

D R A F T

SUMMARY

Directs Department of Education to ensure that statewide assessment system, or alternative to statewide assessment system, is available for students whose primary language is American Sign Language.

Allows students whose primary language is American Sign Language to be exempt from high school diploma requirements related to assessments of content standards if assessments cannot be administered using American Sign Language.

Declares emergency, effective July 1, 2013.

A BILL FOR AN ACT

1
2 Relating to students who communicate by American Sign Language; creating
3 new provisions; amending ORS 329.451 and 329.485; and declaring an
4 emergency.

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

6 **SECTION 1.** ORS 329.485 is amended to read:

7 329.485. (1) As used in this section:

8 (a) “Content-based assessment” means testing of the understanding of a
9 student of a predetermined body of knowledge.

10 (b) “Criterion-referenced assessment” means testing of the knowledge or
11 ability of a student with respect to some standard.

12 (c) “Performance-based assessment” means testing of the ability of a stu-
13 dent to use knowledge and skills to create a complex or multifaceted product
14 or complete a complex task.

15 (2)(a) The Department of Education shall implement statewide a valid and
16 reliable assessment system for all students that meets technical adequacy
17 standards. The assessment system shall include criterion-referenced assess-

1 ments including performance-based assessments, content-based assessments,
2 and other valid methods to measure the academic content standards and to
3 identify students who meet or exceed the standards.

4 (b) The department shall develop the statewide assessment system in
5 mathematics, science, English, history, geography, economics and civics.

6 **(c) To the extent practicable, the department shall ensure that the**
7 **statewide assessment system can be administered to students whose**
8 **primary language is American Sign Language. If the statewide as-**
9 **essment system cannot be administered to students whose primary**
10 **language is American Sign Language, the department shall develop**
11 **an alternative to the statewide assessment system to be used by stu-**
12 **dents whose primary language is American Sign Language.**

13 (3) In addition to the assessment system implemented under subsection (2)
14 of this section, the department may make available to school districts and
15 public charter schools an assessment system that uses criterion-referenced
16 assessments, including performance-based assessments and content-based as-
17 sessments to:

18 (a) Measure a student's progress in becoming proficient in the knowledge
19 and skills of the student's current grade level;

20 (b) Determine the proficiency of the student, which shall be determined
21 regardless of the actual grade level of the student and may be determined
22 by adapting the assessment during the assessment process as a result of the
23 performance of the student;

24 (c) Track and provide reports on the progress of a student based on the
25 information provided under paragraphs (a) and (b) of this subsection; and

26 (d) Provide predictions of anticipated student progress that are based on
27 the information provided under this subsection and not on the current grade
28 level of the student.

29 (4)(a) School districts and public charter schools shall implement the
30 statewide assessment system in mathematics, science and English. In addi-
31 tion, school districts and public charter schools may implement the statewide

1 assessment system in history, geography, economics and civics.

2 (b) School districts and public charter schools may implement the assess-
3 ment system described in subsection (3) of this section.

4 (5)(a) Each year the resident district shall be accountable for determining
5 the student's progress toward achieving the academic content standards.
6 Progress toward the academic content standards shall:

7 (A) Clearly show the student and parents whether the student is making
8 progress toward meeting or exceeding the academic content standards at the
9 student's current grade level; and

10 (B) Be based on the student's progress toward becoming proficient in a
11 continuum of knowledge and skills.

12 (b) In addition to the requirements described in paragraph (a) of this
13 subsection, the district shall adopt a grading system based on the local
14 school district board adopted course content of the district's curriculum. The
15 grading system shall:

16 (A) Clearly show the student and parents whether the student is achiev-
17 ing course requirements at the student's current grade level; and

18 (B) Be based on the student's progress toward becoming proficient in a
19 continuum of knowledge and skills.

20 (6) If a student has not met or has exceeded all of the academic content
21 standards, the school district shall make additional services or alternative
22 educational or public school options available to the student.

23 (7) If the student to whom additional services or alternative educational
24 options have been made available does not meet or exceed the academic
25 content standards within one year, the school district, with the consent of
26 the parents, shall make an appropriate placement, which may include an al-
27 ternative education program or the transfer of the student to another public
28 school in the district or to a public school in another district that agrees to
29 accept the student. The district that receives the student shall be entitled
30 to payment. The payment shall consist of:

31 (a) An amount equal to the district expenses from its local revenues for

1 each student in average daily membership, payable by the resident district
2 in the same year; and

3 (b) Any state and federal funds the attending district is entitled to receive
4 payable as provided in ORS 339.133 (1)(b).

5 **SECTION 2.** ORS 329.451 is amended to read:

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

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

15 (c) A school district or public charter school may not deny a student who
16 has the documented history described in subsection (6)(b) or (7)(b) and (c)
17 of this section the opportunity to pursue a diploma with more stringent re-
18 quirements than a modified diploma or an extended diploma for the sole
19 reason that the student has the documented history.

20 (d) A school district or public charter school may award a modified di-
21 ploma or extended diploma to a student only upon receiving consent as pro-
22 vided by subsection (5) of this section.

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

27 [(a)] (A) Twenty-four total credits;

28 [(b)] (B) Three credits of mathematics; and

29 [(c)] (C) Four credits of English.

30 (b) **Standards established by the State Board of Education must**
31 **provide that a student whose primary language is American Sign**

1 **Language is exempt from any requirements related to assessments of**
2 **content standards if an assessment cannot be administered to the**
3 **student by using American Sign Language.**

4 (3) A student may satisfy the requirements of subsection (2) of this section
5 in less than four years. If a student satisfies the requirements of subsection
6 (2) of this section and a school district or public charter school has received
7 consent as provided by subsection (5) of this section, the school district or
8 public charter school shall award a high school diploma to the student.

9 (4) If a school district or public charter school has received consent as
10 provided by subsection (5) of this section, the school district or public char-
11 ter school may advance the student to the next grade level if the student has
12 satisfied the requirements for the student's current grade level.

13 (5)(a) For the purpose of receiving consent as provided by subsections
14 (1)(d), (3) and (4) of this section, consent shall be provided by:

15 (A) The parent or guardian of the student, if the student:

16 (i) Is under 18 years of age and is not emancipated pursuant to ORS
17 419B.550 to 419B.558; or

18 (ii) Has been determined not to have the ability to give informed consent
19 regarding the student's education pursuant to a protective proceeding under
20 ORS chapter 125; or

21 (B) The student, if the student is 18 years of age or older or is
22 emancipated pursuant to ORS 419B.550 to 419B.558.

23 (b) For the purpose of awarding a modified diploma or extended diploma
24 as provided by subsection (1)(d) of this section or of awarding a high school
25 diploma as provided by subsection (3) of this section, consent must be re-
26 ceived during the school year for which the diploma will be awarded.

27 (6) A school district or public charter school shall award a modified di-
28 ploma only to students who have demonstrated the inability to meet the full
29 set of academic content standards for a high school diploma with reasonable
30 modifications and accommodations. To be eligible for a modified diploma, a
31 student must:

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

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

7 (7) A school district or public charter school shall award an extended
8 diploma only to students who have demonstrated the inability to meet the
9 full set of academic content standards for a high school diploma with rea-
10 sonable modifications and accommodations. To be eligible for an extended
11 diploma, a student must:

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

15 (A) Two credits of mathematics;

16 (B) Two credits of English;

17 (C) Two credits of science;

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

19 (E) One credit of health;

20 (F) One credit of physical education; and

21 (G) One credit of the arts or a second language;

22 (b) Have a documented history of an inability to maintain grade level
23 achievement due to significant learning and instructional barriers or have
24 a documented history of a medical condition that creates a barrier to
25 achievement; and

26 (c)(A) Participate in an alternate assessment beginning no later than
27 grade six and lasting for two or more assessment cycles; or

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

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

1 certificate to a student who does not satisfy the requirements for a high
2 school diploma, a modified diploma or an extended diploma if the student
3 meets requirements established by the board of the school district or public
4 charter school.

5 (9) A student shall have the opportunity to satisfy the requirements of
6 subsection (6), (7) or (8) of this section by the later of:

7 (a) Four years after starting grade nine; or

8 (b) The student reaching the age of 21 years, if the student is entitled to
9 a public education until the age of 21 years under state or federal law.

10 (10)(a) A student may satisfy the requirements described in subsection (6),
11 (7) or (8) of this section in less than four years if consent is provided in the
12 manner described in subsection (5)(a) of this section.

13 (b) The consent provided under this subsection must be written and must
14 clearly state that the parent, guardian or student is waiving the time allowed
15 under subsection (9) of this section. A consent may not be used to allow a
16 student to satisfy the requirements of subsection (6), (7) or (8) of this section
17 in less than three years.

18 (c) A copy of all consents provided under this subsection for students in
19 a school district must be forwarded to the district superintendent.

20 (d) Each school district must provide to the Superintendent of Public In-
21 struction information about the number of consents provided during a school
22 year.

23 (11)(a) A student who receives a modified diploma, an extended diploma
24 or an alternative certificate shall:

25 (A) Have the option of participating in a high school graduation cere-
26 mony with the class of the student; and

27 (B) Have access to instructional hours, hours of transition services and
28 hours of other services that are designed to:

29 (i) Meet the unique needs of the student; and

30 (ii) When added together, provide a total number of hours of instruction
31 and services to the student that equals at least the total number of instruc-

1 tional hours that is required to be provided to students who are attending
2 a public high school.

3 (b)(A) The number of instructional hours, hours of transition services and
4 hours of other services that are appropriate for a student shall be determined
5 by the student's individualized education program team. Based on the
6 student's needs and performance level, the student's individualized education
7 program team may decide that the student will not access the total number
8 of hours of instruction and services to which the student has access under
9 paragraph (a)(B) of this subsection.

10 (B) A school district may not unilaterally decrease the total number of
11 hours of instruction and services to which the student has access under
12 paragraph (a)(B) of this subsection, regardless of the age of the student.

13 (c) If a student's individualized education program team decides that the
14 student will not access the total number of hours of instruction and services
15 to which the student has access under paragraph (a)(B) of this subsection,
16 the school district shall annually:

17 (A) Provide the following information in writing to the parent or guard-
18 ian of the student:

19 (i) The school district's duty to comply with the requirements of para-
20 graph (a)(B) of this subsection; and

21 (ii) The prohibition against a school district's unilaterally decreasing the
22 total number of hours of instruction and services to which the student has
23 access.

24 (B) Obtain a signed acknowledgment from the parent or guardian of the
25 student that the parent or guardian received the information described in
26 subparagraph (A) of this paragraph.

27 (C) Include in the individualized education program for the student a
28 written statement that explains the reasons the student is not accessing the
29 total number of hours of instruction and services to which the student has
30 access under paragraph (a)(B) of this subsection.

31 (d) For purposes of paragraph (a)(B) of this subsection, transition services

1 and other services designed to meet the unique needs of the student may be
2 provided to the student through an interagency agreement entered into by
3 the school district if the individualized education program developed for the
4 student indicates that the services may be provided by another agency. A
5 school district that enters into an interagency agreement as allowed under
6 this paragraph retains the responsibility for ensuring that the student has
7 access to the number of service hours required to be provided to the student
8 under this subsection. An agency is not required to change any eligibility
9 criteria or enrollment standards prior to entering into an interagency
10 agreement as provided by this paragraph.

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

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

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

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

21 **SECTION 3. The amendments to ORS 329.451 by section 2 of this**
22 **2013 Act apply to high school diplomas issued on or after the effective**
23 **date of this 2013 Act.**

24 **SECTION 4. This 2013 Act being necessary for the immediate pres-**
25 **ervation of the public peace, health and safety, an emergency is de-**
26 **clared to exist, and this 2013 Act takes effect July 1, 2013.**

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