

# House Bill 2356

Sponsored by Representative THATCHER; Representatives HUFFMAN, WEIDNER, WHISNANT, Senator GEORGE  
(Pre-session filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Prohibits school district or public charter school from advancing student beyond third grade if student is not reading at or above third grade level. Requires that written notice be provided to parent or guardian. Allows waiver under specified circumstances.

Increases age limitation for persons whom school districts must admit free of charge.

Allows student achievement grants to be used for intervention techniques and other programs or techniques that assist student in improving student's reading grade level.

Takes effect July 1, 2014.

## A BILL FOR AN ACT

1  
2 Relating to student grade advancement; creating new provisions; amending ORS 327.297 and 339.115;  
3 and prescribing an effective date.

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

5 **SECTION 1. (1) Except as provided in subsection (4) of this section, a school district or**  
6 **public charter school may not advance a student beyond the third grade if the student is not**  
7 **reading at or above the third grade level. The school district or public charter school shall**  
8 **determine a student's reading grade level based on the use of an assessment system estab-**  
9 **lished by the State Board of Education by rule under subsection (5) of this section. A school**  
10 **district or public charter school may deny the advancement of a student as provided by this**  
11 **section for only one school year.**

12 **(2)(a) No later than six months prior to the end of a school year, a school district or**  
13 **public charter school shall give written notice to the parent or guardian of a student in the**  
14 **third grade who is not able to read at or above the third grade level.**

15 **(b) To the extent practicable, a school district or public charter school shall provide**  
16 **written notice to the parent or guardian of a student in the second grade who shows a strong**  
17 **likelihood that the student will not be able to read at or above the third grade level when the**  
18 **student completes the third grade.**

19 **(c) A notice provided under this subsection must:**

20 **(A) Explain that, for one year, the student will not advance beyond the third grade if the**  
21 **student is not able to read at or above the third grade level by the beginning of the school**  
22 **year following the completion of the third grade unless the student qualifies for a waiver**  
23 **under subsection (4) of this section; and**

24 **(B) Provide information regarding intervention techniques that are offered by the school**  
25 **district or public charter school to assist students in improving reading grade level.**

26 **(3) A school district or public charter school must offer intervention techniques to a**  
27 **student described in subsection (2)(a) or (b) of this section to assist the student in being able**  
28 **to improve the student's reading grade level. The intervention techniques must comply with**

**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 **guidelines established by the State Board of Education by rule.**

2 (4)(a) **A student who is not able to read at or above the third grade level may advance**  
 3 **beyond the third grade if the student receives a waiver as described in this subsection.**

4 (b) **A student may receive a waiver from the requirements of this section if:**

5 (A) **The student is participating in intervention techniques that are used to assist the**  
 6 **student in improving the student’s reading grade level;**

7 (B) **English is not the primary language of the student or the parent or guardian of the**  
 8 **student;**

9 (C) **The student has an individualized education program that meets the standards de-**  
 10 **scribed in ORS 343.151 and that indicates that the student may not be able to read at or**  
 11 **above the third grade level by the time the student completes the third grade; or**

12 (D) **The student meets any other criteria established by the State Board of Education by**  
 13 **rule.**

14 (5) **The State Board of Education shall establish by rule:**

15 (a) **An assessment system to be used to determine a student’s reading grade level;**

16 (b) **Guidelines for the intervention techniques that a school district or public charter**  
 17 **school must offer to a student; and**

18 (c) **Criteria for which the board will grant a waiver of the requirements of this section.**

19 **SECTION 2. Section 1 of this 2013 Act first applies to students who would advance beyond**  
 20 **the third grade on or after July 1, 2015.**

21 **SECTION 3.** ORS 339.115 is amended to read:

22 339.115. (1) Except as provided in ORS 339.141, authorizing tuition for courses not part of the  
 23 regular school program, the district school board shall admit free of charge to the schools of the  
 24 district all persons between the ages of 5 and [19] **20** who reside within the school district. A person  
 25 whose [19<sup>th</sup>] **20<sup>th</sup>** birthday occurs during the school year shall continue to be eligible for a free and  
 26 appropriate public education for the remainder of the school year. A district school board may admit  
 27 nonresident persons, determine who is not a resident of the district and fix rates of tuition for  
 28 nonresidents.

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

31 (A) Receiving special education and has not yet received a high school diploma as described in  
 32 ORS 329.451 (2); or

33 (B) Receiving special education and has received a modified diploma, an extended diploma or  
 34 an alternative certificate as described in ORS 329.451.

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

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

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

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

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

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

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

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

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

6 (6) The person may apply to the board of directors of the school district of residence for ad-  
 7 mission after the [19th] **20th** birthday as provided in subsection (1) of this section. A person  
 8 aggrieved by a decision of the local board may appeal to the State Board of Education. The decision  
 9 of the state board is final and not subject to appeal.

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

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

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

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

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

29 **SECTION 4.** ORS 327.297 is amended to read:

30 327.297. (1) In addition to those moneys distributed through the State School Fund, the Depart-  
 31 ment of Education shall award grants to school districts, education service districts, the Youth  
 32 Corrections Education Program and the Juvenile Detention Education Program for activities that  
 33 relate to increases in student achievement, including:

34 (a) Early childhood support including establishing, maintaining or expanding quality  
 35 prekindergarten programs and full-day kindergarten programs;

36 (b) Class size reduction with an emphasis (b) on the reduction of kindergarten through grade three  
 37 class sizes;

38 (c) Increases in instructional time including summer programs and before- and after-school pro-  
 39 grams;

40 (d) Mentoring, teacher retention and professional development;

41 (e) Remediation, alternative learning and student retention;

42 (f) Services to at-risk youth;

43 (g) Programs to improve a student achievement gap between student groups identified by cul-  
 44 ture, poverty, language and race and other student groups;

45 (h) Vocational education programs;

1 (i) Literacy programs, **including intervention techniques described in section 1 of this 2013**  
 2 **Act and any other programs or techniques that assist a student in improving the student's**  
 3 **reading grade level;**

4 (j) School library programs; and

5 (k) Other research-based student improvement strategies approved by the State Board of Edu-  
 6 cation.

7 (2)(a) Each school district, each education service district, the Youth Corrections Education  
 8 Program and the Juvenile Detention Education Program may apply to the Department of Education  
 9 for a grant.

10 (b) The department shall review and approve applications based on criteria established by the  
 11 State Board of Education. In establishing the criteria, the State Board of Education shall consider  
 12 the recommendations of the Quality Education Commission established under ORS 327.500.

13 (c) The applications shall include the activities to be funded and the goals of the district or  
 14 program for increases in student performance. The applications shall become part of the local dis-  
 15 trict continuous improvement plan described in ORS 329.095.

16 (3)(a) Notwithstanding ORS 338.155 (9), the Department of Education may not award a grant  
 17 under this section directly to a public charter school.

18 (b) A school district that receives a grant under this section may transfer a portion of the grant  
 19 to a public charter school based on the charter of the school or any other agreement between the  
 20 school district and the public charter school.

21 (c) A public charter school that receives grant funds under this subsection shall use those funds  
 22 for the activities specified in subsection (1) of this section.

23 (4)(a) The amount of each grant for a program or school district = the program's or school  
 24 district's ADMw  $\times$  (the total amount available for distribution to programs and school districts as  
 25 grants in each fiscal year  $\div$  the total ADMw of all programs and school districts that receive a  
 26 grant).

27 (b) The amount of each grant for an education service district = the education service district's  
 28 ADMw  $\times$  (the total amount available for distribution to education service districts as grants in  
 29 each fiscal year  $\div$  the total ADMw of all education service districts that receive a grant).

30 (c) As used in this subsection, "ADMw" means:

31 (A) For a school district, the extended weighted average daily membership as calculated under  
 32 ORS 327.013, 338.155 (1) and 338.165 (2);

33 (B) For the Youth Corrections Education Program, the average daily membership as defined in  
 34 ORS 327.006 multiplied by 2.0;

35 (C) For the Juvenile Detention Education Program, the average daily membership as defined in  
 36 ORS 327.006 multiplied by 1.5; and

37 (D) For an education service district, the sum of the ADMw of the school districts located  
 38 within the territory of the education service district.

39 (5) Each district or program shall deposit the grant amounts it receives under this section in a  
 40 separate account, and shall apply amounts in that account to pay for activities described in the  
 41 district's or program's application.

42 (6) The State Board of Education may adopt any rules necessary for the administration of the  
 43 grant program.

44 **SECTION 5.** ORS 327.297, as amended by section 9, chapter 704, Oregon Laws 2011, is amended  
 45 to read:

1 327.297. (1) In addition to those moneys distributed through the State School Fund, the Depart-  
 2 ment of Education shall award grants to school districts, education service districts, the Youth  
 3 Corrections Education Program and the Juvenile Detention Education Program for activities that  
 4 relate to increases in student achievement, including:

5 (a) Early childhood support including establishing, maintaining or expanding quality  
 6 prekindergarten programs;

7 (b) Class size reduction with an emphasis on the reduction of kindergarten through grade three  
 8 class sizes;

9 (c) Increases in instructional time including summer programs and before- and after-school pro-  
 10 grams;

11 (d) Mentoring, teacher retention and professional development;

12 (e) Remediation, alternative learning and student retention;

13 (f) Services to at-risk youth;

14 (g) Programs to improve a student achievement gap between student groups identified by cul-  
 15 ture, poverty, language and race and other student groups;

16 (h) Vocational education programs;

17 (i) Literacy programs, **including intervention techniques described in section 1 of this 2013**  
 18 **Act and any other programs or techniques that assist a student in improving the student's**  
 19 **reading grade level;**

20 (j) School library programs; and

21 (k) Other research-based student improvement strategies approved by the State Board of Edu-  
 22 cation.

23 (2)(a) Each school district, each education service district, the Youth Corrections Education  
 24 Program and the Juvenile Detention Education Program may apply to the Department of Education  
 25 for a grant.

26 (b) The department shall review and approve applications based on criteria established by the  
 27 State Board of Education. In establishing the criteria, the State Board of Education shall consider  
 28 the recommendations of the Quality Education Commission established under ORS 327.500.

29 (c) The applications shall include the activities to be funded and the goals of the district or  
 30 program for increases in student performance. The applications shall become part of the local dis-  
 31 trict continuous improvement plan described in ORS 329.095.

32 (3)(a) Notwithstanding ORS 338.155 (9), the Department of Education may not award a grant  
 33 under this section directly to a public charter school.

34 (b) A school district that receives a grant under this section may transfer a portion of the grant  
 35 to a public charter school based on the charter of the school or any other agreement between the  
 36 school district and the public charter school.

37 (c) A public charter school that receives grant funds under this subsection shall use those funds  
 38 for the activities specified in subsection (1) of this section.

39 (4)(a) The amount of each grant for a program or school district = the program's or school  
 40 district's ADMw  $\times$  (the total amount available for distribution to programs and school districts as  
 41 grants in each fiscal year  $\div$  the total ADMw of all programs and school districts that receive a  
 42 grant).

43 (b) The amount of each grant for an education service district = the education service district's  
 44 ADMw  $\times$  (the total amount available for distribution to education service districts as grants in  
 45 each fiscal year  $\div$  the total ADMw of all education service districts that receive a grant).

- 1 (c) As used in this subsection, “ADMw” means:
- 2 (A) For a school district, the extended weighted average daily membership as calculated under
- 3 ORS 327.013, 338.155 (1) and 338.165 (2);
- 4 (B) For the Youth Corrections Education Program, the average daily membership as defined in
- 5 ORS 327.006 multiplied by 2.0;
- 6 (C) For the Juvenile Detention Education Program, the average daily membership as defined in
- 7 ORS 327.006 multiplied by 1.5; and
- 8 (D) For an education service district, the sum of the ADMw of the school districts located
- 9 within the territory of the education service district.
- 10 (5) Each district or program shall deposit the grant amounts it receives under this section in a
- 11 separate account, and shall apply amounts in that account to pay for activities described in the
- 12 district’s or program’s application.
- 13 (6) The State Board of Education may adopt any rules necessary for the administration of the
- 14 grant program.

15 **SECTION 6. This 2013 Act takes effect on July 1, 2014.**

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