

Senate Bill 456

Sponsored by Senator HASS; Senators BURDICK, DEMBROW, FREDERICK, GELSER, KNOPP, MANNING JR, PROZANSKI, RILEY, ROBLAN, STEINER HAYWARD, WAGNER, Representatives GORSEK, HERNANDEZ, PILUSO, WILSON (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 State Board of Education, school district or public charter school from requiring student to pass test to demonstrate proficiency in Essential Learning Skills in order to receive diploma.

Directs school district or public charter school that did not award person diploma because person did not pass test to demonstrate proficiency in Essential Learning Skills to award diploma to person upon request of person.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to high school diplomas; creating new provisions; amending ORS 329.451; and declaring an
3 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 high
7 school diploma to a student who completes the requirements established by subsection (2) of this
8 section.

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

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

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

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

22 (A) Twenty-four total credits;

23 (B) Three credits of mathematics; and

24 (C) Four credits of English.

25 (b) If a school district or public charter school requires a student to complete more than 24 total
26 credits, as provided by paragraph (a)(A) of this subsection, the school district or public charter
27 school may only require the student to complete additional credits for:

28 (A) Subjects for which the State Board of Education has established academic content standards

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 under ORS 329.045;

2 (B) Courses provided as part of a career and technical education program; or

3 (C) Courses that provide, or qualify to provide, credit at post-secondary institutions of education.

4 (c)(A) A school district or public charter school that requires students to satisfy any require-
5 ments not specified by paragraph (a) of this subsection or by rule of the State Board of Education
6 must grant to a student a waiver of the requirements established by the school district or public
7 charter school if the student is or, at any time from grade 9 to 12, was:

8 (i) A foster child, as defined in ORS 30.297;

9 (ii) Homeless, as determined under rules adopted by the State Board of Education based on
10 standards adopted by the Department of Human Services;

11 (iii) A runaway, as determined under rules adopted by the State Board of Education based on
12 standards adopted by the Department of Human Services;

13 (iv) A child in a military family covered by the Interstate Compact on Educational Opportunity
14 for Military Children, as determined under rules adopted by the State Board of Education;

15 (v) A child of a migrant worker, as determined under rules adopted by the State Board of Edu-
16 cation; or

17 (vi) Enrolled in the Youth Corrections Education Program or the Juvenile Detention Education
18 Program.

19 (B) For any student identified under subparagraph (A) of this paragraph, a school district or
20 public charter school must accept any credits earned by the student in another school district or
21 public charter school and apply those credits toward requirements specified by paragraph (a) of this
22 subsection or by rule of the State Board of Education if the credits satisfied those requirements in
23 that other school district or public charter school.

24 *[(3) A student providing work samples to demonstrate proficiency in Essential Learning Skills as*
25 *may be required under subsection (2) of this section must be allowed to use accommodations described*
26 *in the student's individualized education program or the student's plan developed in accordance with*
27 *section 504 of the Rehabilitation Act of 1978, 29 U.S.C. 794. As used in this subsection, the term "ac-*
28 *commodations":]*

29 *[(a) Includes, but is not limited to:]*

30 *[(A) Additional time to demonstrate proficiency.]*

31 *[(B) The ability to demonstrate proficiency in an alternative location that is secure and*
32 *proctored.]*

33 *[(C) The use of text-to-speech or speech-to-text technology or other assistive technology.]*

34 *[(b) Does not include modifications that lower the proficiency standards or that are used solely to*
35 *earn modified credit.]*

36 *[(4)]* **(3)** A student may satisfy the requirements of subsection (2) of this section in less than four
37 years. If a student satisfies the requirements of subsection (2) of this section and a school district
38 or public charter school has received consent as provided by subsection (6) of this section, the
39 school district or public charter school shall award a high school diploma to the student.

40 **(4) Notwithstanding subsections (2)(a) and (6)(a) of this section, the State Board of Edu-**
41 **cation, a school district or a public charter school may not require a student to pass a test**
42 **to demonstrate proficiency in Essential Learning Skills in order to receive a diploma under**
43 **this section.**

44 (5) If a school district or public charter school has received consent as provided by subsection
45 (6) of this section, the school district or public charter school may advance the student to the next

1 grade level if the student has satisfied the requirements for the student's current grade level.

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

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

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

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

8 (B) The student, if the student is 18 years of age or older or is emancipated pursuant to ORS
 9 419B.550 to 419B.558.

10 (b) For the purpose of awarding a modified diploma or extended diploma as provided by sub-
 11 section (1)(d) of this section or of awarding a high school diploma as provided by subsection [(4)] (3)
 12 of this section, consent must be received during the school year for which the diploma will be
 13 awarded.

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

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

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

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

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

30 (A) Two credits of mathematics;

31 (B) Two credits of English;

32 (C) Two credits of science;

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

34 (E) One credit of health;

35 (F) One credit of physical education; and

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

37 (b) Have a documented history of:

38 (A) An inability to maintain grade level achievement due to significant learning and instruc-
 39 tional barriers;

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

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

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

1 charter school.

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

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

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

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

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

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

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

18 (12)(a) A student who qualifies to receive or receives a modified diploma, an extended diploma
19 or an alternative certificate shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (A) Beginning in grade five; or

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

25 **SECTION 2. (1) The amendments to ORS 329.451 by section 1 of this 2019 Act apply to**
 26 **diplomas awarded before, on or after the effective date of this 2019 Act.**

27 **(2) A school district or public charter school that did not award a person a diploma be-**
 28 **cause the person did not pass a test to demonstrate proficiency in Essential Learning Skills**
 29 **shall award a diploma to that person upon request of the person.**

30 **SECTION 3. This 2019 Act being necessary for the immediate preservation of the public**
 31 **peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect**
 32 **on its passage.**

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