

House Bill 2578

Sponsored by Representative MCINTIRE (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**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: Allows a student with an IEP or a 504 Plan to attend a school in another school district. (Flesch Readability Score: 66.3).

Establishes the open enrollment process for school districts to allow students with an individualized education program or a 504 Plan to attend schools in a nonresident school district with the consent of the receiving school district.

A BILL FOR AN ACT

1
2 Relating to open enrollment; creating new provisions; and amending ORS 339.127 and 339.133.

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

4 **SECTION 1.** ORS 339.133 is amended to read:

5 339.133. (1) As used in this section:

6 (a)(A) "Foster care" means substitute care for children placed by the Department of Human
7 Services or a tribal child welfare agency away from their parents and for whom the department or
8 agency has placement and care responsibility, including placements in foster family homes, foster
9 homes of relatives, group homes, emergency shelters, residential facilities, child care institutions and
10 preadoptive homes.

11 (B) "Foster care" does not mean care for children whose parent or guardian voluntarily placed
12 the child outside the child's home with a public or private agency and for whom the child's parent
13 or guardian retains legal guardianship.

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

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

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

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

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

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

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

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

28 (2)(a) Except as provided in subsections (3) to (5) of this section, individuals between the ages
29 of 4 and 18 shall be considered resident for school purposes in the school district in which their

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 parents, their guardians or persons in parental relationship to them reside.

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

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

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

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

15 (A) The school district of origin; or

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

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

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

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

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

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

32 (5)(a) Except as provided in ORS 327.006 (6) and 335.090, an individual whose legal residence is
 33 not within the district but who attends school in the district is considered a resident in the district
 34 in which the individual attends school if the individual receives written consent from:

35 (A) Both of the affected district school boards as provided by policies adopted by the boards[.];

36 **or**

37 **(B) The district school board for the district in which the school is located as provided**
 38 **by section 2 of this 2025 Act.**

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

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

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

45 (C) The individual has had the same legal residence and has continuously been enrolled in a

1 school in the district since the boundary change.

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

5 (b) For the purpose of this subsection:

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

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

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

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

17 **SECTION 2. (1) As used in this section, "qualified student" means a student who has:**

18 **(a) An individualized education program, as defined in ORS 343.035; or**

19 **(b) An education plan developed for a student in accordance with section 504 of the Re-**
20 **habilitation Act of 1973, 29 U.S.C. 794.**

21 **(2) For purposes of ORS 339.133 (5)(a)(B), a qualified student whose legal residence is not**
22 **within a school district but who attends a school in the district is considered a resident of**
23 **the district in which the qualified student attends the school if the qualified student receives**
24 **written consent to attend the school from the district school board where the school is lo-**
25 **cated, as provided by this section.**

26 **(3)(a) By March 1 of each year, a district school board shall determine whether the school**
27 **district will participate in open enrollment as provided by this section. When a school district**
28 **participates in open enrollment, the district school board shall give consent to a qualified**
29 **student whose legal residence is not within the school district as provided by this section.**

30 **(b) If the district school board will give consent, the board shall establish standards by**
31 **which consent will be given. The standards must:**

32 **(A) Identify the number of qualified students to whom consent will be given for the**
33 **school year. The district school board may limit the number of qualified students to whom**
34 **consent will be given based on school, grade or a combination of school and grade.**

35 **(B) Allow qualified students who live within the boundaries of the school district the first**
36 **opportunity to change to a different school in the district if the district school board will be**
37 **giving consent to attend that school to qualified students who do not reside within the dis-**
38 **trict.**

39 **(4) A qualified student seeking consent as provided by this section must request consent**
40 **no later than April 1 prior to the beginning of the school year for which consent is being**
41 **requested. Requests may be submitted before the district school board makes the determi-**
42 **nation and establishes the standards as described in subsection (3) of this section, but may**
43 **not be considered by the board when the board makes the determination and establishes the**
44 **standards.**

45 **(5)(a) A district school board must give consent to a qualified student who requests**

1 consent unless:

2 (A) The board decides to not give consent to any qualified student as allowed by sub-
3 section (3) of this section;

4 (B) The board decides to limit the number of qualified students to whom consent will be
5 given and does not give consent to the qualified student based on the selection process de-
6 scribed in subsection (6) of this section; or

7 (C) The board is not required to admit the qualified student, as provided by ORS 339.115
8 (8).

9 (b) A district school board may not deny consent or give priority based on race, religion,
10 sex, sexual orientation, gender identity, ethnicity, national origin, health, terms of an indi-
11 vidualized education program, terms of an education plan developed for a qualified student
12 in accordance with section 504 of the Rehabilitation Act of 1973, income level, proficiency in
13 the English language, athletic ability, academic records or residence.

14 (6) If the number of qualified students seeking consent exceeds the number of qualified
15 students to whom the district school board has determined will be given consent, the board
16 shall give consent based on an equitable lottery selection process. The process may give
17 priority to qualified students who have siblings currently enrolled in a school of the school
18 district, but in no event may a sibling be given priority to any open spot in the schools of
19 the school district over any qualified student who resides within the school district.

20 (7)(a) If a qualified student is considered a resident of the school district as provided by
21 this section and the qualified student has expressed an interest in attending the schools of
22 another school district before the end of the school year, the school district shall meet with
23 the qualified student and encourage the qualified student to continue to attend the schools
24 of the school district for the remainder of the school year.

25 (b) If a qualified student is considered a resident of the school district as provided by this
26 section, the school district may not encourage or require the qualified student to attend the
27 schools of another school district as a condition of avoiding a disciplinary measure, including
28 suspension or expulsion.

29 (8)(a) Except as provided by paragraphs (b) and (c) of this subsection, a qualified student
30 who receives consent and who is considered a resident of a district as provided by this sec-
31 tion shall be considered a resident of the district for all educational purposes. A qualified
32 student who is considered a resident of the district as provided by this section shall continue
33 to be considered a resident of the district until the qualified student;

34 (A) Graduates from high school;

35 (B) Is no longer required to be admitted to the schools of the school district under ORS
36 339.115; or

37 (C) Enrolls in a school in a different school district.

38 (b) A school district is not required to provide transportation outside the boundaries of
39 the district to a qualified student who is considered a resident of the district as provided by
40 this section, except that a district:

41 (A) Must allow qualified students who are considered residents of the district as provided
42 by this section to use existing bus routes and transportation services of the district. Costs
43 incurred for transportation provided under this subparagraph are considered approved
44 transportation costs for purposes of ORS 327.013, except for costs incurred for providing
45 transportation solely to qualified students who are considered residents of the district as

1 provided by this section if the transportation is provided:

2 (i) Outside the boundaries of the district; and

3 (ii) For the purpose of transporting the qualified students between home and school.

4 (B) May provide a stipend for a qualified student who is a member of a low-income family,
5 as defined in ORS 339.147, in an amount that does not exceed the district's average cost per
6 student for transportation.

7 (C) Must provide transportation if required by federal law. Costs incurred for transpor-
8 tation provided under this subparagraph are considered approved transportation costs for
9 purposes of ORS 327.013.

10 (c) After the first year that a qualified student is considered a resident of a district as
11 provided by this section, the district school board may transfer the qualified student to a
12 different school in the district. Any transfers must be made consistent with district policy
13 and do not affect the status of the qualified student as a resident of the district.

14 (9) A district school board shall provide written notification of the attendance of a qual-
15 ified student who receives consent as provided by this section to the school district where
16 the legal residence of the qualified student is located. The written notification required by
17 this subsection must be provided no later than May 1 prior to the beginning of the school
18 year for which consent was given.

19 (10) Nothing in this section:

20 (a) Requires a district school board to give consent to siblings if the board determines
21 that consent will not be given to any qualified students for a school year.

22 (b) Prevents a school district from entering into interagency agreements to provide ser-
23 vices to qualified students who do not reside in the school district or are not considered
24 residents of the school district.

25 (c) Prevents or otherwise limits a district school board from giving consent to a qualified
26 student who has received consent from the district school board for the school district in
27 which the qualified student resides, as provided by ORS 339.133 (5)(a)(A).

28 **SECTION 3.** ORS 339.127 is amended to read:

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

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 a nonresident student by giving
37 consent may require only the following information prior to deciding whether to give consent:

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

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

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

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

44 (3)(a) A district school board that is considering whether to admit a nonresident student by
45 giving consent may not:

1 (A) Request or require any person to provide or have provided any of the following information
 2 related to a student prior to the district school board deciding whether to give consent to the stu-
 3 dent:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (A) Determine the length of time for which consent is given; and
- 2 (B) Revoke consent for failure to comply with minimum standards for behavior or attendance,
- 3 but may not revoke consent for failure to meet standards for academics.
- 4 (b) Any limitations in length of time for consent, as allowed under paragraph (a) of this sub-
- 5 section, must be applied consistently among all students to whom consent is given. The length of
- 6 time for which consent is given shall not be affected by any changes in the legal residence of the
- 7 student if the student wishes to continue to attend the schools of the school district.
- 8 (c) If consent is revoked as provided by paragraph (a) of this subsection, a student may not re-
- 9 quest consent from the same school district that revoked the consent for the school year following
- 10 the school year in which the consent was revoked.
- 11 (8) For a resident student who receives consent to be admitted to another school district as
- 12 described in ORS 339.133 [(5)(a)] **(5)(a)(A)**, a district school board may not impose any limitations
- 13 on the length of time for which consent is given to the student. The board may not require the
- 14 student to receive consent more than one time to be admitted to the same school district, regardless
- 15 of any time limitations imposed by the district school board under (7)(a)(A) of this section.
- 16 (9)(a) A school district that provides consent to nonresident students to attend the schools of
- 17 the school district may not expend moneys received from the State School Fund or as Local Re-
- 18 venues, as described in ORS 327.011, to advertise openings for nonresident students if the adver-
- 19 tisements are:
- 20 (A) Located outside the boundaries of the school district, including advertisements that are
- 21 made by signage or billboards; or
- 22 (B) Directed to nonresident students, including:
- 23 (i) Advertisements that are targeted to nonresident students through direct mail or online mar-
- 24 keting;
- 25 (ii) Television or radio advertisements; or
- 26 (iii) Newspaper advertisements, unless the advertisement is in a newspaper that primarily serves
- 27 the residents of the school district.
- 28 (b) Notwithstanding paragraph (a)(A) of this subsection, if a school is located outside the
- 29 boundaries of the school district, the school district may advertise openings for nonresident students
- 30 on the property of the school.
- 31 (c) Nothing in this subsection:
- 32 (A) Prohibits a school district from providing information or advertisements to nonresident stu-
- 33 dents if the parents of the students request the information or advertisements.
- 34 (B) Prohibits a public charter school from advertising openings.
- 35 (10) Notwithstanding any other provision of this section, a district school board that is re-
- 36 quested to give consent as described in ORS 339.133 [(5)(a)] **(5)(a)(A)** must give consent to a student
- 37 whose legal residence changes to a different school district:
- 38 (a) During the school year, to enable the student to complete the school year in the school dis-
- 39 trict; or
- 40 (b) During the summer prior to the school year, to enable the student to complete the school
- 41 year following the summer in the school district.
- 42 (11) Nothing in this section:
- 43 (a) Requires a district school board to admit students for whom priority may be given under
- 44 subsection (4)(b) of this section if the board imposes limitations on the number of students admitted
- 45 by consent.

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

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

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

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

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

10 **SECTION 4. (1) Section 2 of this 2025 Act and the amendments to ORS 339.133 by section**
11 **1 of this 2025 Act first apply to qualified students who seek consent for the 2026-2027 school**
12 **year.**

13 **(2) Nothing in section 2 of this 2025 Act or the amendments to ORS 339.133 by section 1**
14 **of this 2025 Act affects the status of an individual who was considered a resident as provided**
15 **by ORS 339.133 (5)(a) prior to the 2026-2027 school year.**

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