

Enrolled House Bill 2767

Sponsored by Representative WALTERS, Senator PATTERSON, Representative BOWMAN; Representatives ANDERSEN, DEXTER, FAHEY, GAMBA, GRAYBER, HUDSON, KROPF, MCLAIN, NATHANSON, NGUYEN H, NOSSE, PHAM H, REYNOLDS, RUIZ, WRIGHT, Senators DEMBROW, GELSER BLOUIN, SOLLMAN, WAGNER (Presession filed.)

CHAPTER

AN ACT

Relating to recovery schools; creating new provisions; amending ORS 294.383, 326.603, 327.254, 329.451, 329.901, 339.326, 339.347, 339.370, 419A.305 and 659.852; and declaring an emergency.

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

SECTION 1. (1) As used in this section, “approved recovery school” means a school that is under an agreement with the Department of Education to provide students enrolled in the school with a holistic approach to:

- (a) Educational services for grades 9 through 12; and
- (b) Health care services related to recovery from substance use disorders.

(2) The department shall provide or cause to be provided appropriate education for students enrolled in an approved recovery school. For the purpose of paying the costs of providing education to students enrolled in an approved recovery school, the Superintendent of Public Instruction shall make the following:

- (a) Payments from amounts available from the State School Fund under section 7 of this 2023 Act.
- (b) Payments from the Statewide Education Initiatives Account, as provided by rule adopted by the State Board of Education in collaboration with the advisory committee convened under section 5 of this 2023 Act. The rules adopted as provided by this paragraph may include a minimum amount, a maximum amount or both for approved recovery schools.

(3) The Superintendent of Public Instruction may contract with a school district, an education service district or a public charter school to provide or cause to be provided appropriate education to students enrolled in an approved recovery school. Unless otherwise specified, any educational services provided under a contract entered into under this subsection shall be paid as described in this section and not by any other state moneys distributed based on average daily membership that are available to the school district, education service district or public charter school for the purpose of providing educational services.

(4) The State Board of Education shall adopt by rule the standards for a recovery school to become and operate as an approved recovery school. The standards must provide that:

- (a) The recovery school must align, to the extent identified by the board, with standards for accreditation established by a nonprofit accrediting organization composed of representatives of recovery schools and individuals who support the growth of recovery schools. The standards must include requirements that:

(A) The recovery school, in compliance with timelines established by the department, be accredited by a nonprofit accrediting organization that establishes standards for recovery schools. Nothing in this subparagraph requires the recovery school to be accredited at the time the superintendent first enters into a contract with the recovery school.

(B) Student enrollment in the recovery school is voluntary. No school district or state or local agency may compel or otherwise require a student to enroll in a recovery school. Students enrolled in an approved recovery school may not be counted in determining the number of pupils in average daily membership for purposes of ORS 334.175 (5).

(C) All students who reside in this state and who meet the eligibility criteria established under subsection (8) of this section may enroll in an approved recovery school if space is available. If space is not available, the approved recovery school may prioritize for enrollment student groups identified in ORS 327.180 (2)(b).

(D) The school district, education service district or public charter school with which the department has entered into a contract for a recovery school must agree to award high school diplomas, modified diplomas, extended diplomas and alternative certificates as provided by ORS 329.451 and 339.877. An entity that awards high school diplomas as provided by this subparagraph:

(i) May not impose requirements for a high school diploma that are in addition to the requirements prescribed by ORS 329.451 (2)(a) or by rule of the State Board of Education; and

(ii) Must accept any credits previously earned by students in another school or educational program in this state and apply those credits toward the requirements prescribed by ORS 329.451 (2)(a) or by rule of the State Board of Education.

(E) Except as provided by subparagraph (F) of this paragraph, the recovery school must satisfy the same laws that apply to public charter schools under ORS 338.115.

(F) All administrators and teachers at the recovery school must be licensed by the Teacher Standards and Practices Commission.

(b) Recovery schools will be approved, to the greatest extent practicable, in a manner that:

(A) Represents a geographic distribution across this state; and

(B) Takes into consideration the needs for services by the community in which the recovery school would be located.

(5) Any school that provides the services of a recovery school may enter into a contract with the superintendent to become an approved recovery school, including schools already providing the services of a recovery school and schools that are proposing to provide the services of a recovery school.

(6) An approved recovery school may enter into agreements with other entities, including community-based organizations and federally recognized tribes of this state, for the purposes of providing educational and health care services to students enrolled in the approved recovery school.

(7)(a) The department shall be responsible for:

(A) Identifying, locating and evaluating students enrolled in an approved recovery school who may be in need of special education and related services; and

(B) Ensuring that eligible students receive special education and related services.

(b) For the purpose of this subsection, the department may enter into a contract with a school district or an education service district.

(8) The department shall establish eligibility criteria for students to enroll in an approved recovery school, based on input from the advisory committee convened under section 5 of this 2023 Act and based on research from a nonprofit organization composed of representatives of recovery schools and individuals who support the growth of recovery schools and other relevant organizations.

(9) For the purposes of administering this section:

(a) The State Board of Education shall adopt any necessary rules.

(b) The department shall collaborate with the Oregon Health Authority, the Youth Development Division, the Alcohol and Drug Policy Commission, the Oregon Youth Authority, the Department of Human Services and local public health and mental health authorities or providers and shall coordinate, to the greatest extent practicable, funding of services provided in relation to approved recovery schools.

(10) Each biennium, the Department of Education shall prepare a report on the progress, successes and challenges of approved recovery schools and submit that report to:

(a) The interim committees of the Legislative Assembly related to education; and

(b) The advisory committee convened under section 5 of this 2023 Act.

SECTION 2. No later than January 1, 2028, the Department of Education, in collaboration with the advisory committee convened under section 5 of this 2023 Act, shall submit the first report to the interim committees of the Legislative Assembly related to education as required by section 1 (10) of this 2023 Act.

SECTION 3. Notwithstanding section 1 of this 2023 Act, the Department of Education may not enter into agreements to establish:

(1) More than a total of three approved recovery schools for the 2023-2025 biennium.

(2) More than a total of six approved recovery schools for the 2025-2027 biennium.

(3) More than a total of nine approved recovery schools for the 2027-2029 biennium.

SECTION 4. Section 3 of this 2023 Act is repealed July 1, 2029.

SECTION 5. (1) The Department of Education shall convene an advisory committee related to the approval of recovery schools under section 1 of this 2023 Act.

(2) The purposes of the advisory committee convened under this section are to provide recommendations, community input and guidance related to:

(a) Fulfilling the intent of approved recovery schools.

(b) Monitoring approved recovery schools.

(c) Providing technical assistance that is necessary or beneficial for approved recovery schools.

(d) Recommending legislative and policy changes that will assist in the creation and sustainability of approved recovery schools.

(3) The advisory committee convened under this section shall consist of no more than 15 members appointed by the Superintendent of Public Instruction. Membership must include:

(a) Three members with experience in establishing or operating recovery schools.

(b) One member from the Department of Education.

(c) One member from the Youth Development Division.

(d) One member from the Alcohol and Drug Policy Commission.

(e) One member from the Oregon Health Authority.

(f) One member from local public health or mental health authorities or providers.

(g) One member who is a family member or caregiver of a student recovering from a substance use disorder and who has experience with recovery schools or assisting others with overcoming substance use disorders.

(h) One youth who has experience with a recovery school or who has overcome a substance use disorder.

(i) One member who is an administrator of a school district or an education service district, with preference for an administrator who has experience collaborating with a recovery school.

(4) To the greatest extent practicable, the superintendent shall make appointments under subsection (3) of this section in a manner that reflects the demographic and geographic diversity of this state.

(5) The advisory committee convened under this section shall meet no less than four times each year.

SECTION 6. Section 7 of this 2023 Act is added to and made a part of ORS 327.006 to 327.077.

SECTION 7. (1) The State Board of Education shall adopt by rule definitions and procedures to be applied to the computation of the State School Fund allocations and Statewide Education Initiatives Account allocations to be used for approved recovery schools, as defined in section 1 of this 2023 Act. When adopting rules, the board must collaborate with the advisory committee established by section 5 of this 2023 Act.

(2) For allocations made from the State School Fund, each approved recovery school shall receive for each school year a special State School Fund grant, consisting of a general purpose grant that is equal to the amount that the school district in which the approved recovery school is located would receive for the student. The amount that the school district would receive for the student shall:

(a) Be based on the school district's general purpose grant per ADM as calculated under ORS 327.013; and

(b) Include any additional amounts attributable to the student under ORS 327.013 (1)(c), subject to any applicable limitations under ORS 327.013 (1)(c)(C).

(3) For allocations made from the Statewide Education Initiatives Account, the rules adopted under this section shall provide, to the greatest extent practicable but subject to the discretion of the board, that allocations shall be in an amount necessary to pay the difference between:

(a) The actual cost for providing education to students at the approved recovery school; and

(b) The amounts received for providing education to students at the approved recovery school from allocations made from the State School Fund under subsection (2) of this section.

(4) Funds allocated to approved recovery schools from the State School Fund and the Statewide Education Initiatives Account shall remain with the Department of Education and shall be adjusted in the year following the distribution to reflect the actual ADMw of students in the approved recovery schools in the same manner as for school districts under ORS 327.101.

SECTION 8. ORS 329.451, as amended by section 5, chapter 81, Oregon Laws 2022, 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[.]; **or**

(vii) Enrolled in an approved recovery school under section 1 of this 2023 Act.

(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 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 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, **an approved recovery 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 is secure and proctored.

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

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

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

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

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

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

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

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

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

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

(7) A school district or public charter school shall award a modified 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 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 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 9. ORS 329.451, as amended by section 1, chapter 175, Oregon Laws 2021, and section 6, chapter 81, Oregon Laws 2022, 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 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[.]; **or**
- (vii) **Enrolled in an approved recovery school under section 1 of this 2023 Act.**

(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 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 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, **an approved recovery 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 is secure and proctored.

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

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

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

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

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

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

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

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

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

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

(7) A school district or public charter school shall award a modified 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 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 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 10. ORS 327.254 is amended to read:

327.254. (1) The Department of Education shall use moneys in the Statewide Education Initiatives Account to provide funding for statewide education initiatives, including:

(a) Funding the High School Graduation and College and Career Readiness Act at the levels prescribed by ORS 327.856;

(b) Expanding school breakfast and lunch programs;

(c) Operating youth reengagement programs or providing youth reengagement services;

(d) Establishing and maintaining the Statewide School Safety and Prevention System under ORS 339.341;

(e) Developing and providing statewide equity initiatives, including the Black or African-American education plan developed under ORS 329.841, the American Indian or Alaska Native education plan developed under ORS 329.843, the Latino or Hispanic education plan developed under ORS 329.845 or any similar education plan identified by the department;

(f) Providing summer learning programs at schools that are considered high poverty under Title I of the federal Elementary and Secondary Education Act of 1965;

(g) Funding early warning systems to assist students in graduating from high school, as described in ORS 327.367;

(h) Developing and implementing professional development programs and training programs, including programs that increase educator diversity and retain diverse educators;

(i) Planning for increased transparency and accountability in the public education system of this state;

(j) Providing additional funding to school districts participating in the intensive program under ORS 327.222;

(k) Providing technical assistance, including costs incurred for:

(A) The coaching program described in ORS 327.214; and

(B) The intensive program described in ORS 327.222, including costs for student success teams;

(L) Funding public charter schools, as described in ORS 327.362;

(m) Funding education service districts, as described in subsection (2) of this section; *[and]*

(n) Funding any additional amounts for approved recovery schools, as provided by rules of the State Board of Education adopted under section 7 of this 2023 Act; and

[(n)] **(o) Funding costs incurred by the department in implementing this section and ORS 327.175 to 327.235 and 327.274.**

(2)(a) The amount of a distribution to an education service district under this section shall be made as provided by paragraph (b) of this subsection after calculating the following for each education service district:

(A) One percent of the total amount available for distribution to education service districts in each biennium.

(B) The education service district's $ADM_w \times$ (the total amount available for distribution to education service districts in each biennium \div the total ADM_w of all education service districts that receive a distribution).

(b) The amount of the distribution to an education service district shall be the greater of the amounts calculated under paragraph (a) of this subsection, except that, for distributions made as provided by paragraph (a)(B) of this subsection, the total amount available for distribution to edu-

cation service districts shall be the amount remaining after any distributions required under paragraph (a)(A) of this subsection have been made.

(c) For purposes of this subsection, ADMw equals the ADMw as calculated under ORS 327.013, except that the additional amount allowed for students who are in poverty families, as determined under ORS 327.013 (1)(c)(A)(v)(I), shall be 0.5.

(d) An education service district shall use moneys received under this section as provided by a plan developed by the school districts located within the education service district. A school district that declines to participate in the development of the plan or that has withdrawn from an education service district as provided by ORS 334.015 is not entitled to any moneys distributed to the education service district under this subsection.

(e) A plan developed under this subsection must:

(A) Align with and support school districts in meeting the performance growth targets of the school districts developing the plan;

(B) Include the provision of technical assistance to school districts in developing, implementing and reviewing a plan for receiving a grant from the Student Investment Account;

(C) Provide for coordination with the department in administering and providing technical assistance to school districts, including coordinating any coaching programs established under ORS 327.214; and

(D) Be adopted and amended as provided for local service plans under ORS 334.175 and approved by the department.

(f) Each education service district must submit an annual report to the department that:

(A) Describes how the education service district spent moneys received under this subsection; and

(B) Includes an evaluation of the education service district's compliance with the plan from the superintendent of each school district that participated in the development of the plan.

(3) The State Board of Education shall adopt rules necessary for the distribution of moneys under this section.

SECTION 11. ORS 294.383 is amended to read:

294.383. (1) As used in this section, "extended ADMw" means:

(a) For a school district, the district extended ADMw as calculated under ORS 327.013.

(b) For an education service district, the sum of the extended ADMw of the school districts located within the territory of the education service district.

(2) Notwithstanding ORS 294.333, a school district or education service district that uses the accrual basis method of accounting may include as accrued revenues in the budget and financial statement of the school district or education service district, for any fiscal year, an amount from the next fiscal year that is to be received in the next fiscal year. The amount accrued under this section may not be greater than the amount calculated under subsection (3)(b) or (c) of this section multiplied by the extended ADMw of the school district or education service district.

(3)(a) For each fiscal year, the Department of Education shall calculate the amount available in the State School Fund for grants and distributions to school districts and the amount available for grants and distributions to education service districts under ORS 327.008, 327.013 and 327.019 based on the appropriations and allocations made to the State School Fund for that fiscal year by the Legislative Assembly in regular session. The department may not include in the amount calculated to be available for school districts and education service districts under this paragraph the amounts received by the Youth Corrections Education Program and the Juvenile Detention Education Program under ORS 327.026 **or approved recovery schools under section 7 of this 2023 Act** from the State School Fund.

(b) The department shall calculate for school districts an amount equal to (the amount calculated under paragraph (a) of this subsection for school districts \div 12) \div the total statewide extended ADMw of all school districts.

(c) The department shall calculate for education service districts an amount equal to (the amount calculated under paragraph (a) of this subsection for education service districts ÷ 12) ÷ the total statewide extended ADMw of all education service districts.

(d) The department may adjust the calculations under this subsection based on current data for the factors used to calculate the State School Fund distribution to school districts and education service districts under ORS 327.008, 327.013 and 327.019.

(e) Notwithstanding paragraph (d) of this subsection, the department may not adjust the calculation under paragraph (a) of this subsection based on changes made to the appropriations or allocations to the State School Fund by the Legislative Assembly in special session or by rule of the Oregon Department of Administrative Services relating to allotting funds.

(4) Notwithstanding ORS 294.333, a community college district or community college service district that uses the accrual basis method of accounting may include as accrued revenues in the budget and financial statement of the community college district or community college service district, for any fiscal year, an amount from the next fiscal year that is to be received in the next fiscal year. The amount accrued under this section may not be greater than 25 percent of the amount the community college district or community college service district received as a Community College Support Fund grant for the fiscal year for which the revenues are to be accrued.

SECTION 12. ORS 326.603, as amended by section 1, chapter 116, Oregon Laws 2022, is amended to read:

326.603. (1) For the purposes of requesting a state or nationwide criminal records check under ORS 181A.195, the Department of Education may require the fingerprints of:

(a) A school district or private school contractor, whether part-time or full-time, or an employee of a contractor, whether part-time or full-time, who has direct, unsupervised contact with students as determined by the district or private school.

(b) A person newly hired, whether part-time or full-time, by a school district or private school in a capacity not described in ORS 342.223 (1).

(c) A person who is a community college faculty member providing instruction:

(A) At the site of an early childhood education program or at a school site as part of an early childhood education program; or

(B) At a kindergarten through grade 12 school site during the regular school day.

(d) A person who is an employee of a public charter school.

(2)(a) A school district shall send to the Department of Education for purposes of a criminal records check any information, including fingerprints, for each person described in subsection (1) of this section.

(b) A private school may send to the Department of Education for purposes of a criminal records check any information, including fingerprints, for each person described in subsection (1)(a), (b) or (c) of this section.

(3) The Department of Education shall request that the Department of State Police conduct a criminal records check as provided in ORS 181A.195 and may charge the school district or private school a fee as established by rule under ORS 181A.195. The school district or private school may recover its costs or a portion thereof from the person described in subsection (1) of this section. If the person described in subsection (1)(b) or (d) of this section requests, the school district shall and a private school may withhold the amount from amounts otherwise due the person, including a periodic payroll deduction rather than a lump sum payment.

(4) Notwithstanding subsection (1) of this section, the Department of Education may not require fingerprints of a person described in subsection (1) of this section if:

(a) The person or the person's employer was checked in one school district or private school and is currently seeking to work in another district or private school unless the person lived outside this state during the interval between the two periods of time of working in the district or private school; or

(b) The department determines that the person:

(A) Submitted to a criminal records check for the person's immediately previous employer, the employer is a school district or private school and the person has not lived outside this state between the two periods of employment;

(B) Submitted to a criminal records check conducted by the Teacher Standards and Practices Commission within the previous three years; or

(C) Remained continuously licensed or registered with the commission.

(5) Nothing in this section requires a person described in subsection (1)(a), (b) or (d) of this section to submit to fingerprinting until the person has been offered employment or a contract by a school district or private school. Contractor employees may not be required to submit to fingerprinting until the contractor has been offered a contract.

(6) If a person described in subsection (1) of this section states on a criminal history form provided by the Department of Education that the person has not been convicted of a crime but the criminal records check indicates that the person has a conviction, the department shall determine whether the person knowingly made a false statement as to the conviction. The department shall develop a process and criteria to use for appeals of a determination under this subsection.

(7)(a) The Superintendent of Public Instruction shall inform a school district or private school if a person described in subsection (1) of this section has been convicted of a crime listed in ORS 342.143 (3) or has knowingly made a false statement on a criminal history form provided by the Department of Education as to the conviction of any crime.

(b) If a person described in subsection (1) of this section has been convicted of a crime listed in ORS 342.143 (3), a school district may not employ or contract with the person and a private school may choose not to employ or contract with the person. Notification by the superintendent that the school district may not employ or contract with the person shall remove the person from any school district policies, collective bargaining provisions regarding dismissal procedures and appeals and the provisions of ORS 342.805 to 342.937.

(c) If a person described in subsection (1) of this section has knowingly made a false statement on a criminal history form provided by the Department of Education as to the conviction of a crime not listed in ORS 342.143 (3), a school district or private school may choose to employ or contract with the person.

(8) If a person described in subsection (1) of this section refuses to consent to the criminal records check or refuses to be fingerprinted, the school district shall terminate the employment or contract status of the person. Termination under this subsection removes the person from any school district policies, collective bargaining provisions regarding dismissal procedures and appeals and the provisions of ORS 342.805 to 342.937.

(9) A school district may not hire or continue to employ or contract with or allow the contractor to continue to assign a person to the school project if the person described in subsection (1) of this section has been convicted of a crime according to the provisions of ORS 342.143.

(10) As used in this section and ORS 326.607:

(a) "Private school" means a school that:

(A) Offers education in prekindergarten, kindergarten or grades 1 through 12, or any combination of those grade levels; and

(B) Provides instructional programs that are not limited solely to dancing, drama, music, religious or athletic instruction.

(b) "School district" means:

(A) A school district as defined in ORS 330.003.

(B) The Oregon School for the Deaf.

(C) An educational program under the Youth Corrections Education Program.

(D) A public charter school as defined in ORS 338.005.

(E) An education service district.

(F) An approved recovery school as defined in section 1 of this 2023 Act.

SECTION 13. ORS 326.603, as amended by sections 1 and 1a, chapter 116, Oregon Laws 2022, is amended to read:

326.603. (1) For the purposes of requesting a state or nationwide criminal records check under ORS 181A.195, the Department of Education may require the fingerprints of:

(a) A school district or private school contractor, whether part-time or full-time, or an employee of a contractor, whether part-time or full-time, who has direct, unsupervised contact with students as determined by the district or private school.

(b) A person newly hired, whether part-time or full-time, by a school district or private school in a capacity not described in ORS 342.223 (1).

(c) A person who is a community college faculty member providing instruction:

(A) At the site of an early childhood education program or at a school site as part of an early childhood education program; or

(B) At a kindergarten through grade 12 school site during the regular school day.

(d) A person who is an employee of a public charter school.

(2)(a) A school district shall send to the Department of Education for purposes of a criminal records check any information, including fingerprints, for each person described in subsection (1) of this section.

(b) A private school may send to the Department of Education for purposes of a criminal records check any information, including fingerprints, for each person described in subsection (1)(a), (b) or (c) of this section.

(3) The Department of Education shall request that the Department of State Police conduct a criminal records check as provided in ORS 181A.195 and may charge the school district or private school a fee as established by rule under ORS 181A.195. The school district or private school may recover its costs or a portion thereof from the person described in subsection (1) of this section. If the person described in subsection (1)(b) or (d) of this section requests, the school district shall and a private school may withhold the amount from amounts otherwise due the person, including a periodic payroll deduction rather than a lump sum payment.

(4) Notwithstanding subsection (1) of this section, the Department of Education may not require fingerprints of a person described in subsection (1) of this section if the person or the person's employer was checked in one school district or private school and is currently seeking to work in another district or private school unless the person lived outside this state during the interval between the two periods of time of working in the district or private school.

(5) Nothing in this section requires a person described in subsection (1)(a), (b) or (d) of this section to submit to fingerprinting until the person has been offered employment or a contract by a school district or private school. Contractor employees may not be required to submit to fingerprinting until the contractor has been offered a contract.

(6) If a person described in subsection (1) of this section states on a criminal history form provided by the Department of Education that the person has not been convicted of a crime but the criminal records check indicates that the person has a conviction, the department shall determine whether the person knowingly made a false statement as to the conviction. The department shall develop a process and criteria to use for appeals of a determination under this subsection.

(7)(a) The Superintendent of Public Instruction shall inform a school district or private school if a person described in subsection (1) of this section has been convicted of a crime listed in ORS 342.143 (3) or has knowingly made a false statement on a criminal history form provided by the Department of Education as to the conviction of any crime.

(b) If a person described in subsection (1) of this section has been convicted of a crime listed in ORS 342.143 (3), a school district may not employ or contract with the person and a private school may choose not to employ or contract with the person. Notification by the superintendent that the school district may not employ or contract with the person shall remove the person from any school district policies, collective bargaining provisions regarding dismissal procedures and appeals and the provisions of ORS 342.805 to 342.937.

(c) If a person described in subsection (1) of this section has knowingly made a false statement on a criminal history form provided by the Department of Education as to the conviction of a crime

not listed in ORS 342.143 (3), a school district or private school may choose to employ or contract with the person.

(8) If a person described in subsection (1) of this section refuses to consent to the criminal records check or refuses to be fingerprinted, the school district shall terminate the employment or contract status of the person. Termination under this subsection removes the person from any school district policies, collective bargaining provisions regarding dismissal procedures and appeals and the provisions of ORS 342.805 to 342.937.

(9) A school district may not hire or continue to employ or contract with or allow the contractor to continue to assign a person to the school project if the person described in subsection (1) of this section has been convicted of a crime according to the provisions of ORS 342.143.

(10) As used in this section and ORS 326.607:

(a) "Private school" means a school that:

(A) Offers education in prekindergarten, kindergarten or grades 1 through 12, or any combination of those grade levels; and

(B) Provides instructional programs that are not limited solely to dancing, drama, music, religious or athletic instruction.

(b) "School district" means:

(A) A school district as defined in ORS 330.003.

(B) The Oregon School for the Deaf.

(C) An educational program under the Youth Corrections Education Program.

(D) A public charter school as defined in ORS 338.005.

(E) An education service district.

(F) An approved recovery school as defined in section 1 of this 2023 Act.

SECTION 14. ORS 329.901 is amended to read:

329.901. (1) As used in this section, "public education program" means an education program provided by any of the following:

(a) A school district;

(b) A public charter school;

(c) An education service district;

(d) A long term care or treatment facility, as described in ORS 343.961;

(e) The Youth Corrections Education Program; [or]

(f) The Oregon School for the Deaf.]; **or**

(g) An approved recovery school, as defined in section 1 of this 2023 Act.

(2) For each school year, the Department of Education shall require public education programs to submit the following information about students in kindergarten through grade 12 classes:

(a) The total number of students in the classes; and

(b) The total number of licensed or registered teachers regularly assigned to the students counted under paragraph (a) of this subsection.

(3) By February 1 of the year following the school year described in subsection (2) of this section, the Department of Education shall make the information received under subsection (2) of this section available to:

(a) The public on the website of the Department of Education; and

(b) The Legislative Assembly through annual reports.

(4) For the purpose of this section, the State Board of Education shall identify by rule:

(a) The definition of what constitutes a class for which a public education program must report;

(b) The definition of what constitutes regular assignment of teachers to students for purposes of subsection (2)(b) of this section;

(c) The categories of classes for which a public education program must report; and

(d) If possible, the source of an existing data set that may be used to satisfy the requirements of this section.

SECTION 15. ORS 339.326 is amended to read:

339.326. (1) As used in this section:

(a) "School administrator" has the meaning given that term in ORS 419A.305.

(b) "School personnel" means a person who is employed by or under contract with a school district, public charter school or private school to provide services to students, including but not limited to:

- (A) Teachers and school staff.
- (B) Transportation providers.
- (C) Food service workers.
- (D) Daytime building maintenance workers.
- (E) Health center workers or nurses.
- (F) Library personnel.
- (G) Translators.

(2) Within 48 hours after receiving notice under ORS 419A.305, a school administrator shall notify school personnel who the school administrator determines need the information in order to:

- (a) Safeguard the safety and security of the school, students and school personnel;
- (b) Arrange appropriate counseling or education for the person who is the subject of the notice;

or

(c) If the notice states that the court has set aside or dismissed the petition, or that the court has determined it does not have jurisdiction over the person who is the subject of the notice, inform school personnel previously notified of the petition under this subsection that the court has set aside or dismissed the petition or determined that the person who is the subject of the notice is not within the jurisdiction of the juvenile court and direct the appropriate school personnel to remove and destroy the notice and any documents or information related to the notice from the person's educational records.

(3) When a student transfers to a school in this state from a school outside the state, the school administrator of the school in this state shall, when requesting the transfer student's education records as provided under ORS 326.575, request any information that the transfer student's former school may have relating to the transfer student's history of engaging in activity that is likely to place at risk the safety of school personnel or students or that requires arrangement of appropriate counseling or education for the transfer student. Upon receipt of information that the transfer student has a history of engaging in activity that is likely to place at risk the safety of school personnel or students, the school administrator shall notify school personnel who the school administrator determines need the information in order to:

- (a) Safeguard the safety and security of the school, students and school personnel; or
- (b) Arrange appropriate counseling or education for the transfer student.

(4) When a school administrator receives notice under ORS 419A.305 and determines that the youth is not enrolled in the school administrator's school but is enrolled in a school or program referred to in this subsection, the school administrator shall, within 48 hours of receiving notice, send a copy of the notice to:

- (a) The director of the Oregon School for the Deaf if the youth attends the Oregon School for the Deaf.
- (b) The Superintendent of Public Instruction if the youth is in an educational program under the Youth Corrections Education Program **or in an approved recovery school**.
- (c) The principal of the public charter school if the youth attends a public charter school.
- (d) The principal of the private school if the youth attends a private school.
- (e) The appropriate school administrator if the youth attends a school in another school district.
- (5) A school district, public charter school or private school may adopt policies and procedures for providing notification to school personnel under this section.

(6)(a) Except as provided in this section, information contained in a notice required under ORS 419A.305 or obtained from an out-of-state school under subsection (3) of this section is confidential.

(b) Persons receiving information contained in a notice required under ORS 419A.305 or obtained from an out-of-state school under subsection (3) of this section may not disclose any information received to anyone other than:

- (A) The person who is the subject of the notice or the transfer student;
- (B) The parent or guardian of the person who is the subject of the notice or the transfer student;
- (C) A school administrator;
- (D) School personnel notified under subsection (2) or (3) of this section;
- (E) Law enforcement personnel;
- (F) The probation officer or juvenile counselor of the person who is the subject of the notice or the transfer student; and

(G) The attorney for the person who is the subject of the notice or the transfer student.

(c) School personnel are not subject to discipline for disclosing the existence of a notice under ORS 419A.305 or for disclosing the contents of the notice, unless the disclosure was made in bad faith, with malicious intent or in a manner exhibiting a willful, wanton disregard of the rights, safety or property of another.

(7)(a) Information obtained under this section or under ORS 419A.305 may not be used for admissions or disciplinary decisions concerning the person who is the subject of a notice or the transfer student unless the violation occurred in the school or classroom or at a school activity or event, whether or not the violation took place on school property.

(b) Notwithstanding paragraph (a) of this subsection, information obtained under this section or under ORS 419A.305 may be used for making an educational placement for the person who is the subject of a notice or the transfer student, if necessary for arranging appropriate counseling or education for the person or transfer student. Placement procedures and decisions under this section regarding a person or transfer student who is receiving special education and related services must comply with the Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq.

(c) The receipt of a notice under ORS 419A.305 does not deprive the school of the authority to institute or continue a disciplinary action against the person who is the subject of the notice or the transfer student based on the same conduct alleged in the notice if the disciplinary proceedings are based on information obtained by the school or school district that is not derived from the notice.

(8) A person is not civilly or criminally liable for giving or failing to give the notice required under this section. Nothing in this section creates a new cause of action or enlarges an existing cause of action for compensation or damages.

SECTION 16. ORS 339.347 is amended to read:

339.347. (1) As used in this section:

(a)(A) “Bias incident” means a person’s hostile expression of animus toward another person, relating to the other person’s perceived race, color, religion, gender identity, sexual orientation, disability or national origin, of which criminal investigation or prosecution is impossible or inappropriate.

(B) “Bias incident” may include derogatory language or behavior.

(b) “Education program” means any program, service, school or activity sponsored by an education provider.

(c) “Education provider” means:

(A) A school district;

(B) A public charter school;

(C) The Oregon School for the Deaf;

(D) An education service district;

(E) An educational program under the Youth Corrections Education Program or the Juvenile Detention Education Program, as those terms are defined in ORS 326.695; [or]

(F) An approved recovery school, as defined in section 1 of this 2023 Act; or

[(F)] **(G) A program that receives moneys pursuant to ORS 343.243.**

(d) “School property” means any property under the control of an education provider.

(e) “Symbol of hate” means nooses, symbols of neo-Nazi ideology or the battle flag of the Confederacy.

(2)(a) To comply with the prohibition on discrimination required by ORS 659.850, an education provider must prohibit the display of symbols of hate on school property or in an education program.

(b) The prohibition required by this subsection does not apply to displays that align with and are used in conjunction with state standards of education for public schools.

(3) To comply with the prohibition on discrimination required by ORS 659.850, each education provider must adopt a policy to address bias incidents and displays of symbols of hate. The policy must:

(a) Affirm that all students are entitled to a high quality educational experience free from discrimination or harassment based on perceived race, color, religion, gender identity, sexual orientation, disability or national origin.

(b) Affirm that all employees of education providers are entitled to work in an environment that is free from discrimination or harassment based on perceived race, color, religion, gender identity, sexual orientation, disability or national origin.

(c) Affirm that all visitors of an education provider are entitled to participate in a school or educational environment that is free from discrimination or harassment based on perceived race, color, religion, gender identity, sexual orientation, disability or national origin.

(d) Prohibit the display of symbols of hate on school property or in an education program.

(e) Establish procedures for addressing bias incidents and displays of symbols of hate. The procedures must:

(A) Apply broadly to include persons directly targeted by an act, as well as the community of students as a whole who are likely to be impacted by the act.

(B) Require the education provider to prioritize the safety and well-being of all persons impacted by the act.

(C) Require the education provider to recognize the experience of all persons impacted by the act, acknowledge the impact, commit to taking immediate action and commit to preventing further harm against those persons impacted.

(D) Include educational components that:

(i) Address the history and impact of bias and hate;

(ii) Advance the safety and healing of those impacted by bias and hate; and

(iii) Promote accountability and transformation for people who cause harm as well as transformation of the conditions that perpetuated the harm.

(E) Include communication protocols that provide all persons impacted by the act with information relating to the investigation and outcome of the investigation, including:

(i) Notice that an investigation has been initiated;

(ii) Notice when an investigation has been completed;

(iii) The findings of the investigation and the final determination based on those findings;

(iv) Actions taken to remedy a person's behavior and prevent reoccurrence; and

(v) When applicable, the legal citation of any law prohibiting the disclosure of any of the information described in this subparagraph and an explanation of how that law applies to the current situation.

(F) Direct the education provider to consider whether the act implicates other civil rights laws and, if so, to respond accordingly. The nature of the act must determine:

(i) The process used to respond to the act;

(ii) The rights and protections available to the person impacted by the act; and

(iii) The right to appeal to the Department of Education or to the United States Department of Education.

(G) Require the education provider to develop and implement instructional materials to make this policy and related practices, including reporting procedures, educational processes and possible consequences, known to all employees and students of the education provider.

(4) Any education provider that violates this section or a policy adopted under this section shall be:

(a) Considered to be in noncompliance with the provisions of ORS 659.850;

(b) Subject to the sanctions for noncompliance of ORS 659.850 under ORS 659.855; and

(c) Subject to the enforcement provisions of ORS 659.850 by ORS 659.860.

SECTION 17. ORS 339.370 is amended to read:

339.370. As used in ORS 339.370 to 339.400:

- (1) "Abuse" has the meaning given that term in ORS 419B.005.
- (2) "Agent" means a person acting as an agent for an education provider in a manner that requires the person to have direct, unsupervised contact with students.
- (3) "Commission licensee" has the meaning given that term in ORS 342.120.
- (4) "Contractor" means a person providing services to an education provider under a contract in a manner that requires the person to have direct, unsupervised contact with students.
- (5)(a) "Education provider" means:
 - (A) A school district, as defined in ORS 332.002.
 - (B) The Oregon School for the Deaf.
 - (C) An educational program under the Youth Corrections Education Program.
 - (D) A public charter school, as defined in ORS 338.005.
 - (E) An education service district, as defined in ORS 334.003.
 - (F) An approved recovery school, as defined in section 1 of this 2023 Act.**
 - ~~[(F)] (G) Any state-operated program that provides educational services to students.~~
 - ~~[(G)] (H) A private school.~~
- (b) "Education provider" does not include:
 - (A) The Oregon Youth Authority;
 - (B) The Department of Corrections; or
 - (C) The Department of Education, except when functioning as an education provider on behalf of the Oregon School for the Deaf.
- (6) "Investigation" means a detailed inquiry into the factual allegations of a report of suspected abuse or suspected sexual conduct that:
 - (a) Is based on interviews with the person who initiated the report, the person who may have been subjected to abuse or sexual conduct, witnesses and the person who is the subject of the report; and
 - (b) Results in a finding that the report:
 - (A) Is a substantiated report;
 - (B) Cannot be substantiated; or
 - (C) Is not a report of abuse or sexual conduct.
- (7) "Law enforcement agency" has the meaning given that term in ORS 419B.005.
- (8) "Licensed administrator" means a person who is employed as an administrator of an education provider and who:
 - (a) Holds an administrative license issued by the Teacher Standards and Practices Commission under ORS 342.125 (3)(f) or (g); or
 - (b) Does not hold an administrative license issued by the commission because the person is employed by an education provider that does not require administrators to be licensed by the commission.
- (9) "Private school" means a school that provides to students instructional programs that are not limited solely to dancing, drama, music, religious or athletic instruction.
- (10) "School board" means the entity charged with adopting policies for an education provider.
- (11) "School employee" means an employee of an education provider.
- (12)(a) "Sexual conduct" means verbal or physical conduct or verbal, written or electronic communications by a school employee, a contractor, an agent or a volunteer that involve a student and that are:
 - (A) Sexual advances or requests for sexual favors directed toward the student; or
 - (B) Of a sexual nature that are directed toward the student or that have the effect of unreasonably interfering with the student's educational performance, or of creating an intimidating or hostile educational environment.
- (b) "Sexual conduct" does not include:
 - (A) Touching or other physical contact:

(i) That is necessitated by the nature of the school employee's job duties or by the services required to be provided by the contractor, agent or volunteer; and

(ii) For which there is no sexual intent.

(B) Verbal, written or electronic communications that are provided as part of an education program that meets state educational standards or a policy approved by the school board.

(C) Conduct or communications described in paragraph (a) of this subsection if the school employee, contractor, agent or volunteer is also a student and the conduct or communications:

(i) Arise out of a consensual relationship between students;

(ii) Do not create an intimidating or hostile educational environment; and

(iii) Are not prohibited by law, any policies of the education provider or any applicable employment agreements.

(13) "Student" means any person:

(a) Who is:

(A) In any grade from prekindergarten through grade 12; or

(B) Twenty-one years of age or younger and receiving educational or related services from an education provider that is not a post-secondary institution of education; or

(b) Who was previously known as a student by the person engaging in sexual conduct and who left school or graduated from high school within 90 days prior to the sexual conduct.

(14) "Substantiated report" means a report of abuse or sexual conduct that a law enforcement agency, the Department of Human Services, the Teacher Standards and Practices Commission, the Department of Education or an education provider has reasonable cause to believe, based on the available evidence after conducting an investigation, is founded.

(15) "Volunteer" means a person acting as a volunteer for an education provider in a manner that requires the person to have direct, unsupervised contact with students.

SECTION 18. ORS 419A.305 is amended to read:

419A.305. (1) As used in this section:

(a) "Principal" means a person having general administrative control and supervision of a school.

(b) "School administrator" means:

(A) The superintendent of the school district in which a youth attends school, or the designee of the superintendent, if the youth attends a public school that is not a public charter school;

(B) The principal of a public charter school, if the youth attends a public charter school;

(C) The principal of a private school that provides education to one or more instructional levels from kindergarten through grade 12 or equivalent instructional levels, if the youth attends a private school;

(D) The superintendent of the school district in which the youth resides, or the designee of the superintendent, if the school that the youth attends is not known by the person giving notice;

(E) The director of the Oregon School for the Deaf; or

(F) The Superintendent of Public Instruction if the youth is in an educational program under the Youth Corrections Education Program **or in an approved recovery school.**

(c) "School district" has the meaning given that term in ORS 332.002.

(2) Notice shall be given to a school administrator when:

(a) A youth makes a first appearance before the juvenile court on a petition described in subsection (7) of this section alleging that the youth is within the jurisdiction of the juvenile court under ORS 419C.005.

(b) A youth admits to being within the jurisdiction of the juvenile court as provided in ORS 419C.005 on a petition described in subsection (7) of this section or is adjudicated by a juvenile court to be within its jurisdiction on a petition described in subsection (7) of this section.

(c) A youth is found responsible except for insanity under ORS 419C.411.

(d) Notice had been given as provided by paragraph (a) or (b) of this subsection and the juvenile court:

(A) Sets aside or dismisses the petition as provided in ORS 419C.261; or

(B) Determines that the youth is not within the jurisdiction of the juvenile court after a hearing on the merits of the petition.

(3) A notice required by subsection (2) of this section shall be given by:

(a) The district attorney;

(b) In the case of a petition filed under ORS 419C.250, the person who filed the petition;

(c) In the case of a person prosecuting a case who is not the district attorney, the person who is prosecuting the case; or

(d) In the case of a juvenile department that has agreed to be responsible for providing the notices required under this section, the juvenile department.

(4) A notice required under subsection (2) of this section may be communicated by mail or other means of delivery, including but not limited to electronic transmission. A notice must include:

(a) The name and date of birth of the youth;

(b) The names and addresses of the youth's parents or guardians;

(c) The alleged basis for the juvenile court's jurisdiction over the youth;

(d) The act alleged in the petition that, if committed by an adult, would constitute a crime;

(e) The name and contact information of the attorney for the youth, if known;

(f) The name and contact information of the individual to contact for further information about the notice;

(g) If applicable, the portion of the juvenile court order providing for the legal disposition of the youth;

(h) Any conditions of release or terms of probation; and

(i) Any other conditions required by the court.

(5) In addition to the information required by subsection (4) of this section:

(a) A notice required by subsection (2)(a) of this section shall contain substantially the following statement: "This notice is to inform you that a student who attends your school may come under the jurisdiction of the juvenile court as the result of a petition filed with the juvenile court. The student has not yet been determined to be within the jurisdiction of the juvenile court nor to have committed any violations of law. The allegation pending before the juvenile court must not be discussed with the student."

(b) A notice required by subsection (2)(b) of this section shall contain substantially the following statement: "This notice is to inform you that a student who attends your school has come under the jurisdiction of the juvenile court as the result of a petition filed with the juvenile court. There may be pending juvenile court hearings or proceedings, and a disposition order may not yet have been entered by the court. The allegation pending before the juvenile court must not be discussed with the student."

(c) A notice required by subsection (2)(c) of this section shall contain substantially the following statement: "This notice is to inform you that a disposition order has been entered in a case involving a student who attends your school about whom a previous notice was sent. The disposition order finds the student to be responsible except for insanity under ORS 419C.411 for the act alleged in the petition filed with the juvenile court. The case should not be discussed with the student."

(d) A notice required by subsection (2)(d) of this section shall contain substantially the following statement: "This notice is to inform you that a petition involving a student who attends your school about whom a previous notice was sent has been set aside or dismissed or the juvenile court has determined the student is not within its jurisdiction. The notice and any documents or information related to the notice in the student's education records should be removed and destroyed upon receipt of this notice. The case should not be discussed with the student."

(6) A notice required under subsection (2) of this section must be given within 15 days after:

(a) The youth makes a first appearance before the juvenile court on a petition;

(b) The youth admits to being within the jurisdiction of the juvenile court;

(c) The youth is adjudicated by a juvenile court to be within the jurisdiction of the court;

(d) The petition is dismissed or set aside;

(e) The juvenile court determines that the youth is not within the jurisdiction of the juvenile court after a hearing on the merits of the petition; or

(f) The juvenile court enters a disposition order finding the youth responsible except for insanity under ORS 419C.411.

(7) This section applies to petitions filed alleging that the youth engaged in:

(a) Conduct that, if committed by an adult, would constitute a crime that:

(A) Involves serious physical injury or threatened serious physical injury to another person, including criminal homicide, felony assault or any attempt to cause serious physical injury to another person;

(B) Involves the sexual assault of an animal or animal abuse in any degree;

(C) Is a felony sex offense listed in ORS 163A.005, except for rape in the third degree under ORS 163.355 or incest under ORS 163.525;

(D) Involves a weapon, as defined in ORS 166.360, or the threatened use of a weapon;

(E) Involves the possession or manufacture of a destructive device, as defined in ORS 166.382, or possession of a hoax destructive device, as defined in ORS 166.385; or

(F) Involves an offense in which an element of the crime is:

(i) Manufacture of a controlled substance or a marijuana item as defined in ORS 475C.009;

(ii) Delivery of a controlled substance or a marijuana item as defined in ORS 475C.009 in conjunction with conduct described in subparagraph (A) of this paragraph; or

(iii) Delivery of a controlled substance or a marijuana item as defined in ORS 475C.009 to a person under 18 years of age; or

(b) Conduct that is of such a nature that the court determines notice is necessary to safeguard the safety and security of the school, students and staff. The person or entity responsible for giving notice under subsection (3) of this section shall request that the court make the determination under this paragraph when the person or entity believes notice is necessary to safeguard the safety and security of the school, students and staff and the conduct involves an offense under ORS 163.160.

(8) Except as otherwise provided in ORS 192.431, a person who sends or receives notice under this section is not civilly or criminally liable for failing to disclose the information under this section.

SECTION 19. ORS 659.852 is amended to read:

659.852. (1) As used in this section:

(a) "Education program" means an education program provided by:

(A) A school district;

(B) A public charter school;

(C) An education service district;

(D) A long term care or treatment facility, as described in ORS 343.961;

(E) The Youth Corrections Education Program;

(F) The Oregon School for the Deaf;

(G) An approved recovery school, as defined in section 1 of this 2023 Act;

~~[(G)] (H) A community college operated under ORS chapter 341;~~

~~[(H)] (I) A public university listed in ORS 352.002;~~

~~[(I)] (J) A career school;~~

~~[(J)] (K) A private school; or~~

~~[(K)] (L) A private college or university.~~

(b) "Retaliation" means suspension, expulsion, disenrollment, grade reduction, denial of academic or employment opportunities, exclusion from academic or extracurricular activities, denial of access to transcripts, threats, harassment or other adverse action that substantially disadvantages a student in academic, employment or extracurricular activities.

(2) A student of an education program may not be subjected to retaliation by an education program for the reason that the student has in good faith reported information that the student believes is evidence of a violation of a state or federal law, rule or regulation.

(3) A student, or a parent or guardian of a student under 18 years of age, who alleges a violation of subsection (2) of this section may bring a civil action under ORS 659A.885.

SECTION 20. Notwithstanding any other provision of law, the General Fund appropriation made to the Department of Education by section 1 (1), chapter __, Oregon Laws 2023 (Enrolled House Bill 5014), for the biennium beginning July 1, 2023, for operations, is increased by \$2,601,745, to implement the provisions of this 2023 Act.

SECTION 21. Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 7 (4), chapter __, Oregon Laws 2023 (Enrolled House Bill 5014), for the biennium beginning July 1, 2023, as the maximum limits for payment of grants-in-aid, program costs and purchased services from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds, corporate activity tax funds and federal funds, collected or received by the Department of Education for programs other than those specified in sections 6 and 15, chapter __, Oregon Laws 2023 (Enrolled House Bill 5014), for all other grants, is increased by \$1,100,232 to implement the provisions of this 2023 Act.

SECTION 22. Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 13 (3), chapter __, Oregon Laws 2023 (Enrolled House Bill 5014), for the biennium beginning July 1, 2023, as the maximum limits for payments of grants-in-aid, program costs and purchased services by the Department of Education from the Statewide Education Initiatives Account established under ORS 327.250, for all other grants, is increased by \$2,049,768 to implement the provisions of this 2023 Act.

SECTION 23. This 2023 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect July 1, 2023.

Passed by House June 14, 2023

.....
Timothy G. Sekerak, Chief Clerk of House

.....
Dan Rayfield, Speaker of House

Passed by Senate June 23, 2023

.....
Rob Wagner, President of Senate

Received by Governor:

.....M.,....., 2023

Approved:

.....M.,....., 2023

.....
Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M.,....., 2023

.....
Secretary of State