

## CHAPTER 655

AN ACT

HB 2747

Relating to admittance of nonresident students; creating new provisions; amending section 20, chapter 718, Oregon Laws 2011; and declaring an emergency.

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

**SECTION 1.** (1) A district school board that admits nonresident students by giving consent as described in ORS 339.133 (5)(a) may not consider race, religion, sex, sexual orientation, ethnicity, national origin, disability, health, whether a student has an individualized education program, the terms of an individualized education program, income level, residence, proficiency in the English language, athletic ability or academic records when:

- (a) Determining whether to give consent; or
- (b) Establishing any terms of consent.

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

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

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

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

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

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

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

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

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

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

(4)(a) A district school board that admits nonresident students by giving consent as described in ORS 339.133 (5)(a) may limit the number of students to whom consent is given. The district school board must make the determination whether to limit the number of students to whom consent is given by an annual date established by the board.

(b) If the number of students seeking admission exceeds any limitations imposed by the district school board, the board must admit nonresident students based on an equitable lottery selection process. The process may give priority to students who have siblings currently enrolled in a school of the school district.

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

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

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

(7) A district school board that gives consent as provided by ORS 339.133 (5)(a) may determine the length of time for which consent is given. Any limitations in length of time must be applied consistently among all students to whom consent is given.

(8) Nothing in this section:

(a) Requires a district school board to admit siblings if the board imposes limitations on the number of students admitted by consent.

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

(c) Prevents a district school board from requesting information or giving consent to a student in the event of an emergency to protect the health, safety or welfare of the student.

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

**SECTION 2.** (1) Section 1 of this 2013 Act first applies to:

(a) Nonresident students who seek admission for the 2014-2015 school year; and

(b) State School Fund distributions commencing with the 2014-2015 distributions.

(2) Nothing in section 1 of this 2013 Act affects the status of a nonresident student who was admitted as provided by ORS 339.125 or 339.133 (5)(a) prior to the 2014-2015 school year.

**SECTION 3.** Section 1 of this 2013 Act is amended to read:

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

(a) Determining whether to give consent; or

(b) Establishing any terms of consent.

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

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

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

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

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

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

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

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

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

(b) Nothing in this subsection prevents a student from voluntarily touring any of the schools or facilities of a school district or from requesting or re-

ceiving any information from a school or the school district.

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

(b) If the number of students seeking admission exceeds any limitations imposed by the district school board, the board must admit nonresident students based on an equitable lottery selection process. The process may give priority to students who have siblings currently enrolled in a school of the school district.

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

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

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

(7) A district school board that gives consent as provided by ORS 339.133 (5)[(a)] may determine the length of time for which consent is given. Any limitations in length of time must be applied consistently among all students to whom consent is given.

(8) Nothing in this section:

(a) Requires a district school board to admit siblings if the board imposes limitations on the number of students admitted by consent.

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

(c) Prevents a district school board from requesting information or giving consent to a student in the event of an emergency to protect the health, safety or welfare of the student.

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

**SECTION 4.** Section 20, chapter 718, Oregon Laws 2011, is amended to read:

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

(2) The amendments to ORS 339.133 by section 19 [of this 2011 Act], chapter 718, Oregon Laws 2011, and the amendments to section 1 of this 2013 Act by section 3 of this 2013 Act become operative on July 1, 2017.

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

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

(a) Determining whether to accept a nonresident student; or

(b) Establishing the amount of tuition.

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

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

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

(3)(a) A district school board that admits nonresident students and charges nonresident students tuition may not:

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

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

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

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

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

(b) Nothing in this subsection prevents a student from voluntarily touring any of the

schools or facilities of a school district or from requesting or receiving any information from a school or the school district.

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

(5) Nothing in this section:

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

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

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

**SECTION 6.** (1) Section 5 of this 2013 Act first applies to:

(a) Nonresident students who seek admission for the 2014-2015 school year; and

(b) State School Fund distributions commencing with the 2014-2015 distributions.

(2) Nothing in section 5 of this 2013 Act affects the status of a nonresident student who was admitted as provided by ORS 339.125 or 339.133 (5)(a) prior to the 2014-2015 school year.

**SECTION 7.** Section 8 of this 2013 Act is added to and made a part of ORS chapter 343.

**SECTION 8.** (1) As used in this section:

(a) "Long term care facility" has the meaning given that term in ORS 442.015.

(b) "Skilled nursing facility" has the meaning given that term in ORS 442.015.

(2)(a) Notwithstanding ORS 339.133 and 339.134, a student who is admitted to a long term care facility or a skilled nursing facility shall be considered a resident of the school district in which the long term care facility or skilled nursing facility is located.

(b) The school district of which the student is a resident as provided by paragraph (a) of this subsection is responsible for providing educational services to the student in the least restrictive environment in which the student can be educated.

(3) When a student is discharged from a long term care facility or a skilled nursing facility:

(a) The residency of the student shall be determined as provided by ORS 339.133 and 339.134; and

(b) The responsibilities imposed by subsection (2)(b) of this section terminate and become the responsibilities of the school district of which the student is a resident.

**SECTION 9.** Section 8 of this 2013 Act first applies to the 2013-2014 school year.

**SECTION 10.** Section 8 of this 2013 Act is repealed on June 30, 2014.

**SECTION 11.** Any distributions of State School Fund moneys made before the effective date of this 2013 Act to a school district for a nonresident student admitted to a long term care facility or a skilled nursing facility located

within the boundaries of the school district are validated and approved.

**SECTION 12.** This 2013 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect July 1, 2013.

Approved by the Governor July 25, 2013  
Filed in the office of Secretary of State July 25, 2013  
Effective date July 25, 2013  
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