS 339.155, each public charter school as defined in ORS 338.005 shall provide
 4 textbooks, prescribed or authorized by law, for free use by all pupils enrolled in the public charter
 5 school.

6 **SECTION 11.** ORS 338.125 is amended to read:

7 338.125. (1) Student enrollment in a public charter school is voluntary.

8 (2)(a) All students who reside in the school district in which the public charter school is located
 9 are eligible for enrollment in the public charter school if space is available.

10 (b) Students who do not reside in the school district in which the public charter school is lo-
 11 cated are eligible for enrollment in the public charter school if space is available [*and subject to*
 12 *subsection (4) of this section*].

13 (c) A public charter school may not limit student enrollment based on race, religion, sex, sexual
 14 orientation, gender identity, ethnicity, national origin, disability, the terms of an individualized ed-
 15 ucation program, income level, proficiency in the English language or athletic ability. A public
 16 charter school may implement a weighted lottery that favors historically underserved students as
 17 provided by subsection (3)(a) of this section.

18 (3)(a) Except as provided by paragraphs (b) and (c) of this subsection, if the number of applica-
 19 tions from students exceeds the capacity of a program, class, grade level or building, the public
 20 charter school shall select students through an equitable lottery selection process. For the purpose
 21 of ameliorating the impact of discrimination against historically underserved students, an equitable
 22 lottery selection process may include weights that favor historically underserved students. As used
 23 in this paragraph, "historically underserved students" are students who are at risk because of any
 24 combination of their race, sex, sexual orientation, gender identity, ethnicity, disability, income level,
 25 proficiency in the English language, socioeconomic status or geographic location.

26 (b)(A) A public charter school may give priority for admission to students who reside within the
 27 attendance boundaries that were in effect at the time a school district closed a nonchartered public
 28 school if:

29 (i) The public charter school began to operate not more than two years after the nonchartered
 30 public school was closed;

31 (ii) The school district that closed the nonchartered public school is the sponsor of the public
 32 charter school;

33 (iii) The public charter school is physically located within the attendance boundaries of the
 34 closed nonchartered public school; and

35 (iv) The school district board, through board action, approved the public charter school giving
 36 priority as described in this paragraph.

37 (B) Nothing in this paragraph requires an amendment to a charter. A school district board may
 38 take an action described in subparagraph (A)(iv) of this paragraph at any time during the term of
 39 a charter.

40 (c) After a public charter school has been in operation for one or more years, the public charter
 41 school may give priority for admission to students who:

42 (A) Were enrolled in the prior year in the public charter school;

43 (B) Were enrolled in a public preschool or prekindergarten program operated by the public
 44 charter school;

45 (C) Have siblings who are presently enrolled in the school and who were enrolled in the school

1 in the prior year;

2 (D) Are at risk because the student has an economic or academic disadvantage that requires
3 special services or assistance, including students who:

4 (i) Are from economically disadvantaged families;

5 (ii) Are identified as having special educational needs;

6 (iii) Are limited in proficiency in the English language;

7 (iv) Are at risk of dropping out of high school; or

8 (v) Do not meet minimum standards of academic proficiency; or

9 (E) If the public charter school is a party to a cooperative agreement described in ORS 338.080,
10 reside in the school district that is the sponsor of the public charter school or in a school district
11 that is a party to the cooperative agreement.

12 *[(4)(a) A student who wishes to enroll in a virtual public charter school does not need the approval
13 of the school district where the student is a resident before the student enrolls in the virtual public
14 charter school. If a student wishes to enroll in a virtual public charter school, the parent, legal
15 guardian or person in parental relationship with the student must provide the following notices to the
16 school district where the student is a resident:]*

17 *[(A) Intent to enroll the student in a virtual public charter school; and]*

18 *[(B) Enrollment of the student in a virtual public charter school.]*

19 *[(b)(A) Notwithstanding paragraph (a) of this subsection and ORS 339.133, if more than three
20 percent of the students who reside in a school district are enrolled in virtual public charter schools that
21 are not sponsored by the school district, a student who is a resident of the school district must receive
22 approval from the school district before enrolling in a virtual public charter school. A school district
23 is not required to give approval if more than three percent of the students who reside in the school
24 district are enrolled in virtual public charter schools that are not sponsored by the school district.]*

25 *[(B) For the purpose of determining whether more than three percent of the students who reside in
26 the school district are enrolled in virtual public charter schools that are not sponsored by the school
27 district, the school district board shall include any students who:]*

28 *[(i) Reside in the school district, regardless of whether the students are considered residents of
29 different school districts as provided by ORS 339.133 (5); and]*

30 *[(ii) Are enrolled in virtual public charter schools that are not sponsored by the school district.]*

31 *[(C) Students who reside in the school district, regardless of whether the students are considered
32 residents of different school districts as provided by ORS 339.133 (5), must receive approval from the
33 school district before enrolling in a virtual public charter school if the limit described in subparagraph
34 (A) of this paragraph has been met.]*

35 *[(c) If the school district does not give approval under paragraph (b) of this subsection, the school
36 district must provide information to the parent, legal guardian or person in parental relationship with
37 the student about the right to appeal the decision to the State Board of Education and other online
38 options available to the student. If an appeal is made to the State Board of Education, the board must
39 issue a decision within 30 days of the submission of the appeal.]*

40 *[(5)] (4) Within 10 days of a student's enrollment in a public charter school, the public charter
41 school shall provide written notice of the student's enrollment to the school district in which the
42 public charter school is located if the student does not reside in the school district where the public
43 charter school is located.*

44 *[(6)] (5) Within 10 days of receiving the notice described in subsection [(5)] (4) of this section,
45 the school district in which the public charter school is located shall provide to the student's parent,*

1 legal guardian or person in parental relationship written information about:

2 (a) The school district’s responsibility to identify, locate and evaluate students enrolled in the
 3 public charter school to determine which students may be in need of special education and related
 4 services as provided by ORS 338.165; and

5 (b) The methods by which the school district may be contacted to answer questions or provide
 6 information related to special education and related services.

7 [(7)] (6) When a student described in subsection [(5)] (4) of this section withdraws from a public
 8 charter school for a reason other than graduation from high school, the school district in which the
 9 public charter school is located shall:

10 (a) Provide to the school district in which the student resides written notice that the student
 11 has withdrawn.

12 (b) Provide to the student’s parent, legal guardian or person in parental relationship written
 13 information about:

14 (A) The responsibility of the school district in which the student resides to identify, locate and
 15 evaluate students who reside in the school district to determine which students may be in need of
 16 special education and related services as provided by ORS 338.165; and

17 (B) The methods by which the school district in which the student resides may be contacted to
 18 answer questions or provide information related to special education and related services.

19 [(8)(a)] (7)(a) If a student described in subsection [(5)] (4) of this section enrolls in a public
 20 charter school and has an individualized education program, the school district in which the public
 21 charter school is located must implement the individualized education program and follow the terms
 22 of the individualized education program until a new individualized education program is developed.

23 (b) If a student described in subsection [(5)] (4) of this section withdraws from a public charter
 24 school and has an individualized education program, the school district in which the student resides
 25 must implement the individualized education program and follow the terms of the individualized ed-
 26 ucation program until a new individualized education program is developed.

27 [(9)] (8) When a virtual public charter school enrolls a student or a student no longer is enrolled
 28 in a virtual public charter school, the virtual public charter school shall provide the written notices
 29 described in ORS 338.120 (1)(m) and (n) to the school district where the student is a resident.

30 [(10)] (9) A public charter school may conduct fund-raising activities but may not require a
 31 student to participate in fund-raising activities as a condition of admission to the public charter
 32 school.

33 **SECTION 12.** ORS 338.025 is amended to read:

34 338.025. (1) The State Board of Education may adopt any rules necessary for the implementation
 35 of this chapter. The rules shall follow the intent of this chapter.

36 (2) Upon application by a public charter school, the State Board of Education may grant a
 37 waiver of any provision of this chapter if the waiver promotes the development of programs by
 38 providers, enhances the equitable access by underserved families to the public education of their
 39 choice, extends the equitable access to public support by all students or permits high quality pro-
 40 grams of unusual cost. The State Board of Education may not waive any appeal provision in this
 41 chapter or any provision under ORS 338.115 (1)(a) to (aa), 338.120, [338.125 (4),] 338.135 (2)(b) or
 42 339.122.

43 **SECTION 13.** ORS 339.125 and 339.128 are repealed.