

# DRAFT

## SUMMARY

Authorizes high school teachers who are employed by education service districts to serve as member of Transfer Council.

Repeals provision exempting distance learning from requirement that eligible veterans be provided with in-state tuition.

Expands eligibility for in-state tuition to include individuals who are granted humanitarian parole, asylum, conditional permanent residency or temporary protected status by any federal agency, provided that individual has not previously established residence in any state or territory of United States or District of Columbia.

Requires graduate student employees at public university to sign form allowing university to release specified contact information.

Adds public universities and community colleges to list of educational employers required to provide materials and assistance to eligible employees concerning public service loan forgiveness program.

Requires school districts and public charter schools to accept credits earned by students in specified educational programs and to apply those credits to high school graduation requirements.

Allows for modifications to or exemptions from requirements related to provision of menstrual products in student bathrooms for certain programs of public education providers.

Allows high school equivalency student, homeschooled student or student who attends public charter school to meet academic eligibility requirements for participation in interscholastic activities during school year in which student initially was determined to be academically ineligible. Expands protections of right to participate in interscholastic athletics to students of all high school equivalency programs.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

Relating to education; creating new provisions; amending ORS 326.545, 329.451, 329.756, 339.450, 339.460, 350.290, 350.426 and 352.287; and declar-

ing an emergency.

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

**TRANSFER COUNCIL MEMBERSHIP**

**SECTION 1.** ORS 350.426 is amended to read:

350.426. (1) The Transfer Council is established, consisting of 15 voting members, appointed by the Higher Education Coordinating Commission, and one nonvoting, ex officio member.

(2) Before appointing the voting members, the commission shall request nominations from official student, faculty and administrator organizations at public universities listed in ORS 352.002, community colleges operated under ORS chapter 341 and high schools in this state. The 15 voting members of the council shall consist of:

(a) Five academic officers, two of whom are currently employed at a public university, two of whom are currently employed at a community college and one of whom is currently employed at a public high school in this state;

(b) Four faculty members, two of whom are currently employed at a public university and two of whom are currently employed at a community college;

(c) One teacher who both teaches accelerated college credit programs as defined in ORS 340.315 and is currently employed **either by an education service district or** at a public high school in this state;

(d) Two individuals who specialize in assisting students who transfer between institutions, one of whom is currently employed at a public university and one of whom is currently employed at a community college; and

(e) Three students, one of whom is currently enrolled at a public university, one of whom is currently enrolled at a community college and one of whom is currently enrolled at a high school in this state.

(3) The chairperson of the commission, or a designee of the chairperson of the commission, shall serve as a nonvoting, ex officio member.

1 (4)(a) The term of office of each voting member of the council is two  
2 years. Before the expiration of the term of a member, the commission shall  
3 appoint a successor. A member is eligible for reappointment.

4 (b) In order to serve as a member of the council, an individual must at  
5 all times meet the qualifications for the appointment. If at any time a mem-  
6 ber fails to meet the qualifications for the member's appointment, the posi-  
7 tion is vacant.

8 (c) If there is a vacancy for any cause, the commission shall make an  
9 appointment to become immediately effective for the unexpired term.

10 (5)(a) The council:

11 (A) Shall select one or more of its members as chairperson or as  
12 cochairpersons; and

13 (B) May establish, in the manner set forth in this subsection, one or more  
14 subcommittees for the purpose of advising the council on how to best fulfill  
15 its duties.

16 (b) For a subcommittee established under this subsection that will make  
17 recommendations to the council on a subject that will be submitted by the  
18 council to the commission under ORS 350.429 (1)(d)(A) to (D), the council  
19 may appoint any faculty member who is employed by a public university  
20 listed in ORS 352.002 or a community college operated under ORS chapter  
21 341, provided that the subcommittee consists of equal numbers of faculty  
22 from public universities and community colleges.

23 (c) For a subcommittee established under this subsection that will not  
24 make recommendations to the council on a subject that will be submitted by  
25 the council to the commission under ORS 350.429 (1)(d)(A) to (D), the council  
26 may appoint any individual employed by a public university listed in ORS  
27 352.002 or a community college operated under ORS chapter 341, including  
28 faculty, registrars, academic advisors and academic administrators.

29 (d) Appointment to a subcommittee established under this subsection does  
30 not entitle an individual to vote as a member of the council.

31 (6)(a) A majority of the voting members of the council constitutes a quo-

rum for the transaction of business.

(b)(A) Except as provided in subparagraph (B) of this paragraph, official action by the council requires the approval of a majority of the voting members of the council.

(B) Official action by the council on recommendations to be made to the commission under ORS 350.429 (1)(d)(A) to (D) requires the approval of three-fifths of the voting members of the council.

(c) Two or more voting members of the council who disagree with recommendations that are submitted to the commission under ORS 350.429 (1)(d)(A) to (D) may jointly submit a minority report to the commission that contains alternate recommendations. A minority report created under this paragraph shall be submitted to the commission with the majority recommendations.

(7)(a) A majority of the members of a subcommittee established under subsection (5) of this section constitutes a quorum for the transaction of business of the subcommittee.

(b)(A) Except as provided in subparagraph (B) of this paragraph, official action by a subcommittee established under subsection (5) of this section requires approval of a majority of the members of the subcommittee.

(B) Official action by a subcommittee on recommendations to be made to the council on a subject that will be submitted by the council to the commission under ORS 350.429 (1)(d)(A) to (D) requires the approval of three-fifths of the members of the subcommittee.

(c) Two or more members of a subcommittee who disagree with recommendations that are submitted to the council on a subject that will be submitted by the council to the commission under ORS 350.429 (1)(d)(A) to (D) may jointly submit a minority report to the council that contains alternate recommendations. A minority report created under this paragraph shall be submitted to the council with the majority recommendations.

(8)(a) The council shall meet at least every three months at a place, day and hour determined by the chairperson or cochairpersons.

(b) In addition to the meetings required under paragraph (a) of this subsection, the commission may call a meeting of the council if the commission finds a meeting to be necessary and a meeting is not called by the chairperson or cochairpersons.

## IN-STATE TUITION PROVISIONS

**SECTION 2.** ORS 350.290 is amended to read:

350.290. (1) A public university listed in ORS 352.002 or a community college shall charge an enrolled student who is not a resident of this state and who is attending classes as an undergraduate or graduate student on a public university or community college campus in this state tuition and fees no greater than the resident rate if the student:

(a)(A) Served in the Armed Forces of the United States;

(B) Was relieved or discharged from that service with either an honorable discharge or a general discharge under honorable conditions; and

(C) Provides proof that the student has established a physical presence in Oregon within 12 months of being enrolled at the public university or community college;

(b) Was, or is the dependent of, a resident of Oregon who left the state within the previous five years in order to serve, and who subsequently served, in the Armed Forces of the United States or in an international position with the state, the federal government or a humanitarian aid organization; or

(c)(A) Was, or is the dependent of, a resident of Oregon who left the state more than five years ago in order to serve, and who subsequently served, in the Armed Forces of the United States or in an international position with the state, the federal government or a humanitarian aid organization; and

(B) Since leaving the state in the manner provided in subparagraph (A) of this paragraph, has never established residence in another state.

(2) A person who served in the Armed Forces of the United States or in

an international position with the state, the federal government or a humanitarian aid organization and who receives federal tuition benefits in excess of the tuition and fees the person is charged under subsection (1) of this section at a public university listed in ORS 352.002 or a community college where the person is enrolled shall pay tuition and fees equal to the federal tuition benefits received.

*[(3) Distance education and self-support courses as identified by each public university listed in ORS 352.002 and community college are exempt from the tuition reduction provisions of this section.]*

**SECTION 3.** ORS 352.287 is amended to read:

352.287. (1) The governing board of a public university listed in ORS 352.002 shall exempt a student who is not a citizen or a lawful permanent resident of the United States from paying nonresident tuition and fees for enrollment as an undergraduate student and as a graduate student in a degree program at a public university listed in ORS 352.002 if the student:

(a) During each of the three years immediately prior to receiving a high school diploma or a modified diploma or leaving school before receiving a high school diploma or a modified diploma, attended an elementary or a secondary school in this state;

(b) During each of the five years immediately prior to receiving a high school diploma or a modified diploma or leaving school before receiving a high school diploma or a modified diploma, attended an elementary or a secondary school in any state or territory of the United States, the District of Columbia or the Commonwealth of Puerto Rico;

(c) Received a high school diploma or a modified diploma from a secondary school in this state or received the equivalent of a high school diploma; and

(d) Shows intention to become a citizen or a lawful permanent resident of the United States by submitting to the public university the student attends or plans to attend an official copy of the student's application to register with a federal immigration program or federal deportation deferral

program or a statement of intent that the student will seek to obtain citizenship as permitted under federal law.

(2) The governing board shall exempt a student who is financially dependent upon a person who is not a citizen or a lawful permanent resident of the United States from paying nonresident tuition and fees for enrollment as an undergraduate student and as a graduate student in a degree program at a public university listed in ORS 352.002 if the student:

(a) During each of the three years immediately prior to receiving a high school diploma or a modified diploma or leaving school before receiving a high school diploma or a modified diploma, attended an elementary or a secondary school in this state and resided in this state with the person upon whom the student is dependent;

(b) During each of the five years immediately prior to receiving a high school diploma or a modified diploma or leaving school before receiving a high school diploma or a modified diploma, attended an elementary or a secondary school in any state or territory of the United States, the District of Columbia or the Commonwealth of Puerto Rico and resided with the person upon whom the student is dependent;

(c) Received a high school diploma or a modified diploma from a secondary school in this state or received the equivalent of a high school diploma; and

(d) For a student who is not already a citizen or lawful permanent resident of the United States, shows intention to become a citizen or a lawful permanent resident of the United States by submitting to the public university the student attends or plans to attend an official copy of the student's application to register with a federal immigration program or federal deportation deferral program or a statement of intent that the student will seek to obtain citizenship as permitted under federal law.

(3) A student who is a citizen or a lawful permanent resident of the United States and who has resided outside of Oregon for more than three years while serving in the Armed Forces of the United States, but who oth-

erwise meets the requirements of subsection (1) or (2) of this section, shall qualify for exemption from nonresident tuition and fees for enrollment as an undergraduate student and a graduate student in a degree program at a public university listed in ORS 352.002 without having to reestablish residency in Oregon.

(4) A student who is a COFA islander and who has not previously established residence in any state or territory of the United States or the District of Columbia other than Oregon shall qualify for exemption from nonresident tuition and fees for enrollment as an undergraduate student and a graduate student in a degree program at a public university listed in ORS 352.002.

(5) A student who is a refugee or special immigrant visa holder and who has not previously established residence in any state or territory of the United States or the District of Columbia other than Oregon shall qualify for exemption from nonresident tuition and fees for enrollment as an undergraduate student and a graduate student in a degree program at a public university listed in ORS 352.002.

(6) The governing board shall adopt standards to implement the provisions of this section.

(7) Not later than July 1 of each year, the Higher Education Coordinating Commission shall report to the Speaker of the House of Representatives, the President of the Senate and the interim committees of the Legislative Assembly with subject matter authority over higher education, for the preceding academic year:

(a) The number of students that applied and were accepted into public universities under subsections (1) to (5) of this section; and

(b) The financial impact of subsections (1) to (5) of this section on public universities listed in ORS 352.002.

(8) A student who is not a citizen or a lawful permanent resident of the United States, or who is a refugee, special immigrant visa holder or COFA islander, is eligible to receive scholarships and other financial aid from public universities listed in ORS 352.002.



(9) As used in this section:

(a) “COFA islander” means an individual who legally entered the United States under a Compact of Free Association treaty between the United States and any of the following countries:

(A) The Republic of Palau;

(B) The Republic of the Marshall Islands; or

(C) The Federated States of Micronesia.

(b) “Refugee” means an individual who is granted refugee status for admission to the United States by the United States Citizenship and Immigration Services.

(c) “Special immigrant visa holder” means:

(A) An individual from Iraq or Afghanistan who was provided with the status of special immigrant by the United States Department of Homeland Security under:

[(A)] (i) Section 1059(a) of the National Defense Authorization Act for Fiscal Year 2006, P.L. 109-163, 119 Stat. 3444;

[(B)] (ii) Section 1244(b) of the Refugee Crisis in Iraq Act of 2007, P.L. 110-181, 122 Stat. 397; or

[(C)] (iii) Section 602(b) of the Afghan Allies Protection Act of 2009, P.L. 111-8, 123 Stat. 807[.]; or

**(B) An individual who is granted humanitarian parole, asylum, conditional permanent residency or temporary protected status by the United States Department of Homeland Security or other federal agency.**

## **CONTACT-SHARING REQUIREMENT FOR GRADUATE STUDENT EMPLOYEES**

**SECTION 4. (1) Each public university listed in ORS 352.002 shall develop a form for graduate students enrolled at the public university who wish to be employed by the public university that:**

1 (a) Requires the graduate student to provide the contact informa-  
2 tion described in ORS 243.804 (4)(a)(B); and

3 (b) Waives any privacy rights to, and authorizes the public univer-  
4 sity to disclose, the information described in paragraph (a) of this  
5 subsection.

6 (2) As a condition of employment, any graduate student who is  
7 employed by a public university must:

8 (a) Provide the contact information described in subsection (1)(a)  
9 of this section; and

10 (b) Sign the consent described in subsection (1)(b) of this section  
11 to authorize the public university to release the contact information  
12 that is part of the employment record.

13  
14 **APPLICABILITY OF REQUIREMENT TO PROVIDE INFORMATION**  
15 **ON PUBLIC SERVICE LOAN FORGIVENESS**  
16

17 **SECTION 5.** ORS 329.756 is amended to read:

18 329.756. (1) As used in this section:

19 (a) “Education employer” means a public charter school, a school district,  
20 **a community college operated under ORS chapter 341, a public uni-**  
21 **versity listed in ORS 352.002,** a tribal college[, *a community college*] or  
22 university, as defined in 20 U.S.C. 1059c(b)(3), as in effect on September 25,  
23 2021, and any other governmental agency within this state that employs a  
24 teacher or a school nurse, as defined in ORS 336.204, in a full-time capacity  
25 which, for the purposes of this paragraph, means including within the cal-  
26 culation of full-time equivalent work hours every hour in which the teacher  
27 or school nurse engages in instruction and at least 3.35 additional hours for  
28 each hour of instruction.

29 (b) “Public service loan forgiveness program” means the program under  
30 which the United States Secretary of Education cancels the balance of in-  
31 terest and principal due on eligible federal direct loans in accordance with

the criteria specified under 20 U.S.C. 1087e(m) and 34 C.F.R. 685.219, both as in effect on September 25, 2021.

(2)(a) An education employer shall provide all employees who qualify for a public service loan forgiveness program with materials and assistance that:

(A) Increases awareness of the public service loan forgiveness program among eligible employees of the education employer; and

(B) Increases participation by employees in the public service loan forgiveness program.

(b) Materials described in paragraph (a) of this subsection may include, but are not limited to:

(A) Announcements and advertisements in an education employer's official publications and in any electronic mail or social media messages the education employer sends to employees;

(B) Inserts or other messages in employee paychecks or payment instruments, to the extent practicable; or

(C) Other periodic reminders in communications to employees.

(c) An education employer shall direct an employee, as part of the employee's official duties, to become familiar with eligibility requirements, application procedures and other information about the public service loan forgiveness program and to provide assistance to other employees who request assistance with determining the employees' eligibility for and applications to the public service loan forgiveness program.

## CREDIT TRANSFER REQUIREMENTS

**SECTION 6.** ORS 329.451 is amended to read:

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

(b) A school district or public charter school shall award a modified diploma to a student who satisfies the requirements established by subsection

(7) of this section, an extended diploma to a student who satisfies the requirements established by subsection (8) of this section or an alternative certificate to a student who satisfies the requirements established by subsection (9) of this section.

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

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

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

(A) Twenty-four total credits;

(B) Three credits of mathematics; and

(C) Four credits of language arts.

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

(A) Subjects for which the State Board of Education has established academic content standards under ORS 329.045;

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

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

(c)(A) A school district or public charter school that requires students to satisfy any requirements not specified by paragraph (a) of this subsection or

by rule of the State Board of Education must grant to a student a waiver of the requirements established by the school district or public charter school if the student is or, at any time from grade 9 to 12, was:

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

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

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

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

(v) A child of a migrant worker, as determined under rules adopted by the State Board of Education; or

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

(B)(i) For any student identified under subparagraph (A) of this paragraph, a school district or public charter school must accept any credits earned by the student in *[another school district or public charter school]* **an educational program in this state** and apply those credits toward requirements specified by paragraph (a) of this subsection or by rule of the State Board of Education if the credits satisfied those requirements in that *[other school district or public charter school.]* **educational program in this state.**

(ii) As used in this subparagraph, “educational program in this state” means an educational program that is:

(I) **Provided by a school district, a public charter school, the Youth Corrections Education Program or the Juvenile Detention Education Program; or**

(II) **Funded as provided by ORS 343.243 for students in a long term care or treatment facility described in ORS 343.961 or a hospital iden-**

1 **tified in ORS 343.261.**

2 (3) A student providing work samples to demonstrate proficiency in Es-  
3 sential Learning Skills as may be required under subsection (2) of this sec-  
4 tion must be allowed to use accommodations described in the student's  
5 individualized education program or the student's plan developed in accord-  
6 ance with section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794. As  
7 used in this subsection, the term "accommodations":

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

9 (A) Additional time to demonstrate proficiency.

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

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

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

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

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

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

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

28 (i) Is under 18 years of age and is not emancipated pursuant to ORS  
29 419B.550 to 419B.558; or

30 (ii) Has been determined not to have the ability to give informed consent  
31 regarding the student's education pursuant to a protective proceeding under

1 ORS chapter 125; or

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

4 (b) For the purpose of awarding a modified diploma or extended diploma  
5 as provided by subsection (1)(d) of this section or of awarding a high school  
6 diploma as provided by subsection (4) of this section, consent must be re-  
7 ceived during the school year for which the diploma will be awarded.

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

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

15 (b) Have a documented history of an inability to maintain grade level  
16 achievement due to significant learning and instructional barriers or have  
17 a documented history of a medical condition that creates a barrier to  
18 achievement.

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

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

27 (A) Two credits of mathematics;

28 (B) Two credits of language arts;

29 (C) Two credits of science;

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

31 (E) One credit of health;

(F) One credit of physical education; and

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

(b) Have a documented history of:

(A) An inability to maintain grade level achievement due to significant learning and instructional barriers;

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

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

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

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

(a) Four years after starting grade nine; or

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

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

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

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

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



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

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

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

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

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

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

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

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

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

(i) The school district's duty to comply with the requirements of paragraph (a)(B) of this subsection; and

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

access.

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

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

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

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

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

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

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

(A) Beginning in grade five; or

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

(14) A school district or public charter school shall allow a student to participate in the high school graduation ceremony with the class of the student and to wear:

(a) Native American items of cultural significance as provided by ORS 332.112; or

(b) A dress uniform issued to the student by a branch of the Armed Forces of the United States if the student:

(A) Qualifies to receive a high school diploma, a modified diploma, an extended diploma or an alternative certificate under this section; and

(B) Has completed basic training for, and is an active member of, a branch of the Armed Forces of the United States.

**SECTION 7.** ORS 329.451, as amended by section 1, chapter 175, Oregon Laws 2021, is amended to read:

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

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

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

(d) A school district or public charter school may award a modified diploma or extended diploma to a student only upon receiving consent as pro-

vided by subsection (6) of this section.

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

(A) Three credits of mathematics;

(B) Four credits of language arts; and

(C) One half-credit of civics.

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

(A) Subjects for which the State Board of Education has established academic content standards under ORS 329.045;

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

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

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

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

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

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

(iv) A child in a military family covered by the Interstate Compact on

Educational Opportunity for Military Children, as determined under rules adopted by the State Board of Education;

(v) A child of a migrant worker, as determined under rules adopted by the State Board of Education; or

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

(B)(i) For any student identified under subparagraph (A) of this paragraph, a school district or public charter school must accept any credits earned by the student in *[another school district or public charter school]* **an educational program in this state** and apply those credits toward requirements specified by paragraph (a) of this subsection or by rule of the State Board of Education if the credits satisfied those requirements in that *[other school district or public charter school.]* **educational program in this state.**

(ii) As used in this subparagraph, “educational program in this state” means an educational program that is:

(I) **Provided by a school district, a public charter school, the Youth Corrections Education Program or the Juvenile Detention Education Program; or**

(II) **Funded as provided by ORS 343.243 for students in a long term care or treatment facility described in ORS 343.961 or a hospital identified in ORS 343.261.**

(3) A student providing work samples to demonstrate proficiency in Essential Learning Skills as may be required under subsection (2) of this section must be allowed to use accommodations described in the student’s individualized education program or the student’s plan developed in accordance with section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794. As used in this subsection, the term “accommodations”:

(a) Includes, but is not limited to:

(A) Additional time to demonstrate proficiency.

(B) The ability to demonstrate proficiency in an alternative location that

1 is secure and proctored.

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

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

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

11 (5) If a school district or public charter school has received consent as  
12 provided by subsection (6) of this section, the school district or public char-  
13 ter school may advance the student to the next grade level if the student has  
14 satisfied the requirements for the student's current grade level.

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

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

18 (i) Is under 18 years of age and is not emancipated pursuant to ORS  
19 419B.550 to 419B.558; or

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

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

25 (b) For the purpose of awarding a modified diploma or extended diploma  
26 as provided by subsection (1)(d) of this section or of awarding a high school  
27 diploma as provided by subsection (4) of this section, consent must be re-  
28 ceived during the school year for which the diploma will be awarded.

29 (7) A school district or public charter school shall award a modified di-  
30 ploma only to students who have demonstrated the inability to meet the full  
31 set of academic content standards for a high school diploma with reasonable

modifications and accommodations. To be eligible for a modified diploma, a student must:

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

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

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

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

(A) Two credits of mathematics;

(B) Two credits of language arts;

(C) Two credits of science;

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

(E) One credit of health;

(F) One credit of physical education; and

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

(b) Have a documented history of:

(A) An inability to maintain grade level achievement due to significant learning and instructional barriers;

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

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

(9) A school district or public charter school shall award an alternative certificate to a student who does not satisfy the requirements for a high

1 school diploma, a modified diploma or an extended diploma if the student  
2 meets requirements established by the board of the school district or public  
3 charter school.

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

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

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

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

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

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

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

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

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

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

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

29 (ii) When added together, provide a total number of hours of instruction  
30 and services to the student that equals at least the total number of instruc-  
31 tional hours that is required to be provided to students who are attending



1 a public high school.

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

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

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

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

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

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

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

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

30 (d) For purposes of paragraph (a)(B) of this subsection, transition services  
31 and other services designed to meet the unique needs of the student may be

provided to the student through an interagency agreement entered into by the school district if the individualized education program developed for the student indicates that the services may be provided by another agency. A school district that enters into an interagency agreement as allowed under this paragraph retains the responsibility for ensuring that the student has access to the number of service hours required to be provided to the student under this subsection. An agency is not required to change any eligibility criteria or enrollment standards prior to entering into an interagency agreement as provided by this paragraph.

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

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

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

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

(A) Beginning in grade five; or

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

(14) A school district or public charter school shall allow a student to participate in the high school graduation ceremony with the class of the student and to wear:

(a) Native American items of cultural significance as provided by ORS 332.112; or

(b) A dress uniform issued to the student by a branch of the Armed Forces of the United States if the student:

(A) Qualifies to receive a high school diploma, a modified diploma, an

1 extended diploma or an alternative certificate under this section; and

2 (B) Has completed basic training for, and is an active member of, a  
3 branch of the Armed Forces of the United States.

4  
5 **PROVISION OF MENSTRUAL PRODUCTS TO STUDENTS**  
6

7 **SECTION 8.** ORS 326.545, as operative until July 1, 2022, is amended to  
8 read:

9 326.545. (1) As used in this section:

10 (a) “Public education provider” means:

11 (A) A school district;

12 (B) A public charter school;

13 (C) An education service district;

14 (D) A community college; or

15 (E) A public university listed in ORS 352.002.

16 (b) “Public school building” means a building used by a public education  
17 provider to provide educational services to students.

18 (c) “Student bathroom” means a bathroom that is accessible by students,  
19 including a gender-neutral bathroom, a bathroom designated for females and  
20 a bathroom designated for males.

21 (2)(a) Each public education provider shall ensure that both tampons and  
22 sanitary pads are available at no cost to students through dispensers located  
23 in at least two student bathrooms of every public school building.

24 (b) Notwithstanding paragraph (a) of this subsection, if a public school  
25 building has only one student bathroom, both tampons and sanitary pads  
26 must be available at no cost to students through dispensers located in that  
27 bathroom.

28 (3) A public education provider, and any employee of a public education  
29 provider, is not liable in a criminal action or for civil damages as a result  
30 of a student’s use of a tampon or sanitary pad made available under this  
31 section.

(4) The State Board of Education and the Higher Education Coordinating Commission shall adopt any rules necessary for the administration of this section. Rules adopted by the board and commission shall provide for:

(a) The number of dispensers required in each student bathroom;

(b) The types of products available in each student bathroom; *[and]*

**(c) Modifications to or exemptions from the requirements of this section for the programs of a public education provider that:**

**(A) Provide early childhood care or learning to preschool children;**

**or**

**(B) Provide education or other services to students for whom the requirements of this section may be a threat to the health or safety of the students; and**

*[(c)]* **(d) Payments to public education providers for costs incurred under this section, including:**

(A) For school districts, public charter schools and education service districts and subject to subparagraph (B) of this paragraph, distributions from amounts available under ORS 327.008 (18) to be made based on the average daily membership, as defined in ORS 327.006, of the district or school;

(B) For education service districts, distributions to be made as provided by subparagraph (A) of this paragraph may not exceed 7.5 percent of the amounts available for distribution under ORS 327.008 (18);

(C) For community colleges, distributions from the Community College Support Fund to be made based on the full-time equivalent student enrollment of the community college; and

(D) For public universities, distributions from a public university support fund established by the commission by rule.

**SECTION 9.** ORS 326.545 is amended to read:

326.545. (1) As used in this section:

(a) "Public education provider" means:

(A) A school district;

(B) A public charter school;

(C) An education service district;

(D) A community college; or

(E) A public university listed in ORS 352.002.

(b) “Public school building” means a building used by a public education provider to provide educational services to students.

(c) “Student bathroom” means a bathroom that is accessible by students, including a gender-neutral bathroom, a bathroom designated for females and a bathroom designated for males.

(2) Each public education provider shall ensure that both tampons and sanitary pads are available at no cost to students through dispensers located in every student bathroom of every public school building.

(3) A public education provider, and any employee of a public education provider, is not liable in a criminal action or for civil damages as a result of a student’s use of a tampon or sanitary pad made available under this section.

(4) The State Board of Education and the Higher Education Coordinating Commission shall adopt any rules necessary for the administration of this section. Rules adopted by the board and commission shall provide for:

(a) The number of dispensers required in each student bathroom;

(b) The types of products available in each student bathroom; *[and]*

**(c) Modifications to or exemptions from the requirements of this section for the programs of a public education provider that:**

**(A) Provide early childhood care or learning to preschool children;**  
**or**

**(B) Provide education or other services to students for whom the requirements of this section may be a threat to the health or safety of the students; and**

*[(c)]* **(d) Payments to public education providers for costs incurred under this section, including:**

**(A) For school districts, public charter schools and education service districts and subject to subparagraph (B) of this paragraph, distributions**

from amounts available under ORS 327.008 (18) to be made based on the average daily membership, as defined in ORS 327.006, of the district or school;

(B) For education service districts, distributions to be made as provided by subparagraph (A) of this paragraph may not exceed 7.5 percent of the amounts available for distribution under ORS 327.008 (18);

(C) For community colleges, distributions from the Community College Support Fund to be made based on the full-time equivalent student enrollment of the community college; and

(D) For public universities, distributions from a public university support fund established by the commission by rule.

## PARTICIPATION IN INTERSCHOLASTIC ACTIVITIES

**SECTION 10.** ORS 339.460 is amended to read:

339.460. (1) As used in this section:

(a) [*“GED program”*] **“High school equivalency program”** means a program provided [*by a school district or an education service district*] to assist a student in earning a **certificate for passing an approved high school equivalency test such as the** General Educational Development (GED) [*certificate*] **test**.

(b) [*“GED student”*] **“High school equivalency student”** means a student who is eligible to attend school under ORS 339.115 (1) and who is enrolled in a [*GED*] **high school equivalency** program.

(c) “Homeschooled student” means a child who is taught by a private teacher, a parent or a legal guardian, as described in ORS 339.030.

(d) “Interscholastic activities” includes:

(A) For students in any grade from kindergarten through grade 12, athletics, music, speech and other similar or related activities.

(B) For students in any grade from kindergarten through grade eight, activities that are offered only before or after regular school hours and that may, but are not required to, involve interaction among other schools.

(e) “Public charter school” has the meaning given that term in ORS 338.005.

(2) A school district may not deny a *[GED]* **high school equivalency** student, a homeschooled student or a student who attends a public charter school that does not provide interscholastic activities the opportunity to participate in all interscholastic activities available in the school district within the attendance boundaries in which the *[GED]* **high school equivalency** student, homeschooled student or public charter school student resides if the student fulfills the following conditions, as applicable:

(a)(A) For a *[GED]* **high school equivalency** student or a homeschooled student, the student must meet all school district eligibility requirements except:

- (i) The school district’s school or class attendance requirements; and
- (ii) The class requirements of the voluntary association that administers the interscholastic activity, if applicable.

(B) For a student who attends a public charter school, the student must meet all school district eligibility requirements except the school district’s school or class attendance requirements.

(b) For a homeschooled student or a student who attends a public charter school, the student must meet one of these requirements:

(A) Achieve a minimum score that places the student at or above the 23rd percentile, based on national norms, on an examination from the list the State Board of Education adopts under ORS 339.035. The student must take the examination *[at the end of each school year]* **prior to the beginning of the school year in which the student will participate in an interscholastic activity and for which academic eligibility is being determined**, and the student’s parent or legal guardian must submit the results to the school district for use in determining **the student’s academic** eligibility for the *[following]* **subsequent school** year.

(B) Meet alternative requirements that a school district adopts, in consultation with the student’s parent or legal guardian, to participate in

1 interscholastic activities, including but not limited to a requirement that a  
2 student submit a portfolio of work samples to a school district committee for  
3 review to determine whether the student is eligible to participate in inter-  
4 scholastic activities.

5 (c) For a [*GED*] **high school equivalency** student, the student must  
6 demonstrate that, prior to beginning the interscholastic activity, the student  
7 has passed at least one practice test administered through the [*GED*] **high**  
8 **school equivalency** program.

9 (3)(a) In addition to the requirements set forth in subsection (2) of this  
10 section, a public charter school that enrolls a student who intends to par-  
11 ticipate in an interscholastic activity must pay to the school district or  
12 school that offers the interscholastic activity, as appropriate and if the  
13 school district or school requires payment as provided by this subsection:

14 (A) An annual fee that is equivalent to not more than five percent of the  
15 amount of the school district's General Purpose Grant per ADMw, as calcu-  
16 lated under ORS 327.013; and

17 (B) An additional annual fee that is equivalent to not more than five  
18 percent of the amount of the school district's General Purpose Grant per  
19 ADMw, as calculated under ORS 327.013, if participating in the interscho-  
20 lastic activity requires the student to enroll in a course for credit.

21 (b) The school district and the public charter school shall enter into an  
22 agreement to specify the amount of the fees described in paragraph (a) of this  
23 subsection.

24 (c) A public charter school is required to pay a fee described in paragraph  
25 (a) of this subsection only once per year per student participating in an  
26 interscholastic activity at a school in the school district, regardless of the  
27 number of interscholastic activities in which the student participates.

28 (4) A [*GED*] **high school equivalency** student, a homeschooled student  
29 or a student who attends a public charter school may participate in inter-  
30 scholastic activities while awaiting examination or practice test results.

31 (5)(a) **Except as provided by paragraph (b) of this subsection, a**



[*GED*] **high school equivalency** student, a homeschooled student or a student who attends a public charter school who does not maintain academic eligibility is ineligible to participate in interscholastic activities for [*the duration of*] the school year in which the student **is determined to be academically ineligible**. [*becomes academically ineligible and for the following year. The student must take the required examinations or practice tests at the end of the second year and meet the standards described in subsection (2)(b) or (c) of this section to become eligible for the third year.*]

**(b) A student is no longer determined to be academically ineligible to participate in interscholastic activities during a school year if, at any time during the school year, the student takes the required examinations or practice tests and meets the standards described in subsection (2)(b) or (c) of this subsection.**

(6)(a) A [*GED*] **high school equivalency** student, a homeschooled student or a student who attends a public charter school must fulfill the same responsibilities and standards of behavior and performance, including related class or practice requirements, as other students who participate in the interscholastic activity. The student must also comply with all public school requirements during the time of participation.

(b) A student who attends a public charter school must be allowed to participate in an interscholastic activity in the same manner that a resident of the school district may participate in the interscholastic activity. A school district may not give priority to residents of the school district to participate in interscholastic activities, but may require a student who attends a public charter school to satisfy any standards for acceptance for participation.

(7) A [*GED*] **high school equivalency** student, a homeschooled student or a student who attends a public charter school who participates in interscholastic activities must reside within the attendance boundaries of the school at which the student participates unless the school district has a policy that allows any student attending a school of the school district to participate in interscholastic activities at any school of the school district.

**SECTION 11.** ORS 339.450 is amended to read:

339.450. A school, school district or association, whether public or private, may not deny any grade or high school student the right to participate in interscholastic athletics solely on the ground that the student:

(1) Transferred between schools;

(2) Attends a public charter school, as defined in ORS 338.005;

(3) Participated in athletics at another school; or

(4) Is eligible to attend school under ORS 339.115 (1) and is enrolled in a program [*provided by a school district or an education service district to earn a General Educational Development (GED) certificate*] **to earn a certificate for passing an approved high school equivalency test, such as the General Educational Development (GED) test.**

#### **CAPTIONS**

**SECTION 12.** The unit captions used in this 2022 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2022 Act.

#### **EMERGENCY CLAUSE**

**SECTION 13.** This 2022 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2022 Act takes effect on its passage.