

Chapter 521 Oregon Laws 2005

AN ACT

HB 3075

Relating to education of children living in substitute care programs; creating new provisions; amending ORS 326.575, 339.133 and 419B.192; and declaring an emergency.

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

SECTION 1. ORS 339.133 is amended to read:

339.133. (1) Except as provided in subsection (3), (4), **(5)** or ~~[(6)]~~ **(7)** of this section, children between the ages of 4 and 18 shall be considered resident for school purposes in the school district in which their parents, guardians or persons in parental relationship to them reside.

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

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

(4) Children placed by public or private agencies who are living in substitute care programs licensed, certified or approved shall be considered resident in the school district in which they reside by placement of the public or private agency.

(5)(a) Notwithstanding subsection (4) of this section, when a juvenile court determines that it is in a child's best interest to continue to attend the school that the child attended prior to placement by a public agency, the child:

(A) Shall be considered resident for school purposes in the school district in which the child resided prior to the placement; and

(B) May continue to attend the school the child attended prior to the placement through the highest grade level of the school.

(b) The public agency that has placed the child shall be responsible for providing the child with transportation to and from school when the need for transportation is due to the placement by the public agency.

(c) Paragraph (b) of this subsection applies only to a public agency for which funds have been designated for the specific purpose of providing a child with transportation to and from school under this subsection.

~~[(5)]~~ **(6)** Persons living temporarily in a school district for the primary purpose of attending a district school ~~[shall]~~ **may** not be considered legally resident of the district in which they are living temporarily, but shall be considered resident in the district in which they, their parents, guardians or persons in parental relationship to them maintain residency.

[(6)] (7) Except as provided in ORS 327.006 (7) and 335.090, persons whose legal residence is not within the district but who attend school in the district with the written consent of the affected district school boards shall be considered to be residents of the district in which the person attends school for purposes of the receipt by that district of State School Fund moneys for the person.

[(7)] (8) For the purposes of subsection (4) of this section, “substitute care program” means family foster care, family group home care, parole foster care, family shelter care, adolescent shelter care and professional group care.

SECTION 2. ORS 419B.192 is amended to read:

419B.192. (1) If the court finds that a child or ward is in need of placement or continuation in substitute care, there shall be a preference given to placement with relatives and persons who have a child-parent relationship with the child or ward as defined in ORS 109.119. The Department of Human Services shall make reasonable efforts to place the child or ward with such persons and shall report to the court what efforts were made to effectuate such a placement.

(2) In attempting to place the child or ward pursuant to subsection (1) of this section, the department shall consider, but not be limited to, the following:

(a) The ability of the person being considered to provide safety for the child or ward, including a willingness to cooperate with any restrictions placed on contact between the child or ward and others, and to prevent anyone from influencing the child or ward in regard to the allegations of the case;

(b) The ability of the person being considered to support the efforts of the department to implement the permanent plan for the child or ward;

(c) The ability of the person being considered to meet the child or ward’s physical, emotional and educational needs, **including the child or ward’s need to continue in the same school or educational placement;** and

(d) Which person has the closest existing personal relationship with the child or ward if more than one person requests to have the child or ward placed with them pursuant to this section.

(3) Notwithstanding subsections (1) and (2) of this section, in cases where the Indian Child Welfare Act applies, the placement preferences of the Indian Child Welfare Act shall be followed.

SECTION 3. ORS 326.575 is amended to read:

326.575. (1) Within 10 days of a student’s seeking initial enrollment in a public or private school or when a student is placed in a state institution, other than an institution of post-secondary education, or a private agency, detention facility or youth care center, the school, institution, agency, facility or center shall notify the public or private school or the institution, agency, facility or center in which the student was formerly enrolled and shall request the student’s education records.

(2) Subject to ORS 339.260, any public or private school, state institution, private agency, detention facility or youth care center receiving the request described in subsection (1) of this section shall transfer all student education records relating to the particular student to the requesting school, institution, agency, facility or center no later than 10 days after the receipt of the request. The education records shall include any

education records relating to the particular student retained by an education service district.

(3) Notwithstanding subsections (1) and (2) of this section, for students who are in substitute care programs:

(a) A school, institution, agency, facility or center shall notify the school, institution, agency, facility or center in which the student was formerly enrolled and shall request the student's education records within five days of the student seeking initial enrollment; and

(b) Any school, institution, agency, facility or center receiving a request for a student's education records shall transfer all student education records relating to the particular student to the requesting school, institution, agency, facility or center no later than five days after the receipt of the request.

~~[(3)]~~ **(4)** Each educational institution that has custody of the student's education records shall annually notify parents and eligible students of their right to review and propose amendments to the records. The State Board of Education shall specify by rule the procedure for reviewing and proposing amendments to a student's education records. If a parent's or eligible student's proposed amendments to a student's education records are rejected by the educational institution, the parent or eligible student shall receive a hearing on the matter. The State Board of Education shall specify by rule the procedure for the hearing.

~~[(4)]~~ **(5)** As used in this section:

(a) "Detention facility" has the meaning given that term in ORS 419A.004.

(b) "Educational institution" means a public or private school, education service district, state institution, private agency or youth care center.

(c) "Private agency" means an agency with which the Department of Education contracts under ORS 343.961.

(d) "Substitute care program" has the meaning given that term in ORS 339.133.

~~[(d)]~~ (e) "Youth care center" means a center as defined in ORS 420.855.

SECTION 4. Prior to February 1, 2007, the Department of Human Services shall report to the Legislative Assembly in the manner provided in ORS 192.245 on the implementation of and compliance by the department with ORS 339.133 as amended by section 1 of this 2005 Act. The report shall include the cost to the department of implementing ORS 339.133 as amended by section 1 of this 2005 Act.

SECTION 5. This 2005 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect July 1, 2005.

Approved by the Governor July 15, 2005

Filed in the office of Secretary of State July 15, 2005

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