

75th OREGON LEGISLATIVE ASSEMBLY--2009 Regular Session

NOTE: Matter within { + braces and plus signs + } in an amended section is new. Matter within { - braces and minus signs - } is existing law to be omitted. New sections are within { + braces and plus signs + } .

LC 1877

House Bill 2507

Sponsored by COMMITTEE ON EDUCATION

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.

Establishes standards for modified diploma. Creates extended diploma and establishes standards for extended diploma.

Declares emergency, effective July 1, 2009.

A BILL FOR AN ACT

Relating to completion of high school; amending ORS 329.451, 338.115, 339.115 and 339.505 and section 3, chapter 827, Oregon Laws 2005; and declaring an emergency.

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

SECTION 1. ORS 329.451 is amended to read:

329.451. (1) { + (a) + } At or before grade 12, a school district or public charter school shall award a high school diploma to a student who completes the requirements established by { - the State Board of Education, the school district or

public charter school and this section. - } { + subsection (2) of this section.

(b) A school district or public charter school shall award a modified diploma to a student who satisfies the requirements established by subsection (7) of this section, an extended diploma to a student who satisfies the requirements established by subsection (8) of this section or an alternative certificate to a student who satisfies the requirements established by subsection (9) of this section. + }

(2) In order to receive a high school diploma from a school district or public charter school, a student must satisfy the requirements established by the { - board - } { + State Board of Education + } and the school district or public charter school and, while in grades 9 through 12, must complete { + at least + }:

- (a) { - At least 24 - } { + Twenty-four total + } credits { - , as defined by rule of the board - } ;
- (b) Three credits of mathematics; and
- (c) Four credits of English.

(3) Notwithstanding subsection (2) of this section, a school district or public charter school may award a { + high school + } diploma to a student who does not satisfy the requirements of subsection (2)(b) or (c) of this section if the student:

(a) Has met or exceeded the academic content standards for mathematics or English established by the board, as demonstrated on Oregon state assessments; or

(b) Displays proficiency in mathematics or English at a level established by the board.

(4) A student may satisfy the requirements of subsection (2) of this section in less than four years. If a student satisfies the requirements of subsection (2) of this section and a school district or public charter school has the consent of the student's parent or guardian, the school district or public charter school shall award a { + high school + } diploma to the student upon request from the student.

(5) If a school district or public charter school has the consent of a student's parent or guardian, the school district or public charter school may advance the student to the next grade level if the student has satisfied the requirements for the student's current grade level.

(6) The requirement for obtaining the consent of a student's parent or guardian under subsections (4) and (5) of this section

does not apply to a student who is:

- (a) Emancipated pursuant to ORS 419B.550 to 419B.558; or
- (b) 18 years of age or older.

{ - (7)(a) Notwithstanding subsections (1) and (2) of this section, a school district or public charter school shall award a modified diploma to a student who does not satisfy the requirements of subsections (1) and (2) of this section if the student meets requirements established by the State Board of Education by rule. - }

{ - (b) The modified diploma shall be made available only to those students who have demonstrated the inability to meet the full set of academic content standards even with reasonable modifications and accommodations. To be eligible for a modified diploma, a student must have: - }

{ - (A) A documented history of an inability to maintain grade level achievement due to significant learning and instructional barriers; or - }

{ - (B) A documented history of a medical condition that creates a barrier to achievement. - }

{ + (7) A school district or public charter school shall award a modified diploma only to students who have demonstrated the inability to meet the full set of academic content standards for a high school diploma with reasonable modifications and accommodations. To be eligible for a modified diploma, a student must:

(a) Satisfy the requirements for a modified diploma established by the State Board of Education;

(b) While in grade 9 through completion of high school, complete at least 12 credits, which may not include more than six credits earned in a self-contained special education classroom and shall include:

- (A) Two credits of mathematics;
- (B) Two credits of English;
- (C) Two credits of science;
- (D) Three credits of history, geography, economics or civics;
- (E) One credit of health;
- (F) One credit of physical education; and
- (G) One credit of the arts or a second language; and

(c) Have a documented history of an inability to maintain grade level achievement due to significant learning and instructional barriers or have a documented history of a medical condition that creates a barrier to achievement.

(8) A school district or public charter school shall award an

extended diploma only to students who have demonstrated the inability to meet the academic content standards for a high school diploma or a modified diploma with reasonable modifications and accommodations. To be eligible for an extended diploma, a student must:

(a) Satisfy the requirements for an extended diploma established by the State Board of Education; and

(b)(A) Participate in alternate assessments in at least two assessment areas beginning no later than the sixth grade and lasting for two or more assessment cycles; or

(B) Have a serious illness or injury that occurs after grade eight, that changes the student's ability to participate in grade level activities and that results in the student participating in alternate assessments. + }

{ - (8) - } { + (9) + } A school district or public charter school shall award an alternative certificate to a student who does not satisfy the requirements for a { - diploma - }

{ + high school diploma, a modified diploma or an extended diploma + } if the student meets requirements established by the board of the school district or public charter school.

{ - (9) - } { + (10) + } A student who receives a modified diploma { + , an extended diploma + } or { + an + } alternative certificate shall have the option of participating in a high school graduation ceremony with the class of the student.

{ + (11) A school district or public charter school shall:

(a) Ensure that students have access to the appropriate resources to achieve a high school diploma, a modified diploma, an extended diploma or an alternative certificate at each high school in the school district or at the public charter school.

(b) Provide literacy instruction to all students until graduation.

(c) Beginning in grade five, annually provide information to the parents or guardians of a student taking an alternate assessment of the availability of a modified diploma, an extended diploma and an alternative certificate and the requirements for the diplomas and certificate. + }

{ - (10) - } { + (12) + } The State Board of Education shall submit for review by the legislative committees on education or the interim legislative committees on education, as appropriate, any proposed rules to implement requirements for a

{ + high school + } diploma, a modified diploma { + , an extended diploma + } or an alternative certificate prior to the adoption of those rules by the board.

SECTION 2. Section 3, chapter 827, Oregon Laws 2005, as amended by section 2, chapter 407, Oregon Laws 2007, and section 15, chapter 660, Oregon Laws 2007, is amended to read:

{ + Sec. 3. + } (1) The requirements of ORS 329.451 (2) and (3) apply to students who receive a high school diploma from a school district on or after July 1, 2009.

(2) ORS 329.451 (4) applies to students who satisfy the requirements for a high school diploma on or after { - the effective date of chapter 407, Oregon Laws 2007 - } { + July 1, 2007 + }.

(3) ORS 329.451 (5) first applies to the 2007-2008 school year.

(4) The requirements of ORS 329.451 (2) and (3) apply to students who receive a high school diploma from a public charter school:

(a) On or after July 1, 2009, if the charter of the public charter school specified that ORS 329.451 applied to the school prior to { - the effective date of this 2007 Act - } { + July 1, 2007 + }; or

(b) On or after July 1, 2011.

(5) { + (a) + } School districts and public charter schools shall make modified diplomas and alternative certificates as required by ORS 329.451 (7) and { - (8) - } { + (9) + } first available to students during the 2008-2009 school year.

{ + (b) School districts and public charter schools shall make extended diplomas as required by ORS 329.451 (8) first available to students during the 2009-2010 school year.

(c) The requirements of ORS 329.451 (7), as amended by section 1 of this 2009 Act, first apply to students who receive a modified diploma on or after July 1, 2012. + }

(6) Notwithstanding subsections (4) and (5) of this section, ORS 329.451 as amended by section 12 { + , chapter 660, Oregon Laws 2007, + } { - of this 2007 Act - } applies to public charter schools that enter into a charter or renew a charter on or after { - the effective date of this 2007 Act - } { + July 1, 2007 + }.

SECTION 3. ORS 338.115, as amended by section 11, chapter 50, Oregon Laws 2008, is amended to read:

338.115. (1) Statutes and rules that apply to school district boards, school districts or other public schools do not apply to public charter schools. However, the following laws do apply to public charter schools:

(a) Federal law;

- (b) ORS 192.410 to 192.505 (public records law);
 - (c) ORS 192.610 to 192.690 (public meetings law);
 - (d) ORS 297.405 to 297.555 and 297.990 (Municipal Audit Law);
 - (e) ORS 181.534, 326.603, 326.607, 342.223 and 342.232 (criminal records checks);
 - (f) ORS 337.150 (textbooks);
 - (g) ORS 339.141, 339.147 and 339.155 (tuition and fees);
 - (h) ORS 659.850, 659.855 and 659.860 (discrimination);
 - (i) ORS 30.260 to 30.300 (tort claims);
 - (j) Health and safety statutes and rules;
 - (k) Any statute or rule that is listed in the charter;
 - (L) The statewide assessment system developed by the Department of Education for mathematics, science and English under ORS 329.485 (2);
 - (m) ORS 329.045 (academic content standards and instruction);
 - (n) Any statute or rule that establishes requirements for instructional time provided by a school during each day or during a year;
 - (o) ORS 339.250 (12) (prohibition on infliction of corporal punishment);
 - (p) ORS 339.370, 339.372, 339.375 and 339.377 (reporting of child abuse and training on prevention and identification of child abuse);
 - (q) ORS 329.451 ({ + high school + } diploma, modified diploma { + , extended diploma + } and alternative certificate);
 - (r) ORS chapter 657 (Employment Department Law);
 - (s) Section 3, chapter 50, Oregon Laws 2008; and
 - (t) This chapter.
- (2) Notwithstanding subsection (1) of this section, a charter may specify that statutes and rules that apply to school district boards, school districts and other public schools may apply to a public charter school.
- (3) If a statute or rule applies to a public charter school, then the terms 'school district' and 'public school' include public charter school as those terms are used in that statute or rule.
- (4) A public charter school may not violate the Establishment Clause of the First Amendment to the United States Constitution or section 5, Article I of the Oregon Constitution, or be religion based.
- (5) A public charter school shall maintain an active enrollment of at least 25 students.
- (6) A public charter school may sue or be sued as a separate

legal entity.

(7) The sponsor, members of the governing board of the sponsor acting in their official capacities and employees of a sponsor acting in their official capacities are immune from civil liability with respect to all activities related to a public charter school within the scope of their duties or employment.

(8) A public charter school may enter into contracts and may lease facilities and services from a school district, education service district, state institution of higher education, other governmental unit or any person or legal entity.

(9) A public charter school may not levy taxes or issue bonds under which the public incurs liability.

(10) A public charter school may receive and accept gifts, grants and donations from any source for expenditure to carry out the lawful functions of the school.

(11) The school district in which the public charter school is located shall offer a high school diploma, { + a + } modified diploma { + , an extended diploma + } or { + an + } alternative certificate to any public charter school student who meets the district's and state's standards for a high school diploma, { + a + } modified diploma { + , an extended diploma + } or { + an + } alternative certificate.

(12) A high school diploma, { + a + } modified diploma { + , an extended diploma + } or { + an + } alternative certificate issued by a public charter school grants to the holder the same rights and privileges as a high school diploma, { + a + } modified diploma { + , an extended diploma + } or { + an + } alternative certificate issued by a nonchartered public school.

(13) Prior to beginning operation, the public charter school shall show proof of insurance to the sponsor as specified in the charter.

(14) A public charter school may receive services from an education service district in the same manner as a nonchartered public school in the school district in which the public charter school is located.

SECTION 4. ORS 338.115, as amended by section 7, chapter 839, Oregon Laws 2007, and section 12, chapter 50, Oregon Laws 2008, is amended to read:

338.115. (1) Statutes and rules that apply to school district boards, school districts or other public schools do not apply to public charter schools. However, the following laws do apply to public charter schools:

(a) Federal law;

- (b) ORS 192.410 to 192.505 (public records law);
 - (c) ORS 192.610 to 192.690 (public meetings law);
 - (d) ORS 297.405 to 297.555 and 297.990 (Municipal Audit Law);
 - (e) ORS 181.534, 326.603, 326.607, 342.223 and 342.232 (criminal records checks);
 - (f) ORS 337.150 (textbooks);
 - (g) ORS 339.141, 339.147 and 339.155 (tuition and fees);
 - (h) ORS 659.850, 659.855 and 659.860 (discrimination);
 - (i) ORS 30.260 to 30.300 (tort claims);
 - (j) Health and safety statutes and rules;
 - (k) Any statute or rule that is listed in the charter;
 - (L) The statewide assessment system developed by the Department of Education for mathematics, science and English under ORS 329.485 (2);
 - (m) ORS 329.045 (academic content standards and instruction);
 - (n) ORS 329.496 (physical education);
 - (o) Any statute or rule that establishes requirements for instructional time provided by a school during each day or during a year;
 - (p) ORS 339.250 (12) (prohibition on infliction of corporal punishment);
 - (q) ORS 339.370, 339.372, 339.375 and 339.377 (reporting of child abuse and training on prevention and identification of child abuse);
 - (r) ORS 329.451 ({ + high school + } diploma, modified diploma { + , extended diploma + } and alternative certificate);
 - (s) ORS chapter 657 (Employment Department Law);
 - (t) Section 3, chapter 50, Oregon Laws 2008; and
 - (u) This chapter.
- (2) Notwithstanding subsection (1) of this section, a charter may specify that statutes and rules that apply to school district boards, school districts and other public schools may apply to a public charter school.
- (3) If a statute or rule applies to a public charter school, then the terms 'school district' and 'public school' include public charter school as those terms are used in that statute or rule.
- (4) A public charter school may not violate the Establishment Clause of the First Amendment to the United States Constitution or section 5, Article I of the Oregon Constitution, or be religion based.
- (5) A public charter school shall maintain an active enrollment of at least 25 students.

(6) A public charter school may sue or be sued as a separate legal entity.

(7) The sponsor, members of the governing board of the sponsor acting in their official capacities and employees of a sponsor acting in their official capacities are immune from civil liability with respect to all activities related to a public charter school within the scope of their duties or employment.

(8) A public charter school may enter into contracts and may lease facilities and services from a school district, education service district, state institution of higher education, other governmental unit or any person or legal entity.

(9) A public charter school may not levy taxes or issue bonds under which the public incurs liability.

(10) A public charter school may receive and accept gifts, grants and donations from any source for expenditure to carry out the lawful functions of the school.

(11) The school district in which the public charter school is located shall offer a high school diploma, { + a + } modified diploma { + , an extended diploma + } or { + an + } alternative certificate to any public charter school student who meets the district's and state's standards for a high school diploma, { + a + } modified diploma { + , an extended diploma + } or { + an + } alternative certificate.

(12) A high school diploma, { + a + } modified diploma { + , an extended diploma + } or { + an + } alternative certificate issued by a public charter school grants to the holder the same rights and privileges as a high school diploma, { + a + } modified diploma { + , an extended diploma + } or { + an + } alternative certificate issued by a nonchartered public school.

(13) Prior to beginning operation, the public charter school shall show proof of insurance to the sponsor as specified in the charter.

(14) A public charter school may receive services from an education service district in the same manner as a nonchartered public school in the school district in which the public charter school is located.

SECTION 5. ORS 339.115 is amended to read:

339.115. (1) Except as provided in ORS 339.141, authorizing tuition for courses not part of the regular school program, the district school board shall admit free of charge to the schools of the district all persons between the ages of 5 and 19 who reside within the school district. A person whose 19th birthday occurs during the school year shall continue to be eligible for a

free and appropriate public education for the remainder of the school year. A district school board may admit nonresident persons, determine who is not a resident of the district and fix rates of tuition for nonresidents.

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

(A) Receiving special education and has not yet received a high school diploma as described in ORS 329.451 { - (1) - } { + (2) + }; or

(B) Receiving special education and has received a modified { - high school - } diploma { + , an extended diploma + } or { + an + } alternative certificate as described in ORS 329.451.

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

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

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

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

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

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

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

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

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

(6) The person may apply to the board of directors of the school district of residence for admission after the 19th birthday as provided in subsection (1) of this section. A person aggrieved by a decision of the local board may appeal to the

State Board of Education. The decision of the state board is final and not subject to appeal.

(7) Notwithstanding ORS 339.133 (1), a school district shall not exclude from admission a child located in the district solely because the child does not have a fixed place of residence or solely because the child is not under the supervision of a parent, guardian or person in a parental relationship.

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

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

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

(9) A child entering the first grade during the fall term shall be considered to be six years of age if the sixth birthday of the child occurs on or before September 1. A child entering kindergarten during the fall term shall be considered to be five years of age if the fifth birthday of the child occurs on or before September 1. However, nothing in this section prevents a district school board from admitting free of charge a child whose needs for cognitive, social and physical development would best be met in the school program, as defined by policies of the district school board, to enter school even though the child has not attained the minimum age requirement but is a resident of the district.

SECTION 6. ORS 339.505 is amended to read:

339.505. (1) For purposes of the student accounting system required by ORS 339.515, the following definitions shall be used:

(a) 'Graduate' means an individual who has:

(A) Not reached 21 years of age or whose 21st birthday occurs during the current school year;

(B) Met all state requirements and local requirements for attendance, competence and units of credit for high school; and

(C) Received one of the following:

(i) A high school diploma issued by a school district { + or a public charter school + }.

- (ii) { - An adult - } { + A + } high school diploma issued by an authorized community college.
 - (iii) A modified { - high school - } diploma { + issued by a school district or a public charter school + }.
 - { + (iv) An extended diploma issued by a school district or a public charter school.
 - (v) An alternative certificate issued by a school district or a public charter school. + }
- (b) 'School dropout' means an individual who:
- (A) Has enrolled for the current school year, or was enrolled in the previous school year and did not attend during the current school year;
 - (B) Is not a high school graduate;
 - (C) Has not received a General Educational Development (GED) certificate; and
 - (D) Has withdrawn from school.
- (c) 'School dropout' does not include a student described by at least one of the following:
- (A) A student who has transferred to another educational system or institution that leads to graduation and the school district has received a written request for the transfer of the student's records or transcripts.
 - (B) A student who is deceased.
 - (C) A student who is participating in home instruction paid for by the district.
 - (D) A student who is being taught by a private teacher, parent or legal guardian pursuant to ORS 339.030 (1)(d) or (e).
 - (E) A student who is participating in a Department of Education approved public or private education program, an alternative education program as defined in ORS 336.615 or a hospital education program, or is residing in a Department of Human Services facility.
 - (F) A student who is temporarily residing in a shelter care program certified by the Oregon Youth Authority or the Department of Human Services or in a juvenile detention facility.
 - (G) A student who is enrolled in a foreign exchange program.
 - (H) A student who is temporarily absent from school because of suspension, a family emergency, or severe health or medical problems that prohibit the student from attending school.
 - (I) A student who has received a General Educational Development (GED) certificate.
- (2) The State Board of Education shall prescribe by rule when an unexplained absence becomes withdrawal, when a student is

considered enrolled in school, acceptable alternative education programs under ORS 336.615 to 336.675 and the standards for excused absences for purposes of ORS 339.065 for family emergencies and health and medical problems.

SECTION 7. { + This 2009 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect July 1, 2009. + }
