

Enrolled House Bill 2848

Sponsored by Representative GELSER; Representatives BUCKLEY, D EDWARDS, KOMP, NELSON, ROBLAN

CHAPTER

AN ACT

Relating to education; creating new provisions; amending ORS 329.447, 329.451, 338.025, 338.115, 339.115, 339.505 and 343.295 and section 3, chapter 827, Oregon Laws 2005; repealing sections 20 and 21, chapter ___, Oregon Laws 2007 (Enrolled House Bill 2263); 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) **At or before grade 12, a school district or a 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.**

[(1)] (2) In order to receive a high school diploma from a school district **or public charter school**, a student must [*meet*] **satisfy** the requirements established by the [*State*] board **and the school district or public charter school** [*of Education*] and, while in grades 9 through 12, must complete:

- (a) At least 24 [*credit hours*] **credits**, as defined by rule of the board;
- (b) Three [*years*] **credits** of mathematics; and
- (c) Four [*years*] **credits** of English.

[(2)] (3) Notwithstanding subsection [(1)] (2) of this section, a school district may award a diploma to a student who does not [*meet*] **satisfy** the requirements of subsection [(1)(b) or (c)] (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; or
- (b) Displays proficiency in mathematics or English at a level established by the board.

(4) **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.**

(5) **A school district or public charter school shall award an alternative certificate to a student who does not satisfy the requirements for a diploma if the student meets requirements established by the board of the school district or public charter school.**

(6) **A student who receives a modified diploma or alternative certificate shall have the option of participating in a high school graduation ceremony with the class of the student.**

SECTION 2. Section 3, chapter 827, Oregon Laws 2005, is amended to read:

Sec. 3. (1) The requirements of [section 1 of this 2005 Act] **ORS 329.451 (2)** apply to students who receive a high school diploma from a school district on or after July 1, 2009.

(2) The requirements of ORS 329.451 (2) 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; or

(b) On or after July 1, 2011.

(3) School districts and public charter schools shall make modified diplomas and alternative certificates as required by ORS 329.451 (4) and (5) first available to students during the 2008-2009 school year.

(4) Notwithstanding subsections (2) and (3) of this section, ORS 329.451 as amended by section 1 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.

SECTION 3. ORS 329.447 is amended to read:

329.447. (1) School districts shall continue to issue diplomas to students as evidence that students have completed their public school education **as required by ORS 329.451**. [At or before grade 12, a diploma shall be conferred upon all students completing the requirements established by the State Board of Education and the school districts.] In addition to the diploma, school districts shall make the following available:

[*(a) A certificate, to be conferred upon students who with additional services and accommodations do not meet the standards for the Certificate of Initial Mastery.*]

[*(b) (a) Certificate of Initial Mastery, to be conferred upon all students meeting state and local standards and requirements for the Certificate of Initial Mastery in particular subjects pursuant to ORS 329.465.*

[*(c) (b) Certificate of Advanced Mastery, to be conferred upon all students meeting state and local standards and requirements for the Certificate of Advanced Mastery in one of the areas pursuant to ORS 329.475.*

[*(d) (c) Career endorsements, which are focus areas that identify a high quality career related course of study which informs students about future choices and simultaneously prepares them for further education, lifelong learning and employment.*

(2) In addition to the diploma, certificates and career endorsements required by subsection (1) of this section, school districts may offer Certificate of Initial Mastery subject area endorsements, to be conferred upon all students meeting state and local standards and requirements for a subject area endorsement pursuant to ORS 329.465.

SECTION 4. ORS 338.025 is amended to read:

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

(2) Upon application by a public charter school, the State Board of Education may grant a waiver of any provision of this chapter if the waiver promotes the development of programs by providers, enhances the equitable access by underserved families to the public education of their choice, extends the equitable access to public support by all students or permits high quality programs of unusual cost. The State Board of Education may not waive any appeal provision in this chapter or any provision under ORS 338.115 (1)(a) to [(p)] **(q)**.

SECTION 5. ORS 338.115 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, 181.539, 326.603, 326.607 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 and 659.855 (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 (1);
- (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 and 339.375 (reporting of child abuse);
- (q) ORS 329.451 (diploma, modified diploma and alternative certificate);** and
- [(q)] **(r)** 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, **modified diploma, alternative certificate**, Certificate of Initial Mastery or Certificate of Advanced Mastery to any public charter school student who meets the district’s and state’s standards for a high school diploma, **modified diploma, alternative certificate**, Certificate of Initial Mastery or Certificate of Advanced Mastery. If the school district offers a Certificate of Initial Mastery subject area endorsement to students who attend school in the district, then the school district shall offer the endorsement to any public charter school student who meets the district’s and state’s standards for the endorsement.

(12) A high school diploma, **modified diploma, alternative certificate**, Certificate of Initial Mastery, Certificate of Initial Mastery subject area endorsement or Certificate of Advanced Mastery issued by a public charter school grants to the holder the same rights and privileges as a high school diploma, **modified diploma, alternative certificate**, Certificate of Initial Mastery, Certificate of Initial Mastery subject area endorsement or Certificate of Advanced Mastery issued by a non-chartered 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 6. 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 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 [regular] high school diploma **as described in ORS 329.451 (1);**

(b) Receiving special education and has received a modified high school diploma or alternative certificate as described in ORS 329.451; or

~~(b)]~~ (c) Shown to be in need of additional education in order to receive a 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 7. 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.

(ii) An adult high school diploma issued by an authorized community college.

(iii) A modified high school diploma [*based on the successful completion of an individual education plan*].

(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)(c) or (d).

(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 336.665 and the standards for excused absences for purposes of ORS 339.065 for family emergencies and health and medical problems.

SECTION 8. ORS 343.295 is amended to read:

343.295. [*The*] (1) **A school district [may] shall** award to children with disabilities a document certifying successful completion of program requirements. [*No*] **A school district may not issue** a document [*issued to children with disabilities*] **to a child with a disability** educated in full or in part in a special education program [*shall indicate*] that **indicates** the document is issued by such a program.

(2) **A school district shall give to a child with disability who has an individualized education program an individualized summary of performance when the child completes high school.**

SECTION 9. The amendments to ORS 329.447, 339.115, 339.505 and 343.295 by sections 3 and 6 to 8 of this 2007 Act first apply to the 2008-2009 school year.

SECTION 10. If House Bill 2263 becomes law and House Bill 2606 does not become law, section 1 of this 2007 Act (amending ORS 329.451) is repealed and ORS 329.451, as amended by section 20, chapter ___, Oregon Laws 2007 (Enrolled House Bill 2263), is amended to read:

329.451. (1) 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.

(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 and the school district **or public charter school** and, while in grades 9 through 12, must complete:

- (a) At least 24 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 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) Notwithstanding subsections (1) and (2) of this section, a school district may award an alternative credential to a student who does not satisfy the requirements of subsections (1) and (2) of this section, if the student, with additional services and accommodations, does not satisfy the requirements for a diploma specified under subsections (1) and (2) of this section.]

(4)(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.

(5) A school district or public charter school shall award an alternative certificate to a student who does not satisfy the requirements for a diploma if the student meets requirements established by the board of the school district or public charter school.

(6) A student who receives a modified diploma or alternative certificate shall have the option of participating in a high school graduation ceremony with the class of the student.

(7) 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 diploma, a modified diploma or an alternative certificate prior to the adoption of those rules by the board.

SECTION 11. If House Bill 2606 becomes law and House Bill 2263 does not become law, section 1 of this 2007 Act (amending ORS 329.451) is repealed and ORS 329.451, as amended by section 1, chapter ___, Oregon Laws 2007 (Enrolled House Bill 2606), is amended to read:

329.451. (1) 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.

[(1)] (2) In order to receive a high school diploma from a school district **or public charter school**, a student must *[meet]* **satisfy** the requirements established by the *[State]* board *[of Education]* and the school district **or public charter school** and, while in grades 9 through 12, must complete:

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

[(2)] (3) Notwithstanding subsection [(1)] (2) of this section, a school district **or public charter school** may award a diploma to a student who does not satisfy the requirements of subsection [(1)(b)] (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; or
- (b) Displays proficiency in mathematics or English at a level established by the board.

[(3)] (4) A student may satisfy the requirements of subsection [(1)] (2) of this section in less than four years. If a student satisfies the requirements of subsection [(1)] (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 diploma to the student upon request from the student.

[(4)] (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.

[(5)] (6) The requirement for obtaining the consent of a student's parent or guardian under subsections [(3) and] (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.**

(8) **A school district or public charter school shall award an alternative certificate to a student who does not satisfy the requirements for a diploma if the student meets requirements established by the board of the school district or public charter school.**

(9) **A student who receives a modified diploma or alternative certificate shall have the option of participating in a high school graduation ceremony with the class of the student.**

(10) **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 diploma, a modified diploma or an alternative certificate prior to the adoption of those rules by the board.**

SECTION 12. If both House Bill 2263 and House Bill 2606 become law, section 1 of this 2007 Act and section 20, chapter __, Oregon Laws 2007 (Enrolled House Bill 2263) (both amending ORS 329.451), are repealed and ORS 329.451, as amended by section 1, chapter __, Oregon Laws 2007 (Enrolled House Bill 2606), is amended to read:

329.451. (1) **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.**

[(1)] (2) In order to receive a high school diploma from a school district **or public charter school**, a student must [*meet*] **satisfy** the requirements established by the [*State*] board [*of Education*] and the school district **or public charter school** and, while in grades 9 through 12, must complete:

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

[(2)] **(3)** Notwithstanding subsection [(1)] **(2)** of this section, a school district **or public charter school** may award a diploma to a student who does not satisfy the requirements of subsection [(1)(b)] **(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.

[(3)] **(4)** A student may satisfy the requirements of subsection [(1)] **(2)** of this section in less than four years. If a student satisfies the requirements of subsection [(1)] **(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 diploma to the student upon request from the student.

[(4)] **(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.

[(5)] **(6)** The requirement for obtaining the consent of a student's parent or guardian under subsections [(3) *and*] (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.

(8) A school district or public charter school shall award an alternative certificate to a student who does not satisfy the requirements for a diploma if the student meets requirements established by the board of the school district or public charter school.

(9) A student who receives a modified diploma or alternative certificate shall have the option of participating in a high school graduation ceremony with the class of the student.

(10) 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 diploma, a modified diploma or an alternative certificate prior to the adoption of those rules by the board.

SECTION 13. If House Bill 2263 becomes law and House Bill 2606 does not become law, section 21, chapter __, Oregon Laws 2007 (Enrolled House Bill 2263) (amending section 3, chapter 827, Oregon Laws 2005), is repealed and section 3, chapter 827, Oregon Laws 2005, as amended by section 2 of this 2007 Act is amended to read:

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

(2) The requirements of ORS 329.451 (2) 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; or

(b) On or after July 1, 2011.

(3) School districts and public charter schools shall make modified diplomas and alternative certificates as required by ORS 329.451 (4) and (5) first available to students during the 2008-2009 school year.

(4) Notwithstanding subsections (2) and (3) of this section, ORS 329.451 as amended by section [1] 10 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.

SECTION 14. If House Bill 2606 becomes law and House Bill 2263 does not become law, section 2 of this 2007 Act (amending section 3, chapter 827, Oregon Laws 2005) is repealed and section 3, chapter 827, Oregon Laws 2005, as amended by section 2, chapter __, Oregon Laws 2007 (Enrolled House Bill 2606), is amended to read:

Sec. 3. (1) The requirements of ORS 329.451 [(1) and] (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 [(3)] (4) applies to students who satisfy the requirements for a high school diploma on or after the effective date of [this 2007 Act] chapter __, Oregon Laws 2007 (Enrolled House Bill 2606).

(3) ORS 329.451 [(4)] (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; or

(b) On or after July 1, 2011.

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

(6) Notwithstanding subsections (4) and (5) of this section, ORS 329.451 as amended by section 11 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.

SECTION 15. If both House Bill 2263 and House Bill 2606 become law, section 2 of this 2007 Act and section 21, chapter __, Oregon Laws 2007 (Enrolled House Bill 2263) (both amending section 3, chapter 827, Oregon Laws 2005), are repealed and section 3, chapter 827, Oregon Laws 2005, as amended by section 2, chapter __, Oregon Laws 2007 (Enrolled House Bill 2606), is amended to read:

Sec. 3. (1) The requirements of ORS 329.451 [(1) and] (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 [(3)] (4) applies to students who satisfy the requirements for a high school diploma on or after the effective date of [this 2007 Act] chapter __, Oregon Laws 2007 (Enrolled House Bill 2606).

(3) ORS 329.451 [(4)] (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; or

(b) On or after July 1, 2011.

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

(6) Notwithstanding subsections (4) and (5) of this section, ORS 329.451 as amended by section 12 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.

SECTION 16. If House Bill 2263 becomes law, section 3 of this 2007 Act (amending ORS 329.447) is repealed.

SECTION 17. If House Bill 2263 becomes law, section 5 of this 2007 Act (amending ORS 338.115) is repealed and ORS 338.115, as amended by section 33, chapter ___, Oregon Laws 2007 (Enrolled House Bill 2263), 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, 181.539, 326.603, 326.607 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 and 659.855 (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 and 339.375 (reporting of child abuse);
- (q) ORS 329.451 (diploma, modified diploma and alternative certificate); and**
- [(q)] **(r) 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, **modified diploma or alternative certificate** to any public charter school student who meets the district’s and state’s standards for a high school diploma, **modified diploma or alternative certificate**.

(12) A high school diploma, **modified diploma or alternative certificate** issued by a public charter school grants to the holder the same rights and privileges as a high school diploma, **modified diploma or 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 18. If Senate Bill 215 becomes law, section 6 of this 2007 Act (amending ORS 339.115) is repealed and ORS 339.115, as amended by section 2, chapter __, Oregon Laws 2007 (Enrolled Senate Bill 215), 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 [regular] high school diploma as described in 329.451 (1); or

(B) Receiving special education and has received a modified high school diploma or 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 19. If House Bill 2263 becomes law, section 7 of this 2007 Act (amending ORS 339.505) is repealed and ORS 339.505, as amended by section 35, chapter __, Oregon Laws 2007 (Enrolled House Bill 2263), 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.

(ii) An adult high school diploma issued by an authorized community college.

(iii) *[An alternative]* **A modified** high school diploma *[based on the successful completion of an individual education plan]*.

(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)(c) or (d).

(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 pro-

grams under ORS 336.615 to 336.665 and the standards for excused absences for purposes of ORS 339.065 for family emergencies and health and medical problems.

SECTION 20. If both Senate Bill 215 and House Bill 2263 become law, section 9 of this 2007 Act is amended to read:

Sec. 9. The amendments to ORS [329.447,] 339.115, 339.505 and 343.295 by sections [3 and 6 to 8] **8, 18 and 19** of this 2007 Act first apply to the 2008-2009 school year.

SECTION 21. If Senate Bill 215 becomes law and House Bill 2263 does not become law, section 9 of this 2007 Act is amended to read:

Sec. 9. The amendments to ORS 329.447, 339.115, 339.505 and 343.295 by sections 3 [and 6 to 8], **7, 8 and 18** of this 2007 Act first apply to the 2008-2009 school year.

SECTION 22. If House Bill 2263 becomes law and Senate Bill 215 does not become law, section 9 of this 2007 Act is amended to read:

Sec. 9. The amendments to ORS [329.447,] 339.115, 339.505 and 343.295 by sections [3 and 6 to 8] **6, 8 and 19** of this 2007 Act first apply to the 2008-2009 school year.

SECTION 23. **This 2007 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect July 1, 2007.**

Passed by House April 12, 2007

Received by Governor:

Repassed by House June 7, 2007

.....M.,....., 2007

Approved:

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Chief Clerk of House

.....M.,....., 2007

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Speaker of House

.....
Governor

Passed by Senate June 4, 2007

Filed in Office of Secretary of State:

.....M.,....., 2007

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President of Senate

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Secretary of State