

# House Bill 2817

Sponsored by Representative PARRISH

## 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**.

Allows student to choose to satisfy one or more high school diploma credits by successful completion of one online course.

Directs school district or public charter school to pay provider of online course.

Declares emergency, effective July 1, 2015.

## A BILL FOR AN ACT

1  
2 Relating to graduation requirements; creating new provisions; amending ORS 329.451; and declaring  
3 an emergency.

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

5 **SECTION 1.** ORS 329.451, as amended by section 5, chapter 42, Oregon Laws 2014, is amended  
6 to read:

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

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

14 (c) A school district or public charter school may not deny a student who has the documented  
15 history described in subsection (7)(b) or (8)(b) of this section the opportunity to pursue a diploma  
16 with more stringent requirements than a modified diploma or an extended diploma for the sole rea-  
17 son that the student has the documented history.

18 (d) A school district or public charter school may award a modified diploma or extended diploma  
19 to a student only upon receiving consent as provided by subsection (6) of this section.

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

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

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

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

26 (b) **A student may request to satisfy one or more of the credits identified in paragraph**  
27 **(a) of this subsection by successful completion of one online course selected by the student**  
28 **from a list compiled by the Department of Education pursuant to section 4 of this 2015 Act.**  
29 **A school district or public charter school must allow the student to use the online course if**  
30 **the online course is included on the list compiled by the department pursuant to section 4**

**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 **of this 2015 Act. A student is not considered enrolled in a virtual public charter school for**  
 2 **the purpose of ORS 338.125 (4)(b) if the student is receiving instruction for only one online**  
 3 **course at a time under this subsection.**

4 (3) A student providing work samples to demonstrate proficiency in Essential Learning Skills,  
 5 as may be required under subsection (2) of this section, must be allowed to use accommodations  
 6 described in the student’s individualized education program or the student’s plan developed in ac-  
 7 cordance with section 504 of the Rehabilitation Act of 1978, 29 U.S.C. 794. As used in this sub-  
 8 section, “accommodations”:

9 (a) Includes, but is not limited to:

10 (A) Additional time to demonstrate proficiency.

11 (B) The ability to demonstrate proficiency in an alternative location that is secure and  
 12 proctored.

13 (C) The use of text-to-speech or speech-to-text technology or other assistive technology.

14 (b) Does not include modifications that lower the proficiency standards or that are used solely  
 15 to earn modified credit.

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

20 (5) If a school district or public charter school has received consent as provided by subsection  
 21 (6) of this section, the school district or public charter school may advance the student to the next  
 22 grade level if the student has satisfied the requirements for the student’s current grade level.

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

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

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

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

29 (B) The student, if the student is 18 years of age or older or is emancipated pursuant to ORS  
 30 419B.550 to 419B.558.

31 (b) For the purpose of awarding a modified diploma or extended diploma as provided by sub-  
 32 section (1)(d) of this section or of awarding a high school diploma as provided by subsection (4) of  
 33 this section, consent must be received during the school year for which the diploma will be awarded.

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

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

40 (b) Have a documented history of an inability to maintain grade level achievement due to sig-  
 41 nificant learning and instructional barriers or have a documented history of a medical condition that  
 42 creates a barrier to achievement.

43 (8) A school district or public charter school shall award an extended diploma only to students  
 44 who have demonstrated the inability to meet the full set of academic content standards for a high  
 45 school diploma with reasonable modifications and accommodations. To be eligible for an extended

1 diploma, a student must:

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

- 5 (A) Two credits of mathematics;
- 6 (B) Two credits of English;
- 7 (C) Two credits of science;
- 8 (D) Three credits of history, geography, economics or civics;
- 9 (E) One credit of health;
- 10 (F) One credit of physical education; and
- 11 (G) One credit of the arts or a world language; and

12 (b) Have a documented history of:

- 13 (A) An inability to maintain grade level achievement due to significant learning and instruc-  
 14 tional barriers;
- 15 (B) A medical condition that creates a barrier to achievement; or
- 16 (C) A change in the student's ability to participate in grade level activities as a result of a se-  
 17 rious illness or injury that occurred after grade eight.

18 (9) A school district or public charter school shall award an alternative certificate to a student  
 19 who does not satisfy the requirements for a high school diploma, a modified diploma or an extended  
 20 diploma if the student meets requirements established by the board of the school district or public  
 21 charter school.

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

- 24 (a) Four years after starting grade nine; or
- 25 (b) The student reaching the age of 21 years, if the student is entitled to a public education until  
 26 the age of 21 years under state or federal law.

27 (11)(a) A student may satisfy the requirements described in subsection (7), (8) or (9) of this sec-  
 28 tion in less than four years if consent is provided in the manner described in subsection (6)(a) of this  
 29 section.

30 (b) The consent provided under this subsection must be written and must clearly state that the  
 31 parent, guardian or student is waiving the time allowed under subsection (10) of this section. A  
 32 consent may not be used to allow a student to satisfy the requirements of subsection (7), (8) or (9)  
 33 of this section in less than three years.

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

36 (d) Each school district must provide to the Superintendent of Public Instruction information  
 37 about the number of consents provided during a school year.

38 (12)(a) A student who receives a modified diploma, an extended diploma or an alternative cer-  
 39 tificate shall:

40 (A) Have the option of participating in a high school graduation ceremony with the class of the  
 41 student; and

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

- 44 (i) Meet the unique needs of the student; and
- 45 (ii) When added together, provide a total number of hours of instruction and services to the

1 student that equals at least the total number of instructional hours that is required to be provided  
 2 to students who are attending a public high school.

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

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

11 (c) If a student’s individualized education program team decides that the student will not access  
 12 the total number of hours of instruction and services to which the student has access under para-  
 13 graph (a)(B) of this subsection, the school district shall annually:

14 (A) Provide the following information in writing to the parent or guardian of the student:

15 (i) The school district’s duty to comply with the requirements of paragraph (a)(B) of this sub-  
 16 section; and

17 (ii) The prohibition against a school district’s unilaterally decreasing the total number of hours  
 18 of instruction and services to which the student has access.

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

21 (C) Include in the individualized education program for the student a written statement that  
 22 explains the reasons the student is not accessing the total number of hours of instruction and ser-  
 23 vices to which the student has access under paragraph (a)(B) of this subsection.

24 (d) For purposes of paragraph (a)(B) of this subsection, transition services and other services  
 25 designed to meet the unique needs of the student may be provided to the student through an inter-  
 26 agency agreement entered into by the school district if the individualized education program devel-  
 27 oped for the student indicates that the services may be provided by another agency. A school  
 28 district that enters into an interagency agreement as allowed under this paragraph retains the re-  
 29 sponsibility for ensuring that the student has access to the number of service hours required to be  
 30 provided to the student under this subsection. An agency is not required to change any eligibility  
 31 criteria or enrollment standards prior to entering into an interagency agreement as provided by this  
 32 paragraph.

33 (13) A school district or public charter school shall:

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

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

38 (c) Annually provide, to the parents or guardians of a student who has the documented history  
 39 described in subsection (8)(b) of this section, information about the availability of a modified di-  
 40 ploma, an extended diploma and an alternative certificate and the requirements for the diplomas and  
 41 certificate:

42 (A) Beginning in grade five; or

43 (B) Beginning after a documented history described in subsection (8)(b) of this section has been  
 44 established.

45 **SECTION 2.** ORS 329.451, as amended by section 3, chapter 761, Oregon Laws 2013, and section

1 6, chapter 42, Oregon Laws 2014, is amended to read:

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

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

9 (c) A school district or public charter school may not deny a student who has the documented  
 10 history described in subsection (7)(b) or (8)(b) of this section the opportunity to pursue a diploma  
 11 with more stringent requirements than a modified diploma or an extended diploma for the sole rea-  
 12 son that the student has the documented history.

13 (d) A school district or public charter school may award a modified diploma or extended diploma  
 14 to a student only upon receiving consent as provided by subsection (6) of this section.

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

- 18 (A) Twenty-four total credits;
- 19 (B) Three credits of mathematics; and
- 20 (C) Four credits of English.

21 **(b) A student may request to satisfy one or more of the credits identified in paragraph**  
 22 **(a) of this subsection by successful completion of one online course selected by the student**  
 23 **from a list compiled by the Department of Education pursuant to section 4 of this 2015 Act.**  
 24 **A school district or public charter school must allow the student to use the online course if**  
 25 **the online course is included on the list compiled by the department pursuant to section 4**  
 26 **of this 2015 Act. A student is not considered enrolled in a virtual public charter school for**  
 27 **the purpose of ORS 338.125 (4)(b) if the student is receiving instruction for only one online**  
 28 **course at a time under this subsection.**

29 *[(b)]* (c) If a school district or public charter school requires a student to complete more than  
 30 24 total credits, as provided by paragraph (a)(A) of this subsection, the school district or public  
 31 charter school may only require the student to complete additional credits for:

- 32 (A) Subjects for which the State Board of Education has established academic content standards  
 33 under ORS 329.045;
- 34 (B) Courses provided as part of a career and technical education program; or
- 35 (C) Courses that provide, or qualify to provide, credit at post-secondary institutions of education.

36 (3) A student providing work samples to demonstrate proficiency in Essential Learning Skills,  
 37 as may be required under subsection (2) of this section, must be allowed to use accommodations  
 38 described in the student's individualized education program or the student's plan developed in ac-  
 39 cordance with section 504 of the Rehabilitation Act of 1978, 29 U.S.C. 794. As used in this sub-  
 40 section, the term "accommodations":

- 41 (a) Includes, but is not limited to:
  - 42 (A) Additional time to demonstrate proficiency.
  - 43 (B) The ability to demonstrate proficiency in an alternative location that is secure and  
 44 proctored.
  - 45 (C) The use of text-to-speech or speech-to-text technology or other assistive technology.

1 (b) Does not include modifications that lower the proficiency standards or that are used solely  
2 to earn modified credit.

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

7 (5) If a school district or public charter school has received consent as provided by subsection  
8 (6) of this section, the school district or public charter school may advance the student to the next  
9 grade level if the student has satisfied the requirements for the student's current grade level.

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

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

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

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

16 (B) The student, if the student is 18 years of age or older or is emancipated pursuant to ORS  
17 419B.550 to 419B.558.

18 (b) For the purpose of awarding a modified diploma or extended diploma as provided by sub-  
19 section (1)(d) of this section or of awarding a high school diploma as provided by subsection (4) of  
20 this section, consent must be received during the school year for which the diploma will be awarded.

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

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

27 (b) Have a documented history of an inability to maintain grade level achievement due to sig-  
28 nificant learning and instructional barriers or have a documented history of a medical condition that  
29 creates a barrier to achievement.

30 (8) A school district or public charter school shall award an extended diploma only to students  
31 who have demonstrated the inability to meet the full set of academic content standards for a high  
32 school diploma with reasonable modifications and accommodations. To be eligible for an extended  
33 diploma, a student must:

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

37 (A) Two credits of mathematics;

38 (B) Two credits of English;

39 (C) Two credits of science;

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

41 (E) One credit of health;

42 (F) One credit of physical education; and

43 (G) One credit of the arts or a world language; and

44 (b) Have a documented history of:

45 (A) An inability to maintain grade level achievement due to significant learning and instruc-

1 tional barriers;

2 (B) A medical condition that creates a barrier to achievement; or

3 (C) A change in the student's ability to participate in grade level activities as a result of a se-  
4 rious illness or injury that occurred after grade eight.

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

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

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

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

14 (11)(a) A student may satisfy the requirements described in subsection (7), (8) or (9) of this sec-  
15 tion in less than four years if consent is provided in the manner described in subsection (6)(a) of this  
16 section.

17 (b) The consent provided under this subsection must be written and must clearly state that the  
18 parent, guardian or student is waiving the time allowed under subsection (10) of this section. A  
19 consent may not be used to allow a student to satisfy the requirements of subsection (7), (8) or (9)  
20 of this section in less than three years.

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

23 (d) Each school district must provide to the Superintendent of Public Instruction information  
24 about the number of consents provided during a school year.

25 (12)(a) A student who receives a modified diploma, an extended diploma or an alternative cer-  
26 tificate shall:

27 (A) Have the option of participating in a high school graduation ceremony with the class of the  
28 student; and

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

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

32 (ii) When added together, provide a total number of hours of instruction and services to the  
33 student that equals at least the total number of instructional hours that is required to be provided  
34 to students who are attending a public high school.

35 (b)(A) The number of instructional hours, hours of transition services and hours of other ser-  
36 vices that are appropriate for a student shall be determined by the student's individualized education  
37 program team. Based on the student's needs and performance level, the student's individualized ed-  
38 ucation program team may decide that the student will not access the total number of hours of in-  
39 struction and services to which the student has access under paragraph (a)(B) of this subsection.

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

43 (c) If a student's individualized education program team decides that the student will not access  
44 the total number of hours of instruction and services to which the student has access under para-  
45 graph (a)(B) of this subsection, the school district shall annually:

1 (A) Provide the following information in writing to the parent or guardian of the student:

2 (i) The school district's duty to comply with the requirements of paragraph (a)(B) of this sub-  
3 section; and

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

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

8 (C) Include in the individualized education program for the student a written statement that  
9 explains the reasons the student is not accessing the total number of hours of instruction and ser-  
10 vices to which the student has access under paragraph (a)(B) of this subsection.

11 (d) For purposes of paragraph (a)(B) of this subsection, transition services and other services  
12 designed to meet the unique needs of the student may be provided to the student through an inter-  
13 agency agreement entered into by the school district if the individualized education program devel-  
14 oped for the student indicates that the services may be provided by another agency. A school  
15 district that enters into an interagency agreement as allowed under this paragraph retains the re-  
16 sponsibility for ensuring that the student has access to the number of service hours required to be  
17 provided to the student under this subsection. An agency is not required to change any eligibility  
18 criteria or enrollment standards prior to entering into an interagency agreement as provided by this  
19 paragraph.

20 (13) A school district or public charter school shall:

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

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

25 (c) Annually provide, to the parents or guardians of a student who has the documented history  
26 described in subsection (8)(b) of this section, information about the availability of a modified di-  
27 ploma, an extended diploma and an alternative certificate and the requirements for the diplomas and  
28 certificate:

29 (A) Beginning in grade five; or

30 (B) Beginning after a documented history described in subsection (8)(b) of this section has been  
31 established.

32 **SECTION 3. The amendments to ORS 329.451 by sections 1 and 2 of this 2015 Act first**  
33 **apply to online courses enrolled in for the 2015-2016 school year.**

34 **SECTION 4. (1) Subject to subsections (2) and (3) of this section, the Department of Ed-**  
35 **ucation shall compile a list of online courses for which a student may receive credit as pro-**  
36 **vided by ORS 329.451 (2)(b).**

37 **(2)(a) The State Board of Education shall adopt by rule the academic requirements that**  
38 **an online course must satisfy to be included on the list compiled by the department under**  
39 **subsection (1) of this section.**

40 **(b) In addition to academic requirements, the rules adopted by the board shall:**

41 **(A) Establish the maximum amount a school district or a public charter school may pay**  
42 **for an online course that is used to satisfy the requirements of ORS 329.451 (2); and**

43 **(B) Require that the provider of the online course have a refund policy for a student who**  
44 **does not complete an online course in which the student enrolls.**

45 **(3)(a) If an online course meets the requirements adopted under subsection (2) of this**



1 section, the department shall negotiate in good faith a financial agreement with the provider  
2 of the online course for payment of the actual instructional costs associated with the online  
3 course, including tuition and fees and the costs of textbooks, equipment and materials.

4 (b) The department may not include on the list compiled pursuant to this section an on-  
5 line course for which:

6 (A) The provider of the online course did not negotiate a financial agreement in good  
7 faith; or

8 (B) The instructional costs exceed the maximum amount allowed for payment under  
9 subsection (2)(b)(A) of this section.

10 (4) If a student chooses to satisfy a credit by an online course as allowed by ORS 329.451  
11 (2)(b), the school district or public charter school shall make payment to the provider of the  
12 online course based on the financial agreement negotiated under subsection (3) of this sec-  
13 tion. Payment must be made from amounts received from the State School Fund by the  
14 school district under ORS 327.008 or the public charter school under ORS 338.155.

15 (5) A school district or public charter school is not required to pay for more than one  
16 online course per student, regardless of whether the student successfully completes a course.

17 **SECTION 5.** This 2015 Act being necessary for the immediate preservation of the public  
18 peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect  
19 July 1, 2015.

20 \_\_\_\_\_