

Senate Bill 706

Sponsored by Senator LINTHICUM (Pre-session 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.

Prohibits school districts and children's facilities from requiring immunization or disclosure of student's medical history as condition of student attending school or facility.

A BILL FOR AN ACT

Relating to school access; creating new provisions; amending ORS 327.006, 332.405, 335.090, 336.095, 337.150, 338.025, 338.125, 339.005, 339.115, 339.127, 339.133, 433.102, 433.240, 433.255, 433.267, 433.269, 433.271 and 433.273; and repealing ORS 339.125 and 339.128.

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

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

(2) A student may enroll in a school of another school district by receiving consent under ORS 339.127. A student who receives consent from another school district shall be considered a resident of that school district.

(3) A student may enroll in any school of a school district without consideration of attendance boundaries.

(4)(a) Notwithstanding subsections (2) and (3) of this section, a school district may prohibit a student from enrolling in a school if that student's enrollment would exceed the capacity of a program, class, grade level or building.

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

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

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

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

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

SECTION 2. ORS 339.127 is amended to read:

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.

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

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

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

9 (2) A district school board that [*is considering whether to admit*] **gives consent to** a nonresident
 10 student [*by giving consent*] may require only the following information prior to [*deciding whether to*
 11 *give*] **giving consent**:

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

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

15 (c) Information about whether the student may be given priority as provided by [*subsection (4)*
 16 *of this*] section 1 (4)(b) of this 2023 Act; and

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

18 (3)(a) A district school board that is [*considering whether to admit a nonresident student by*
 19 *giving*] **requested to give** consent may not:

20 (A) Request or require any person to provide or have provided any of the following information
 21 related to a student prior to the district school board [*deciding whether to give*] **giving** consent to
 22 the student:

23 (i) Information about the student's race, religion, sex, sexual orientation, gender identity,
 24 ethnicity, national origin, disability, health, **medical history**, whether a student has an individual-
 25 ized education program, the terms of an individualized education program, income level, residence,
 26 proficiency in the English language or athletic ability; or

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

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

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

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

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

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

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

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

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

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

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

16 *[(6) If a district school board decides to not give consent to a student, the board must provide a*
 17 *written explanation to the student.]*

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

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

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

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

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

30 **[(8)] (4)** For a resident student who receives consent to be admitted to another school district
 31 as described in ORS 339.133 (5)(a), a district school board may not impose any limitations on the
 32 length of time for which consent is given to the student. The board may not require the student to
 33 receive consent more than one time. *[to be admitted to the same school district, regardless of any time*
 34 *limitations imposed by the district school board under (7)(a)(A) of this section.]*

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

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

41 (B) Directed to nonresident students, including:

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

44 (ii) Television or radio advertisements; or

45 (iii) Newspaper advertisements, unless the advertisement is in a newspaper that primarily serves

1 the residents of the school district.

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

5 (c) Nothing in this subsection:

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

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

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

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

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

16 *[(11) Nothing in this section:]*

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

20 **(6) Nothing in this section:**

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

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

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

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

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

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

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

32 (a)(A) "Foster care" means substitute care for children placed by the Department of Human
33 Services 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) "Foster care" does not mean care for children whose parent or guardian voluntarily placed
38 the child outside the child's home with a public or private agency and for whom the child's parent
39 or guardian retains legal guardianship.

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

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

1 ental relationship.

2 (c) "School district of origin" means the school district where an individual was a resident be-
 3 fore:

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

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

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

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

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

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

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

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

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

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

25 (A) The school district of origin; or

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

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

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

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

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

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

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

1 **as provided by ORS 339.127.**

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 a
11 dormitory operated by a school district are considered to be residents of the school district in which
12 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 one
15 school year.

16 (B) An individual may be considered to be a resident of a school district as provided by this
17 subsection only if, for the 2010-2011 school year, the school district had foreign exchange students
18 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 this
20 subsection may not increase relative to the number who would have been considered residents under
21 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 attends
23 school in Oregon under a cultural exchange program and whose parent, guardian or person in par-
24 ental relationship resides in another country.

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

26 339.115. (1) Except as provided in ORS 339.141, authorizing tuition for courses not part of the
27 regular school program, the district school board shall admit free of charge to the schools of the
28 district all persons between the ages of 5 and 19 who reside within *[the school district]* **this state**.
29 A person whose 19th birthday occurs during the school year shall continue to be eligible for a free
30 and appropriate public education for the remainder of the school year. A district school board **shall**
31 **admit nonresident persons as provided by ORS 339.127 and** may admit *[nonresident persons, de-*
32 *termine who is not a resident of the district]* **persons who are not residents of this state** and fix
33 rates of tuition for *[nonresidents]* **those persons**.

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

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

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

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

44 (3) The obligation to make a free appropriate public education available to individuals with
45 disabilities 18 through 21 years of age who are incarcerated in an adult correctional facility applies

1 only to those individuals who, in their last educational placement prior to their incarceration in the
2 adult correctional facility:

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

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

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

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

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

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

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

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

16 (7) Notwithstanding ORS 339.133 (2)(a), a school district shall not exclude from admission a child
17 [*located in the district*] solely because the child does not have a fixed place of residence or solely
18 because the child is not under the supervision of a parent, guardian or person in a parental re-
19 lationship.

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

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

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

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

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

33 327.006. As used in ORS 327.006 to 327.133, 327.348, 327.356 to 327.359 and 327.731.

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

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

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

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

44 (C) Any student required to be transported for health or safety reasons, according to supple-
45 mental plans from districts that have been approved by the state board identifying students who are

1 required to be transported for health or safety reasons, including special education;

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

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

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

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

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

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

17 (4) "Kindergarten" means a kindergarten program that conforms to the standards and rules
18 adopted by the State Board of Education.

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

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

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

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

33 [(b) *A pupil is not considered to be a resident pupil under paragraph (a)(A) of this subsection if*
34 *the pupil is attending school in another school district pursuant to a contract under ORS 339.125 and*
35 *in the prior year was considered to be a resident pupil in another school district under paragraph*
36 *(a)(B) of this subsection. The pupil shall continue to be considered a resident of another school district*
37 *under paragraph (a)(B) of this subsection.*]

38 [(c) *A pupil is not considered to be a resident pupil under paragraph (a)(B) of this subsection if*
39 *the pupil is attending school in a school district pursuant to ORS 339.133 (5)(a) and in the prior year*
40 *was considered to be a resident pupil under paragraph (a)(A) of this subsection because the pupil was*
41 *attending school in another school district pursuant to a contract under ORS 339.125. The pupil shall*
42 *continue to be considered a resident pupil under paragraph (a)(A) of this subsection.*]

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

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

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

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

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

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

6 332.405. (1) The district school board shall provide transportation for pupils or combinations of
7 pupils and other persons to and from school-related activities where required by law or when con-
8 sidered advisable by the board.

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

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

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

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

22 335.090. (1) The high school education of all children of school age resident within a school
23 district that does not operate a high school or that is not a component part of a union high school
24 district shall be the responsibility of the district.

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

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

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

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

36 339.005. As used in ORS 339.040 [*and 339.125*], unless the context requires otherwise, "adminis-
37 trative office for the county" means the administrative office of the education service district or of
38 a common school district that includes an entire county.

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

40 336.095. (1)(a) A school district that is not a union high school district must offer half-day
41 kindergarten and may choose to offer full-day kindergarten.

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

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

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

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

1 kindergarten.

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

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

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

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

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

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

17 337.150. (1) Subject to ORS 339.155, each district school board shall provide textbooks, pre-
18 scribed or authorized by law, for free use by all [*resident public school*] pupils enrolled in
19 kindergarten through grade 12 **of the public schools of the school district.**

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

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

24 338.125. (1) Student enrollment in a public charter school is voluntary.

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (C) Have siblings who are presently enrolled in the school and who were enrolled in the school
18 in the prior year;

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

21 (i) Are from economically disadvantaged families;

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

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

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

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

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

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

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

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

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

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

45 *[(i) Reside in the school district, regardless of whether the students are considered residents of*

1 *different school districts as provided by ORS 339.133 (5); and]*

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

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

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

12 **[(5)] (4)** Within 10 days of a student's enrollment in a public charter school, the public charter
 13 school shall provide written notice of the student's enrollment to the school district in which the
 14 public charter school is located if the student does not reside in the school district where the public
 15 charter school is located.

16 **[(6)] (5)** Within 10 days of receiving the notice described in subsection **[(5)] (4)** of this section,
 17 the school district in which the public charter school is located shall provide to the student's parent,
 18 legal guardian or person in parental relationship written information about:

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

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

24 **[(7)] (6)** When a student described in subsection **[(5)] (4)** of this section withdraws from a public
 25 charter school for a reason other than graduation from high school, the school district in which the
 26 public charter school is located shall:

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

29 (b) Provide to the student's parent, legal guardian or person in parental relationship written
 30 information about:

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

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

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

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

44 **[(9)] (8)** When a virtual public charter school enrolls a student or a student no longer is enrolled
 45 in a virtual public charter school, the virtual public charter school shall provide the written notices

1 described in ORS 338.120 (1)(m) and (n) to the school district where the student is a resident.

2 [(10)] (9) A public charter school may conduct fund-raising activities but may not require a
3 student to participate in fund-raising activities as a condition of admission to the public charter
4 school.

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

6 338.025. (1) The State Board of Education may adopt any rules necessary for the implementation
7 of this chapter. The rules shall follow the intent of this chapter.

8 (2) Upon application by a public charter school, the State Board of Education may grant a
9 waiver of any provision of this chapter if the waiver promotes the development of programs by
10 providers, enhances the equitable access by underserved families to the public education of their
11 choice, extends the equitable access to public support by all students or permits high quality pro-
12 grams of unusual cost. The State Board of Education may not waive any appeal provision in this
13 chapter or any provision under ORS 338.115 (1)(a) to (aa), 338.120, [338.125 (4),] 338.135 (2)(b) or
14 339.122.

15 **SECTION 13.** ORS 433.102 is amended to read:

16 433.102. (1) Nothing in ORS 433.090 to 433.102 is intended to affect the responsibility of a parent
17 or guardian to have a child of that parent or guardian properly immunized.

18 (2) Nothing in ORS 433.090 to 433.102 is intended to require immunization or tracking of any
19 child [*otherwise exempt from immunization requirements under ORS 433.267 (1)(b) or (c)*] **as a con-**
20 **dition of attendance at a school or children's facility in this state.**

21 **SECTION 14.** ORS 433.240 is amended to read:

22 433.240. [(1)] In adopting ORS 433.235 to 433.284, the Legislative Assembly recognizes the obli-
23 gation of parents to have their children properly immunized [*and to provide to schools and facilities*
24 *accurate records of immunization*].

25 [(2) *Notwithstanding ORS 339.030, nothing in ORS 433.235 to 433.284 operates to remove parental*
26 *liability under compulsory attendance laws.*]

27 **SECTION 15.** ORS 433.255 is amended to read:

28 433.255. Except in strict conformity with the rules of the Oregon Health Authority, no child or
29 employee shall be permitted to be in any school or children's facility when:

30 (1) That child or employee has any restrictable disease; **or**

31 (2) That child or employee comes from any house in which exists any restrictable disease[; or]

32 [(3) *That child has been excluded as provided in ORS 433.267 (5) or (7).*]

33 **SECTION 16.** ORS 433.267 is amended to read:

34 433.267. (1) [*As a condition of attendance in any school or children's facility in this state,*] **A**
35 **school or children's facility may request that** every child through grade 12 [*shall*] submit to the
36 administrator[, *unless the school or facility the child attends already has on file a record that indicates*
37 *that the child has received immunizations against the restrictable diseases prescribed by rules of the*
38 *Oregon Health Authority as provided in ORS 433.273,*] one of the following:

39 (a) A document signed by the parent, a practitioner of the healing arts who has within the scope
40 of the practitioner's license the authority to administer immunizations or a representative of the
41 local health department certifying the immunizations the child has received;

42 (b) A document signed by a physician or a representative of the local health department stating
43 that the child [*should be exempted from receiving*] **has not received** specified immunization because
44 of indicated medical diagnosis; or

45 (c) A document, on a form prescribed by the **Oregon Health** Authority by rule and signed by

1 the parent of the child, stating that the parent is declining one or more immunizations on behalf of
 2 the child. A document submitted under this paragraph:

3 (A) May include the reason for declining the immunization, including whether the parent is de-
 4 clining the immunization because of a religious or philosophical belief; and

5 (B) Must include either:

6 (i) A signature from a health care practitioner verifying that the health care practitioner has
 7 reviewed with the parent information about the risks and benefits of immunization that is consistent
 8 with information published by the Centers for Disease Control and Prevention and the contents of
 9 the vaccine educational module approved by the authority pursuant to rules adopted under ORS
 10 433.273; or

11 (ii) A certificate verifying that the parent has completed a vaccine educational module approved
 12 by the authority pursuant to rules adopted under ORS 433.273.

13 [(2)(a)] **(2)** A newly entering child or a transferring child [*shall be required*] **may be requested**
 14 to submit the document described in subsection (1) of this section prior to attending the school or
 15 **children's** facility.

16 [(b) *Notwithstanding paragraph (a) of this subsection, a child transferring from a school in the*
 17 *United States must submit the document required by subsection (1) of this section not later than the*
 18 *exclusion date set by rule of the authority.*]

19 (3) Persons who have been emancipated pursuant to ORS 419B.558 or who have reached the age
 20 of consent for medical care pursuant to ORS 109.640 may sign those documents on their own behalf
 21 otherwise requiring the signatures of parents under subsection (1) of this section.

22 [(4) *The administrator shall conduct a primary evaluation of the records submitted pursuant to*
 23 *subsection (1) of this section to determine whether the child is entitled to begin attendance by reason*
 24 *of having submitted a document that complies with the requirements of subsection (1) of this section.*]

25 [(5) *If the records do not meet the initial minimum requirements established by rule, the child may*
 26 *not be allowed to attend until the requirements are met. If the records meet the initial minimum re-*
 27 *quirements, the child shall be allowed to attend.*]

28 [(6) *At the time specified by the authority by rule, records for children meeting the initial minimum*
 29 *requirements and records previously on file shall be reviewed for completion of requirements by the*
 30 *administrator to determine whether the child is entitled to continue in attendance. If the records do not*
 31 *comply, the administrator shall notify the local health department and shall transmit any records con-*
 32 *cerning the child's immunization status to the local health department.*]

33 [(7) *The local health department shall provide for a secondary evaluation of the records to deter-*
 34 *mine whether the child should be excluded for noncompliance with the requirements stated in sub-*
 35 *section (1) of this section. If the child is determined to be in noncompliance, the local health department*
 36 *shall issue an exclusion order and shall send copies of the order to the parent or the person who is*
 37 *emancipated or has reached the age of majority and the administrator. On the effective date of the or-*
 38 *der, the administrator shall exclude the child from the school or facility and not allow the child to at-*
 39 *tend the school or facility until the requirements of this section have been met.*]

40 [(8) *The administrator shall readmit the child to the school or facility when in the judgment of the*
 41 *local health department the child is in compliance with the requirements of this section.*]

42 **(4) Submission of documents described in subsection (1) of this section may not be a**
 43 **condition of attendance in any school or children's facility in this state.**

44 [(9)] **(5)** The administrator shall be responsible for updating the document described in sub-
 45 section (1)(a) of this section as necessary to reflect the current status of the immunization of the

1 child [and the time at which the child comes into compliance with immunizations against the
2 restrictable diseases prescribed by rules of the authority pursuant to ORS 433.273].

3 [(10)] (6) Nothing in this section shall be construed as relieving agencies, in addition to school
4 districts, which are involved in the maintenance and evaluation of immunization records on April
5 27, 1981, from continuing responsibility for these activities.

6 [(11)] (7) All documents [required by] **requested under** this section shall be on forms approved
7 or provided by the authority.

8 [(12)] (8) In lieu of signed documents from practitioners, the authority may accept immunization
9 record updates using practitioner documented immunization records generated by electronic means
10 or on unsigned practitioner letterhead if the authority determines such records are accurate.

11 [(13)] (9) As used in this section:

12 (a) "Newly entering child" means a child who is initially attending:

13 (A) A facility in this state;

14 (B) A school at the entry grade level;

15 (C) Either a school at any grade level or a facility from homeschooling; or

16 (D) A school at any grade level or a facility after entering the United States from another
17 country.

18 (b) "Transferring child" means a child moving from:

19 (A) One facility to another facility;

20 (B) One school in this state to another school in this state when the move is not the result of
21 a normal progression of grade level; or

22 (C) A school in another state to a school in this state.

23 **SECTION 17.** ORS 433.269 is amended to read:

24 433.269. (1) A local public health authority shall ensure that immunizations required under ORS
25 433.282 and 433.283 and the rules adopted pursuant to ORS 433.273 for [attendance at] a school,
26 children's facility or post-secondary educational institution are available through local health care
27 providers or the local public health authority or its contractors:

28 (a) To the entire population of the area served by the local public health authority in convenient
29 areas and at convenient times.

30 (b) Regardless of whether a child or student is able to pay for the immunization.

31 (2)(a) **Based on available information**, each local public health authority, school and children's
32 facility shall report annually to the Oregon Health Authority on:

33 (A) The number of children in the area served by the local public health authority, school or
34 children's facility; and

35 (B) The number of children in the area served by the local public health authority, school or
36 children's facility who are susceptible to restrictable disease as prescribed by the Oregon Health
37 Authority's rules pursuant to ORS 433.273.

38 (b) Each school and children's facility shall report annually to the Oregon Health Authority on
39 the number of children in the area served by the school or children's facility who are in attendance
40 at the school or children's facility [conditionally because of] **with** an incomplete immunization
41 schedule **or without the submission of the documents described in ORS 433.267 (1)**.

42 (c) Each local public health authority shall make available to each school and children's facility
43 in the area served by the local public health authority data on the immunization rate, by disease,
44 of children in the area. Upon request, the Oregon Health Authority shall assist local public health
45 authorities in compiling data for purposes of this paragraph.

1 (d) A child *[exempted under ORS 433.267]* **who did not receive an immunization for reasons**
 2 **described in ORS 433.267 (1)(b) or (c) or who did not submit documents under ORS 433.267** is
 3 susceptible to restrictable disease for purposes of this subsection.

4 (3)(a) For the purpose of providing parents with the information necessary to protect their
 5 children's health, each school and children's facility shall make available the information reported
 6 and received by the school and children's facility pursuant to subsection (2) of this section:

7 (A) At the main office of the school or children's facility;

8 (B) On the school's or school district's website or on the children's facility's website, if avail-
 9 able; and

10 (C) To the parents of the children who attend the school or children's facility, in the form of a
 11 paper document or electronic communication that includes the information in a clear and easy to
 12 understand manner.

13 (b) The information required to be made available under paragraph (a) of this subsection must
 14 be made available at the beginning of each school year *[and not later than one month after the date*
 15 *that children may be excluded as provided by ORS 433.267]*.

16 (4) The administrator of a school or children's facility shall maintain immunization records of
 17 children, including children who are in attendance at the school or children's facility *[conditionally*
 18 *because of]* **with no immunization information or** an incomplete immunization schedule and chil-
 19 dren who *[are exempted]* **did not receive an immunization** as described in ORS 433.267 (1)(b) and
 20 (c).

21 **SECTION 18.** ORS 433.271 is amended to read:

22 433.271. The Oregon Health Authority may not purchase or distribute a pediatric vaccine nec-
 23 essary for *[school entry]* immunization requirements if the vaccine contains thimerosal, unless
 24 thimerosal is detectable only in trace amounts or no other vaccine for the same purpose is com-
 25 mercially available in a form that does not contain thimerosal. The authority may purchase and
 26 distribute a pediatric vaccine that contains thimerosal if no other vaccine for the same purpose is
 27 commercially available in a form that does not contain thimerosal.

28 **SECTION 19.** ORS 433.273 is amended to read:

29 433.273. The Oregon Health Authority shall adopt rules pertaining to the implementation of ORS
 30 433.235 to 433.284, which shall include, but need not be limited to:

31 (1) The definition of "restrictable" disease;

32 (2) The required **and recommended** immunization against diseases;

33 (3) The time schedule for immunization;

34 (4) The approved means of immunization;

35 *[(5) The procedures and time schedule whereby children may be excluded from attendance in*
 36 *schools or children's facilities under ORS 433.267 (1)(b) and (c), provided that the authority includes*
 37 *as part of those procedures service of notice to parents;]*

38 *[(6)]* (5) The manner in which immunization records for children are established, evaluated and
 39 maintained;

40 *[(7)]* (6) Exemptions for schools and children's facilities, including exemptions from the reporting
 41 requirements of ORS 433.269 (2) and exemptions from the requirement under ORS 433.269 (3) to make
 42 information available;

43 *[(8)]* (7) The implementation of ORS 433.282 and 433.283;

44 *[(9)]* (8) The process for approving a vaccine educational module;

45 *[(10)]* (9) Criteria for a vaccine educational module, including the requirement that a vaccine

1 educational module present information that is consistent with information published by the Centers
2 for Disease Control and Prevention concerning:

3 (a) Epidemiology;

4 (b) The prevention of disease through the use of vaccinations; and

5 (c) The safety and efficacy of vaccines; and

6 [(11)] (10) Documentation required to verify completion of a vaccine educational module, in-
7 cluding the qualifications of persons who may certify the completion.

8 **SECTION 20. ORS 339.125 and 339.128 are repealed.**

9
