

A-Engrossed
House Bill 2507

Ordered by the House April 29
Including House Amendments dated April 29

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.

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

Clarifies that receipt of high school diploma, modified diploma, extended diploma or alternative certificate does not constitute grounds for denying person 21 years of age or younger access to special education under federal law.

Declares emergency, effective July 1, 2009.

A BILL FOR AN ACT

1
2 Relating to completion of high school; amending ORS 329.451, 338.115, 339.115, 339.505 and 343.146
3 and section 3, chapter 827, Oregon Laws 2005; and declaring an emergency.

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

5 **SECTION 1.** ORS 329.451 is amended to read:

6 329.451. (1)(a) At or before grade 12, a school district or public charter school shall award a
7 high school diploma to a student who completes the requirements established by [*the State Board*
8 *of Education, the school district or public charter school and this section.*] **subsection (2) of this**
9 **section.**

10 **(b) A school district or public charter school shall award a modified diploma to a student**
11 **who satisfies the requirements established by subsection (7) of this section, an extended di-**
12 **ploma to a student who satisfies the requirements established by subsection (8) of this sec-**
13 **tion or an alternative certificate to a student who satisfies the requirements established by**
14 **subsection (9) of this section.**

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

18 (a) [*At least 24*] **Twenty-four total** credits[, *as defined by rule of the board*];

19 (b) Three credits of mathematics; and

20 (c) Four credits of English.

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

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

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

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

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

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

9 (6) The requirement for obtaining the consent of a student's parent or guardian under sub-
10 sections (4) and (5) of this section does not apply to a student who is:

11 (a) Emancipated pursuant to ORS 419B.550 to 419B.558; or

12 (b) 18 years of age or older.

13 *[(7)(a) Notwithstanding subsections (1) and (2) of this section, a school district or public charter*
14 *school shall award a modified diploma to a student who does not satisfy the requirements of sub-*
15 *sections (1) and (2) of this section if the student meets requirements established by the State Board of*
16 *Education by rule.]*

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

20 *[(A) A documented history of an inability to maintain grade level achievement due to significant*
21 *learning and instructional barriers; or]*

22 *[(B) A documented history of a medical condition that creates a barrier to achievement.]*

23 **(7) A school district or public charter school shall award a modified diploma only to stu-**
24 **dents who have demonstrated the inability to meet the full set of academic content standards**
25 **for a high school diploma with reasonable modifications and accommodations. To be eligible**
26 **for a modified diploma, a student must:**

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

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

32 **(A) Two credits of mathematics;**

33 **(B) Two credits of English;**

34 **(C) Two credits of science;**

35 **(D) Three credits of history, geography, economics or civics;**

36 **(E) One credit of health;**

37 **(F) One credit of physical education; and**

38 **(G) One credit of the arts or a second language; and**

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

42 **(8) A school district or public charter school shall award an extended diploma only to**
43 **students who have demonstrated the inability to meet the academic content standards for a**
44 **high school diploma or a modified diploma with reasonable modifications and accommo-**
45 **dations. To be eligible for an extended diploma, a student must:**

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

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

5 (B) Have a serious illness or injury that occurs after grade eight, that changes the stu-
6 dent's ability to participate in grade level activities and that results in the student partic-
7 ipating in alternate assessments.

8 [(8)] (9) A school district or public charter school shall award an alternative certificate to a
9 student who does not satisfy the requirements for a [*diploma*] **high school diploma, a modified**
10 **diploma or an extended diploma** if the student meets requirements established by the board of the
11 school district or public charter school.

12 [(9)] (10) A student who receives a modified diploma, **an extended diploma** or **an** alternative
13 certificate shall have the option of participating in a high school graduation ceremony with the class
14 of the student.

15 (11) A school district or public charter school shall:

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

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

20 (c) Beginning in grade five, annually provide information to the parents or guardians of
21 a student taking an alternate assessment of the availability of a modified diploma, an ex-
22 tended diploma and an alternative certificate and the requirements for the diplomas and
23 certificate.

24 [(10)] (12) The State Board of Education shall submit for review by the legislative committees
25 on education or the interim legislative committees on education, as appropriate, any proposed rules
26 to implement requirements for a **high school diploma, a modified diploma, an extended diploma**
27 or an alternative certificate prior to the adoption of those rules by the board.

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

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

32 (2) ORS 329.451 (4) applies to students who satisfy the requirements for a high school diploma
33 on or after [*the effective date of chapter 407, Oregon Laws 2007*] **July 1, 2007.**

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

35 (4) The requirements of ORS 329.451 (2) and (3) apply to students who receive a high school di-
36 ploma from a public charter school:

37 (a) On or after July 1, 2009, if the charter of the public charter school specified that ORS
38 329.451 applied to the school prior to [*the effective date of this 2007 Act*] **July 1, 2007;** or

39 (b) On or after July 1, 2011.

40 (5)(a) School districts and public charter schools shall make modified diplomas and alternative
41 certificates as required by ORS 329.451 (7) and [(8)] (9) first available to students during the
42 2008-2009 school year.

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

45 (c) The requirements of ORS 329.451 (7), as amended by section 1 of this 2009 Act, first

1 **apply to students who receive a modified diploma on or after July 1, 2012.**

2 (6) Notwithstanding subsections (4) and (5) of this section, ORS 329.451 as amended by section
3 12, **chapter 660, Oregon Laws 2007**, [of this 2007 Act] applies to public charter schools that enter
4 into a charter or renew a charter on or after [the effective date of this 2007 Act] **July 1, 2007**.

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

7 338.115. (1) Statutes and rules that apply to school district boards, school districts or other
8 public schools do not apply to public charter schools. However, the following laws do apply to public
9 charter schools:

10 (a) Federal law;

11 (b) ORS 192.410 to 192.505 (public records law);

12 (c) ORS 192.610 to 192.690 (public meetings law);

13 (d) ORS 297.405 to 297.555 and 297.990 (Municipal Audit Law);

14 (e) ORS 181.534, 326.603, 326.607, 342.223 and 342.232 (criminal records checks);

15 (f) ORS 337.150 (textbooks);

16 (g) ORS 339.141, 339.147 and 339.155 (tuition and fees);

17 (h) ORS 659.850, 659.855 and 659.860 (discrimination);

18 (i) ORS 30.260 to 30.300 (tort claims);

19 (j) Health and safety statutes and rules;

20 (k) Any statute or rule that is listed in the charter;

21 (L) The statewide assessment system developed by the Department of Education for mathemat-
22 ics, science and English under ORS 329.485 (2);

23 (m) ORS 329.045 (academic content standards and instruction);

24 (n) Any statute or rule that establishes requirements for instructional time provided by a school
25 during each day or during a year;

26 (o) ORS 339.250 (12) (prohibition on infliction of corporal punishment);

27 (p) ORS 339.370, 339.372, 339.375 and 339.377 (reporting of child abuse and training on pre-
28 vention and identification of child abuse);

29 (q) ORS 329.451 (**high school** diploma, modified diploma, **extended diploma** and alternative
30 certificate);

31 (r) ORS chapter 657 (Employment Department Law);

32 (s) Section 3, chapter 50, Oregon Laws 2008; and

33 (t) This chapter.

34 (2) Notwithstanding subsection (1) of this section, a charter may specify that statutes and rules
35 that apply to school district boards, school districts and other public schools may apply to a public
36 charter school.

37 (3) If a statute or rule applies to a public charter school, then the terms "school district" and
38 "public school" include public charter school as those terms are used in that statute or rule.

39 (4) A public charter school may not violate the Establishment Clause of the First Amendment
40 to the United States Constitution or section 5, Article I of the Oregon Constitution, or be religion
41 based.

42 (5) A public charter school shall maintain an active enrollment of at least 25 students.

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

44 (7) The sponsor, members of the governing board of the sponsor acting in their official capacities
45 and employees of a sponsor acting in their official capacities are immune from civil liability with

1 respect to all activities related to a public charter school within the scope of their duties or em-
2 ployment.

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

6 (9) A public charter school may not levy taxes or issue bonds under which the public incurs li-
7 ability.

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

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

14 (12) A high school diploma, **a modified diploma, an extended diploma** or **an** alternative certif-
15 icate issued by a public charter school grants to the holder the same rights and privileges as a high
16 school diploma, **a modified diploma, an extended diploma** or **an** alternative certificate issued by a
17 nonchartered public school.

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

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

23 **SECTION 4.** ORS 338.115, as amended by section 7, chapter 839, Oregon Laws 2007, and section
24 12, chapter 50, Oregon Laws 2008, is amended to read:

25 338.115. (1) Statutes and rules that apply to school district boards, school districts or other
26 public schools do not apply to public charter schools. However, the following laws do apply to public
27 charter schools:

28 (a) Federal law;

29 (b) ORS 192.410 to 192.505 (public records law);

30 (c) ORS 192.610 to 192.690 (public meetings law);

31 (d) ORS 297.405 to 297.555 and 297.990 (Municipal Audit Law);

32 (e) ORS 181.534, 326.603, 326.607, 342.223 and 342.232 (criminal records checks);

33 (f) ORS 337.150 (textbooks);

34 (g) ORS 339.141, 339.147 and 339.155 (tuition and fees);

35 (h) ORS 659.850, 659.855 and 659.860 (discrimination);

36 (i) ORS 30.260 to 30.300 (tort claims);

37 (j) Health and safety statutes and rules;

38 (k) Any statute or rule that is listed in the charter;

39 (L) The statewide assessment system developed by the Department of Education for mathemat-
40 ics, science and English under ORS 329.485 (2);

41 (m) ORS 329.045 (academic content standards and instruction);

42 (n) ORS 329.496 (physical education);

43 (o) Any statute or rule that establishes requirements for instructional time provided by a school
44 during each day or during a year;

45 (p) ORS 339.250 (12) (prohibition on infliction of corporal punishment);

1 (q) ORS 339.370, 339.372, 339.375 and 339.377 (reporting of child abuse and training on pre-
2 vention and identification of child abuse);

3 (r) ORS 329.451 (**high school** diploma, modified diploma, **extended diploma** and alternative
4 certificate);

5 (s) ORS chapter 657 (Employment Department Law);

6 (t) Section 3, chapter 50, Oregon Laws 2008; and

7 (u) This chapter.

8 (2) Notwithstanding subsection (1) of this section, a charter may specify that statutes and rules
9 that apply to school district boards, school districts and other public schools may apply to a public
10 charter school.

11 (3) If a statute or rule applies to a public charter school, then the terms “school district” and
12 “public school” include public charter school as those terms are used in that statute or rule.

13 (4) A public charter school may not violate the Establishment Clause of the First Amendment
14 to the United States Constitution or section 5, Article I of the Oregon Constitution, or be religion
15 based.

16 (5) A public charter school shall maintain an active enrollment of at least 25 students.

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

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

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

25 (9) A public charter school may not levy taxes or issue bonds under which the public incurs li-
26 ability.

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

29 (11) The school district in which the public charter school is located shall offer a high school
30 diploma, a modified diploma, **an extended diploma** or **an** alternative certificate to any public
31 charter school student who meets the district’s and state’s standards for a high school diploma, a
32 modified diploma, **an extended diploma** or **an** alternative certificate.

33 (12) A high school diploma, a modified diploma, **an extended diploma** or **an** alternative certif-
34 icate issued by a public charter school grants to the holder the same rights and privileges as a high
35 school diploma, a modified diploma, **an extended diploma** or **an** alternative certificate issued by a
36 nonchartered public school.

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

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

42 **SECTION 5.** ORS 339.115 is amended to read:

43 339.115. (1) Except as provided in ORS 339.141, authorizing tuition for courses not part of the
44 regular school program, the district school board shall admit free of charge to the schools of the
45 district all persons between the ages of 5 and 19 who reside within the school district. A person

1 whose 19th birthday occurs during the school year shall continue to be eligible for a free and ap-
2 propriate public education for the remainder of the school year. A district school board may admit
3 nonresident persons, determine who is not a resident of the district and fix rates of tuition for
4 nonresidents.

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

7 (A) Receiving special education and has not yet received a high school diploma as described in
8 ORS 329.451 [(1)] (2); or

9 (B) Receiving special education and has received a modified [*high school*] diploma, **an extended**
10 **diploma** or **an** alternative certificate as described in ORS 329.451.

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

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

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

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

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

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

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

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

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

27 (6) The person may apply to the board of directors of the school district of residence for ad-
28 mission after the 19th birthday as provided in subsection (1) of this section. A person aggrieved by
29 a decision of the local board may appeal to the State Board of Education. The decision of the state
30 board is final and not subject to appeal.

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

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

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

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

42 (9) A child entering the first grade during the fall term shall be considered to be six years of
43 age if the sixth birthday of the child occurs on or before September 1. A child entering kindergarten
44 during the fall term shall be considered to be five years of age if the fifth birthday of the child oc-
45 curs on or before September 1. However, nothing in this section prevents a district school board

1 from admitting free of charge a child whose needs for cognitive, social and physical development
2 would best be met in the school program, as defined by policies of the district school board, to enter
3 school even though the child has not attained the minimum age requirement but is a resident of the
4 district.

5 **SECTION 6.** ORS 339.505 is amended to read:

6 339.505. (1) For purposes of the student accounting system required by ORS 339.515, the follow-
7 ing definitions shall be used:

8 (a) "Graduate" means an individual who has:

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

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

12 (C) Received one of the following:

13 (i) A high school diploma issued by a school district **or a public charter school.**

14 (ii) [*An adult*] A high school diploma issued by an authorized community college.

15 (iii) A modified [*high school*] diploma **issued by a school district or a public charter school.**

16 **(iv) An extended diploma issued by a school district or a public charter school.**

17 **(v) An alternative certificate issued by a school district or a public charter school.**

18 (b) "School dropout" means an individual who:

19 (A) Has enrolled for the current school year, or was enrolled in the previous school year and
20 did not attend during the current school year;

21 (B) Is not a high school graduate;

22 (C) Has not received a General Educational Development (GED) certificate; and

23 (D) Has withdrawn from school.

24 (c) "School dropout" does not include a student described by at least one of the following:

25 (A) A student who has transferred to another educational system or institution that leads to
26 graduation and the school district has received a written request for the transfer of the student's
27 records or transcripts.

28 (B) A student who is deceased.

29 (C) A student who is participating in home instruction paid for by the district.

30 (D) A student who is being taught by a private teacher, parent or legal guardian pursuant to
31 ORS 339.030 (1)(d) or (e).

32 (E) A student who is participating in a Department of Education approved public or private
33 education program, an alternative education program as defined in ORS 336.615 or a hospital edu-
34 cation program, or is residing in a Department of Human Services facility.

35 (F) A student who is temporarily residing in a shelter care program certified by the Oregon
36 Youth Authority or the Department of Human Services or in a juvenile detention facility.

37 (G) A student who is enrolled in a foreign exchange program.

38 (H) A student who is temporarily absent from school because of suspension, a family emergency,
39 or severe health or medical problems that prohibit the student from attending school.

40 (I) A student who has received a General Educational Development (GED) certificate.

41 (2) The State Board of Education shall prescribe by rule when an unexplained absence becomes
42 withdrawal, when a student is considered enrolled in school, acceptable alternative education pro-
43 grams under ORS 336.615 to 336.675 and the standards for excused absences for purposes of ORS
44 339.065 for family emergencies and health and medical problems.

45 **SECTION 7.** ORS 343.146 is amended to read:

1 343.146. (1) To receive special education, children with disabilities shall be determined eligible
2 for special education services under a school district program approved under ORS 343.045 and as
3 provided under ORS 343.221.

4 (2) Before initially providing special education, the school district shall ensure that a full and
5 individual evaluation is conducted to determine the child's eligibility for special education and the
6 child's special educational needs.

7 (3) Eligibility for special education shall be determined pursuant to rules adopted by the State
8 Board of Education. **Rules adopted by the board shall provide that a person 21 years of age
9 or younger is not denied access to special education under the Individuals with Disabilities
10 Education Act, 20 U.S.C. 1400 et seq., even if the person has received a high school diploma,
11 a modified diploma, an extended diploma or an alternative certificate under ORS 329.451.**

12 (4) Each school district shall conduct a reevaluation of each child with a disability in accord-
13 ance with rules adopted by the State Board of Education.

14 (5) If a medical or vision examination or health assessment is required as part of an initial
15 evaluation or reevaluation, the evaluation shall be given:

16 (a) In the case of a medical examination, by a physician licensed to practice by a state board
17 of medical examiners or a state medical board;

18 (b) In the case of a health assessment, by a nurse licensed by a state board of nursing and
19 specially certified as a nurse practitioner or by a licensed physician assistant; and

20 (c) In the case of a vision examination, by an ophthalmologist or optometrist licensed by a state
21 board.

22 **SECTION 8. This 2009 Act being necessary for the immediate preservation of the public
23 peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect
24 July 1, 2009.**