

## CHAPTER 81

AN ACT

SB 1522

Relating to education; creating new provisions; amending ORS 326.545, 326.700, 329.451, 329.496, 336.585, 336.590, 338.135, 339.450, 339.460, 341.522, 350.290, 350.355, 350.426, 352.287, 475C.097, 475C.101, 475C.105, 475C.833, 475C.840 and 475C.847; and declaring an emergency.

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

## TRANSFER COUNCIL MEMBERSHIP

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

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

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

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

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

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

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

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

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

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

(b) In order to serve as a member of the council, an individual must at all times meet the qualifications for the appointment. If at any time a member

fails to meet the qualifications for the member's appointment, the position is vacant.

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

(5)(a) The council:

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

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

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

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

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

(6)(a) A majority of the voting members of the council constitutes a quorum for the transaction of business.

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

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

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

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

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

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

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

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

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

### IN-STATE TUITION PROVISIONS

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

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

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

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

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

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

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

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

(2) A person who served in the Armed Forces of the United States or in an international position with the state, the federal government or a

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

(3)(a) **Except as provided in paragraph (b) of this subsection**, distance education and self-support courses as identified by each public university listed in ORS 352.002 and community college are exempt from the tuition reduction provisions of this section.

**(b) The tuition reduction provisions of this section apply to distance education courses as identified by each public university listed in ORS 352.002 and community college that are taken by a person who:**

**(A) Is eligible to receive the tuition reduction provisions of this section when attending classes as an undergraduate or graduate student on a public university or community college campus in this state; and**

**(B) Served in the Armed Forces of the United States.**

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

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

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

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

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

(d) Shows intention to become a citizen or a lawful permanent resident of the United States by submitting to the public university the student attends or plans to attend an official copy of the student's application to register with a federal immigration program or federal deportation deferral program or a statement of intent that the student will seek to obtain citizenship as permitted under federal law.

(2) The governing board shall exempt a student who is financially dependent upon a person who is not a citizen or a lawful permanent resident of the United States from paying nonresident tuition and fees for enrollment as an undergraduate student and

as a graduate student in a degree program at a public university listed in ORS 352.002 if the student:

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

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

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

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

(3) A student who is a citizen or a lawful permanent resident of the United States and who has resided outside of Oregon for more than three years while serving in the Armed Forces of the United States, but who otherwise meets the requirements of subsection (1) or (2) of this section, shall qualify for exemption from nonresident tuition and fees for enrollment as an undergraduate student and a graduate student in a degree program at a public university listed in ORS 352.002 without having to reestablish residency in Oregon.

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

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

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

(7) Not later than July 1 of each year, the Higher Education Coordinating Commission shall report to the Speaker of the House of Representen-

tatives, the President of the Senate and the interim committees of the Legislative Assembly with subject matter authority over higher education, for the preceding academic year:

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

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

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

(9) As used in this section:

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

(A) The Republic of Palau;

(B) The Republic of the Marshall Islands; or

(C) The Federated States of Micronesia.

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

(c) "Special immigrant visa holder" means:

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

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

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

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

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

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

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

**(a) Requires the graduate student to provide the contact information described in ORS 243.804 (4)(a)(B); and**

**(b) Waives any privacy rights to, and authorizes the public university to disclose, the information described in paragraph (a) of this subsection.**

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

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

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

**YOUTH CORRECTIONS  
EDUCATION PROGRAM AND  
JUVENILE DETENTION  
EDUCATION PROGRAM**

**SECTION 5.** ORS 329.451 is amended to read:

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

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

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

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

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

- (A) Twenty-four total credits;
- (B) Three credits of mathematics; and
- (C) Four credits of language arts.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**(II) Funded as provided by ORS 343.243 for students in a long term care or treatment facility described in ORS 343.961 or a hospital 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 6.** ORS 329.451, as amended by section 1, chapter 175, Oregon Laws 2021, is amended to read:

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

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

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

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

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

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

(I) **Provided by a school district, a public charter school, the Youth Corrections Education**

**Program or the Juvenile Detention Education Program; or**

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

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

(a) Includes, but is not limited to:

(A) Additional time to demonstrate proficiency.

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

ploma 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;

(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 con-

sent may not be used to allow a student to satisfy the requirements of subsection (7), (8) or (9) of this section in less than three years.

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

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

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

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

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

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

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

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

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

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

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

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

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

(C) Include in the individualized education program for the student a written statement that explains the reasons the student is not accessing the total number of hours of instruction and services to

which the student has access under paragraph (a)(B) of this subsection.

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

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

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

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

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

(A) Beginning in grade five; or

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

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

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

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

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

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

**SECTION 7.** ORS 326.700 is amended to read:

326.700. It is the purpose of ORS 326.712 and 327.026 and this section that *[youths enrolled in the Youth Corrections Education Program and the Juvenile Detention Education Program administered by the Department of Education be treated as nearly the same as practicable in the distribution of the State School Fund as children enrolled in common and union high school districts in this state.]*:

**(1) Students who are enrolled in the Youth Corrections Education Program, as defined in ORS 326.695, or the Juvenile Detention Education Program, as defined in ORS 326.695, receive an appropriate education that is as nearly the same as practicable as the education that is received by students enrolled in common and union high school districts in this state; and**

**(2) Students who are enrolled, or youth who had recently been enrolled, in the Youth Corrections Education Program or the Juvenile Detention Education Program are able to smoothly transition from these programs into school settings and workforce preparation programs.**

**SECTION 8.** ORS 336.585 is amended to read:

336.585. (1) As used in this section:

(a) “Juvenile Detention Education Program” means the program defined in ORS 326.695.

(b) “Resident district” means the school district in which the parents or legal guardian, if any, of a child resided at the time of the child’s enrollment in the Juvenile Detention Education Program. If the child has no parents or legal guardian, or none can be located, the resident district is the school district in which the child is physically located.

(2)(a) The Department of Education shall provide or cause to be provided appropriate education for children enrolled in an educational program under the Juvenile Detention Education Program. The Superintendent of Public Instruction may contract with a school district or education service district to provide or cause to be provided appropriate education to children enrolled in an educational program under the Juvenile Detention Education Program. **For the purpose of this section, an appropriate education includes transition services from the Juvenile Detention Education Program into school settings and workforce preparation programs and any necessary ongoing support for a transition.**

(b) An education service district that provides education as provided by this subsection and that awards high school diplomas:

(A) 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

(B) Must accept any credits previously earned by children 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.

(3) The superintendent shall pay the costs of providing education to children enrolled in an educational program under the Juvenile Detention Education Program from the State School Fund grant allocated for that purpose under ORS 327.026.

(4) The State Board of Education shall adopt by rule standards to be applied to the operation of the Juvenile Detention Education Program, including standards that allow a school district or an educa-

tion service district under contract with the superintendent to:

(a) Implement an assessment system as provided by ORS 329.485 [(3)].

(b) Administer a nationally normed assessment as provided by ORS 329.488.

(c) Participate in the beginning teacher and administrator mentorship program established by ORS 329.788 to 329.820.

(d) Receive funds under ORS chapter 329.

(5) The superintendent shall ensure that the resident district of each child enrolled in an educational program under the Juvenile Detention Education Program is notified, if the resident district can be reasonably identified. The purposes of the notification include, but are not limited to:

(a) Removing the child from the resident district's census;

(b) Facilitating transfers of the child's educational records; and

(c) Facilitating planning for the child's possible return to the resident district.

**SECTION 9.** ORS 336.590 is amended to read:

336.590. (1) As used in this section, "Youth Corrections Education Program" means the program defined in ORS 326.695.

(2) The Department of Education shall provide or cause to be provided appropriate education for children enrolled in an educational program under the Youth Corrections Education Program. The Superintendent of Public Instruction may contract with a school district or education service district to provide or cause to be provided appropriate education to children enrolled in an educational program under the Youth Corrections Education Program.

**For the purpose of this section, an appropriate education includes transition services from the Youth Corrections Education Program into school settings and workforce preparation programs and any necessary ongoing support for a transition.**

(3) The superintendent shall pay the costs of providing education to children enrolled in an educational program under the Youth Corrections Education Program from the State School Fund grant allocated for that purpose under ORS 327.026.

(4) The State Board of Education shall adopt by rule standards to be applied to the operation of the Youth Corrections Education Program, including standards that allow a school district or an education service district under contract with the superintendent to:

(a) Award high school diplomas, modified diplomas, extended diplomas and alternative certificates as provided by ORS 329.451 and 339.877. An education service district that awards high school diplomas as provided by this paragraph:

(A) 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

(B) Must accept any credits previously earned by children 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.

(b) Implement an assessment system as provided by ORS 329.485 [(3)].

(c) Administer a nationally normed assessment as provided by ORS 329.488.

(d) Participate in the beginning teacher and administrator mentorship program established by ORS 329.788 to 329.820.

(e) Receive funds under ORS chapter 329.

**SECTION 10.** (1) **The amendments to ORS 326.700, 336.585 and 336.590 by sections 7 to 9 of this 2022 Act become operative on July 1, 2022.**

(2) **The amendments to ORS 326.700, 336.585 and 336.590 by sections 7 to 9 of this 2022 Act first apply to the 2022-2023 school year.**

## PROVISION OF MENSTRUAL PRODUCTS TO STUDENTS

**SECTION 11.** ORS 326.545, as operative until July 1, 2022, is amended to read:

326.545. (1) As used in this section:

(a) "Public education provider" means:

(A) A school district;

(B) A public charter school;

(C) An education service district;

(D) A community college; or

(E) A public university listed in ORS 352.002.

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

(c) "Student bathroom" means a bathroom that is accessible by students **in kindergarten or above**, including a gender-neutral bathroom, a bathroom designated for females and a bathroom designated for males.

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

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

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

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

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

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

**(c) The provision of tampons and sanitary pads in an alternate location when the public education provider does not have control of the student bathrooms used by the students of the public education provider;**

**(d) Modifications to or exemptions from the requirements of this section for student bathrooms that are not located in commonly accessible areas of public school buildings of a community college or a public university; and**

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

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

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

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

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

**SECTION 12.** ORS 326.545 is amended to read: 326.545. (1) As used in this section:

(a) "Public education provider" means:

(A) A school district;

(B) A public charter school;

(C) An education service district;

(D) A community college; or

(E) A public university listed in ORS 352.002.

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

(c) "Student bathroom" means a bathroom that is accessible by students **in kindergarten or above**, including a gender-neutral bathroom, a bathroom designated for females and a bathroom designated for males.

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

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

(4) The State Board of Education and the Higher Education Coordinating Commission shall adopt any

rules necessary for the administration of this section. Rules adopted by the board and commission shall provide for:

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

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

**(c) The provision of tampons and sanitary pads in an alternate location when the public education provider does not have control of the student bathrooms used by the students of the public education provider;**

**(d) Modifications to or exemptions from the requirements of this section for student bathrooms that are not located in commonly accessible areas of the public school buildings of a community college or a public university; and**

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

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

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

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

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

## PARTICIPATION IN INTERSCHOLASTIC ACTIVITIES

**SECTION 13.** ORS 339.460 is amended to read: 339.460. (1) As used in this section:

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

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

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

(d) "Interscholastic activities" includes:

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

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

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

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

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

(i) The school district’s school or class attendance requirements; and

(ii) The class requirements of the voluntary association that administers the interscholastic activity, if applicable.

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

(b) For a homeschooled student or a student who attends a public charter school, the student must *[meet]* **demonstrate academic eligibility by meeting** one of these requirements:

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

(B) Meet alternative requirements that a school district adopts, in consultation with the student’s parent or legal guardian, to participate in interscholastic activities, including but not limited to a requirement that a student submit a portfolio of work samples to a school district committee for review to determine whether the student is eligible to participate in interscholastic activities.

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

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

(A) An annual fee that is equivalent to not more than five percent of the amount of the school district’s General Purpose Grant per ADMw, as calculated under ORS 327.013; and

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

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

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

(4) **[A GED] A high school equivalency** student, a homeschooled student or a student who attends a public charter school may participate in interscholastic activities while awaiting examination or practice test results **unless the student is awaiting the results to restore academic eligibility**.

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

**(5) A high school equivalency student, a homeschooled student or a student who attends a public charter school who does not maintain academic eligibility is ineligible to participate in interscholastic activities for the school year in which the student is determined to be academically ineligible unless:**

**(a) At least 18 weeks have passed from the later of the date that the student:**

**(A) Was determined to have not maintained academic eligibility; or**

**(B) Became a high school equivalency student or a homeschooled student; and**

**(b) The student takes the required examinations or practice tests and meets the standards described in subsection (2)(b) or (c) of this section.**

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

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

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

**SECTION 14.** ORS 339.450 is amended to read: 339.450. A school, school district or association, whether public or private, may not deny any grade or high school student the right to participate in interscholastic athletics solely on the ground that the student:

- (1) Transferred between schools;
- (2) Attends a public charter school, as defined in ORS 338.005;
- (3) Participated in athletics at another school;

or

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

**PLAN TO ENSURE ACCESS  
TO EDUCATIONAL PROGRAMS  
AT CORRECTIONAL FACILITIES**

**SECTION 15.** (1) The Department of Corrections shall develop a plan for providing the equipment, connectivity and infrastructure necessary to ensure that adults in custody in the Coffee Creek Correctional Facility and the Snake River Correctional Institution have online access to:

- (a) The adult basic skills development program described in ORS 421.084;

- (b) The professional and technical program described in ORS 421.081; and

- (c) Education programs that provide college credit, a college degree, a college certification, an industry-recognized certification or license or an apprenticeship.

(2) The department shall submit the plan developed under this section, in the manner provided by ORS 192.245, to an interim committee of the Legislative Assembly related to education no later than December 31, 2022.

**SECTION 16.** Section 15 of this 2022 Act is repealed on January 2, 2024.

**SECTION 17.** (1) No later than September 1, 2023, the Department of Corrections shall ensure that adults in custody in the Coffee Creek Correctional Facility and the Snake River Correctional Institution have online access to:

- (a) The adult basic skills development program described in ORS 421.084;

- (b) The professional and technical program described in ORS 421.081; and

- (c) Education programs that provide college credit, a college degree, a college certification, an industry-recognized certification or license or an apprenticeship.

(2) Nothing in this section establishes a legally enforceable right to online access to the programs described in this section for adults in custody.

(3) The department shall adopt any rules necessary for establishing program eligibility and participation criteria for online access for adults in custody.

**ELIGIBILITY FOR OREGON PROMISE GRANT**

**SECTION 18.** ORS 341.522 is amended to read: 341.522. (1) The Office of Student Access and Completion shall administer the Oregon Promise program as provided by this section.

(2) Subject to subsections (7) to (10) of this section, the office shall provide a grant for community college courses to a person who meets the criteria described in subsections (3) to (6) of this section. The grant shall be limited as provided by subsections (7) to (10) of this section.

(3) A grant shall be awarded under this section to a person who meets the following criteria:

- (a) Is enrolled in courses that are:
  - (A) Offered at a community college in this state; and

(B) Determined by the office, in accordance with rules adopted by the Higher Education Coordinating Commission, to be required for completion of:

- (i) A one-year curriculum for students who plan to transfer to another post-secondary institution of education;
- (ii) An associate degree; or

(iii) A program in career and technical education;

(b) Except as provided in subsection (5) of this section, has been a resident of this state for at least 12 months prior to enrolling in the courses described in paragraph (a) of this subsection;

(c) Attained the person's highest level of education, except as provided in subsection (5) of this section, in this state prior to:

(A) Receiving a diploma under ORS 329.451;

(B) Receiving a certificate for passing an approved high school equivalency test such as the General Educational Development (GED) test as provided by ORS 350.175;

(C) Completing grade 12 in compliance with the requirements of ORS 339.035; or

(D) Completing grade 12 at a private or parochial school, as described in ORS 339.030 (1)(a);

(d) Except as provided in subsections (4) and (5) of this section, attained the person's highest level of education as described in paragraph (c) of this subsection within six months from the date that the person first enrolls in courses described in paragraph (a) of this subsection for the purpose of receiving a grant under this section;

(e) Earned a cumulative grade point average of [2.5] **2.0** or better in high school or otherwise demonstrated an equivalent academic ability, as determined by the office according to rules adopted by the commission;

(f) Completed and submitted the Free Application for Federal Student Aid for each academic year and accepted all state and federal aid grants available to the person, if eligible to file the application; and

(g) Has not completed either of the following:

(A) More than a total of 90 credit hours, or the equivalent, at a post-secondary institution of education; or

(B) A curriculum, degree or program, as described in paragraph (a)(B) of this subsection.

(4)(a) If a person otherwise meets the required criteria and has been awarded a grant under subsection (3) of this section, but the person enters into service with a career and technical student organization relating to agriculture or farming that is approved by the Department of Education under ORS 344.077 within six months after the person attained the person's highest level of education as described in subsection (3)(c) of this section, the person will continue to be eligible to receive the grant if the person first enrolls in courses described in subsection (3)(a) of this section within six months of finishing the person's service with the career and technical student organization.

(b) In addition to the situation described in paragraph (a) of this subsection, the commission may waive the requirement set forth in subsection (3)(d) of this section for a person who shows that the person was unable to timely enroll in courses described in subsection (3)(a) of this section due to a significant hardship. The commission may adopt rules to implement this paragraph.

(5)(a) A member of the Oregon National Guard who has completed initial active duty training is not required to comply with the criteria set forth in subsection (3)(d) of this section in order to receive a grant, provided that the member first enrolls in courses described in subsection (3)(a) of this section within six months after completing initial active duty training, as evidenced by an official form issued by the United States Department of Defense.

(b)(A) A person who completes the highest level of education as described in subsection (3)(c) of this section while confined in a correctional facility, either serving a sentence of incarceration or as a young person, youth or adjudicated youth, is not required to comply with the criteria set forth in subsection (3)(d) of this section in order to receive a grant, provided that the person first enrolls in courses described in subsection (3)(a) of this section within six months after the date on which the person is first released from a correctional facility following completion of the highest level of education described in subsection (3)(c) of this section.

(B) The eligibility requirements described in subsection (6)(a)(C) of this section may be waived by the office according to rules adopted by the commission for a person who receives a grant under this section in the manner described in subparagraph (A) of this paragraph.

(C) As used in this paragraph:

(i) "Adjudicated youth," "detention facility," "young person" and "youth" have the meanings given those terms in ORS 419A.004.

(ii) "Correctional facility" means any place used for the confinement of young persons, youths or adjudicated youths or persons charged with or convicted of a crime or otherwise confined under a court order, including a:

(I) Youth correction facility;

(II) Detention facility;

(III) Department of Corrections institution;

(IV) Local correctional facility; or

(V) State hospital or a secure intensive community inpatient facility, with respect to persons detained therein who are youths or adjudicated youths, who are charged with or convicted of a crime or who are detained therein after having been found guilty except for insanity of a crime under ORS 161.290 to 161.373 or having been found responsible except for insanity under ORS 419C.411.

(iii) "Department of Corrections institution" has the meaning given that term in ORS 421.005.

(iv) "Local correctional facility" has the meaning given that term in ORS 169.005.

(v) "Youth correction facility" has the meaning given that term in ORS 420.005.

(c)(A) If a person was a foster child:

(i) The person shall be treated as meeting the residency criteria for eligibility under subsection (3)(b) of this section if, but for the person's placement in out-of-state foster care, the person otherwise meets the requirements of subsection (3)(b) of this section.

(ii) The person shall be treated as attaining the person's highest level of education in this state under subsection (3)(c) of this section if the person attained the person's highest level of education while placed in out-of-state foster care and the person's highest level of education substantially meets the requirements under subsection (3)(c) of this section.

(iii) The person is not required to comply with the criteria set forth in subsection (3)(d) of this section in order to receive a grant provided that the person completes the highest level of education as described in subparagraph (A)(ii) of this paragraph while in a treatment program and the person first enrolls in courses described in subsection (3)(a) of this section within 12 months after the date on which the person is released from the treatment program.

(B) Upon request from the commission, the Department of Human Services shall provide documentation of the placement status of a person described in paragraph (c)(A) of this subsection.

(C) As used in this paragraph:

(i) "Foster care" means substitute care for children placed by the Department of Human Services or a tribal child welfare agency away from the child's parents and for whom the department or agency has placement and care responsibility, including placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions and pre-adoptive homes.

(ii) "Foster child" means a child over whom the Department of Human Services retained jurisdiction under ORS 417.200 for the duration of the child's placement in foster care outside the State of Oregon.

(6)(a) A person continues to remain eligible to receive a grant under this section if the person, in addition to satisfying the criteria specified in subsection (3) of this section, meets the following criteria:

(A) Maintains at least the minimum cumulative grade point average prescribed by the commission based on federal aid grant requirements;

(B) Makes satisfactory academic progress toward a curriculum, degree or program, as described in subsection (3)(a)(B) of this section, as prescribed by the commission based on federal aid grant requirements; **and**

(C) Enrolls in courses described in subsection (3)(a) of this section for a sufficient number of credit hours to be considered at least a half-time student each term for at least three terms in each consecutive academic year.]; *and*]

*[(D) Completes a first-year experience, as identified by the community college and reported by the community college to the commission.]*

(b) A person who fails to meet an eligibility requirement described in paragraph (a) of this subsection becomes ineligible to receive a grant under this section for the term after which the person fails to meet the eligibility requirement, unless the eligibility requirement is waived by the office according to rules adopted by the commission.

(7)(a) The total amount of a grant awarded under this section shall be based on each term that a person is enrolled in courses described in subsection (3)(a) of this section. Except as provided in subsections (9) and (10) of this section, after the amount of tuition for the person for the term is reduced by any amounts received by the person in state and federal aid grants, the person shall be eligible for a grant under this section in an amount that equals:

(A) Except as provided by *[paragraphs]* **paragraph (b) [and (c)]** of this subsection, not less than the greater of:

(i) *[\$1,000]* **\$2,000, adjusted for inflation based on the increase of the average cost of tuition at a community college operated under ORS chapter 341 in a manner determined by the commission by rule;** and

(ii) The person's actual cost for tuition.

(B) Not more than the lesser of:

(i) The average cost of tuition at a community college in this state, as determined by the office; and

(ii) The person's actual cost for tuition.

*[(b) The amount of a grant, as calculated under paragraph (a) of this subsection, shall be reduced by \$50 for each term that the person receives a grant under this section.]*

*[(c)(A)]* **(b)(A)** If the office determines both that the person's actual cost for tuition exceeds the amount set forth in paragraph (a)(A)(i) of this subsection and that the person's actual cost for tuition exceeds the average cost of tuition at a community college in this state, the person shall be eligible for a grant in an amount that equals the average cost of tuition at a community college in this state.

(B) If the office determines that the person's actual cost for tuition is less than the amount set forth in paragraph (a)(A)(i) of this subsection, the person shall be eligible for a grant in an amount that equals the amount set forth in paragraph (a)(A)(i) of this subsection.

*[(d)]* **(c)** The minimum amount of a grant, as calculated under paragraphs (a) *[to (c)]* **and (b)** of this subsection, may be prorated for a person who is enrolled in courses described in subsection (3)(a) of this section for a sufficient number of credit hours to be considered at least a half-time student but not a full-time student.

*[(e)]* **(d)** The commission may prescribe by rule whether to include fees, and any limitations related to the inclusion of fees, when determining the actual cost of tuition or the average cost of tuition under this subsection.

(8) The commission may adopt by rule the priority by which grants are awarded, which may allow for preference to be given to persons enrolled in school districts or high schools that meet specified criteria.

(9) Prior to the start of the fall term of each academic year, the commission shall determine whether there are sufficient moneys to award a grant under this section to each person who meets the criteria described in subsections (3) to (6) of this section. **When making a determination under**

**this subsection, the commission may consider both projected resources and statutory modifications that will take effect during the current biennium.** On the basis of this determination the commission may:

(a) Limit eligibility to receive a grant under this section to a person whose [*family contribution*] **financial resources**, as determined by the commission by rule, [*is*] **are** at or below the level the commission determines is necessary to allow the commission to operate the Oregon Promise program with available moneys; or

(b) Reduce or eliminate any limitation on eligibility previously imposed by the commission under paragraph (a) of this subsection.

(10)(a) If at any time the commission determines that there are insufficient moneys to provide a grant to each person who has been awarded a grant under this section, the commission may[:]

[(A)] decrease the total amount of the grant awarded.[:; or]

[(B)] *Increase the amount that a person must pay under subsection (7)(b) of this section for each term that the person receives a grant under this section.*

(b) If at any time the commission determines that the amount of moneys available to operate the Oregon Promise program exceeds the amount determined under subsection (9) of this section, the commission may reduce or eliminate any limitation on eligibility to receive a grant under this section that was previously imposed by the commission under subsection (9)(a) of this section.

(c) The commission shall promptly notify the interim committees of the Legislative Assembly responsible for higher education each time the commission takes any action under paragraph (a) or (b) of this subsection.

(11) The commission shall adopt any rules necessary for the administration of this section, including any requirements related to:

(a) Specifying the form and timelines for submitting an application for a grant under this section;

(b) Determining whether a person is eligible for a grant under this section, including whether the person shall be given priority as allowed under subsection (8) of this section;

(c) Implementing programs or policies that improve the academic success or completion rates for persons who receive a grant under this section;

(d) Prescribing eligibility requirements and grant calculations for persons dually enrolled in a community college and a public university; and

(e) Evaluating the impact of the program established under this section, including any requirements for reporting data needed for evaluations.

(12) No later than December 31 of each even-numbered year, the commission shall submit to an interim legislative committee related to education a report that summarizes the commission's findings on the impact of the program established under this section. The report shall include:

(a) Student completion rates of curricula, degrees and programs described in subsection (3)(a)(B) of this section;

(b) The amount of federal aid grants received by persons who received a grant under this section;

(c) The financial impact of the program on school districts that had students receive a grant under this section;

(d) The financial impact and the enrollment impact of the program on community colleges and public universities in this state; and

(e) The overall success rate of the program and financial impact of the program.

**SECTION 19. The amendments to ORS 341.522 by section 18 of this 2022 Act first apply to the 2022-2023 academic year.**

### PHYSICAL EDUCATION REQUIREMENTS

**SECTION 20.** ORS 329.496 is amended to read: 329.496. (1) Every public school student in kindergarten through grade eight shall participate in physical education for the entire school year.

(2)(a) Students in kindergarten through grade five, and students in grade six at a school that teaches kindergarten through grade six, shall participate in physical education for at least 150 minutes during each school week.

(b) Except as provided by paragraph (a) of this subsection, students in grades six through eight shall participate in physical education for at least 225 minutes during each school week.

(c) Notwithstanding the time requirements established by paragraphs (a) and (b) of this subsection, the State Board of Education shall adopt rules that prorate the time requirements for:

(A) School weeks with scheduled school closures, including closures for holidays, inservice days and days scheduled for parent-teacher conferences;

(B) School weeks with unscheduled school closures, including closures for inclement weather and emergencies;

(C) School weeks with out-of-school activities that occur during usual school hours, including field trips and outdoor school programs;

(D) Part-time school programs, including half-day kindergarten; and

(E) Irregular class schedules, including class schedules based on a four-day week.

(d) School districts and public charter schools are not required to comply with the time requirements established by paragraphs (a) and (b) of this subsection for school years during the biennium in which the total amounts appropriated or allocated to the State School Fund and available for distribution to school districts are less than the amounts determined to be needed for school districts through the State School Fund under the tentative budget prepared as provided by ORS 291.210. After the beginning of a biennium, a school district or a public charter school may cease to comply with the time

requirements established by paragraphs (a) and (b) of this subsection if the amounts appropriated or allocated to the State School Fund and available for distribution to school districts are less than the amounts determined to be needed for distribution through the State School Fund, as calculated under ORS 291.210.

(3) School districts and public charter schools shall offer instruction in physical education that meets the academic content standards for physical education adopted by the State Board of Education under ORS 329.045. The instruction shall be a sequential, developmentally appropriate curriculum that is designed, implemented and evaluated to help students develop the knowledge, motor skills, self-management skills, attitudes and confidence needed to adopt and maintain physical activity throughout their lives.

(4)(a) School districts and public charter schools shall devote at least 50 percent of physical education class time to actual physical activity in each school week, with as much class time as possible spent in moderate physical activity.

(b)(A) For the purpose of satisfying the time requirements established by subsection (2) of this section, school districts and public charter schools may provide up to 45 minutes of activities during each school week that:

(i) Meet the academic content standards for physical education adopted by the State Board of Education under ORS 329.045;

(ii) Are provided for students by a teacher whose license allows the teacher to provide instruction in physical education to those students, even if the teacher does not have a physical education endorsement; and

(iii) Have been reviewed by a licensed teacher with a physical education endorsement.

(B) The Department of Education shall:

(i) Review and, as appropriate, approve activities that are developed by nonprofit professional organizations representing health and physical education educators if the activities meet the requirements of subparagraph (A) of this paragraph; and

(ii) Make available to school districts and public charter schools a list of activities approved as provided by this subparagraph.

(C) School districts and public charter schools may provide activities that meet the requirements of subparagraph (A) of this paragraph even if the activities are not approved as provided by subparagraph (B) of this paragraph.

(5)(a) Notwithstanding subsections (1), (2) and (4) of this section, a student with disabilities shall have suitably adapted physical education incorporated as part of the individualized education program developed for the student under ORS 343.151.

(b) Notwithstanding subsections (1), (2) and (4) of this section, a student who does not have an individualized education program but has chronic health problems, other disabling conditions or other special needs that preclude the student from participating in regular physical education instruction

shall have suitably adapted physical education incorporated as part of an individualized health plan developed for the student by the school district or public charter school.

(6) School districts and public charter schools shall assess school curricula at regular intervals to measure the attainment of the minimum number of minutes that students are required to participate in physical education under this section.

(7)(a) All teachers of physical education for public school students in kindergarten through grade eight shall be adequately prepared and shall regularly participate in professional development activities to effectively deliver the physical education program.

(b)(A) Notwithstanding any licensing or endorsement requirements established by the Teacher Standards and Practices Commission, a teacher with an elementary multiple subject endorsement may instruct students in activities described in subsection (4)(b) of this section if the activities are reviewed by a licensed teacher with a physical education endorsement.

(B) A teacher described in this paragraph may provide instruction in activities described in subsection (4)(b) of this section to students who are not regularly taught by the teacher as long as the instruction in the activities to students who are not regularly taught by the teacher does not exceed 45 minutes during each school week. Nothing in this subparagraph allows a school district to employ a teacher for the sole purpose of providing instruction in activities described in subsection (4)(b) of this section.

(8) A school district that does not comply with the requirements of this section is considered to be nonstandard under ORS 327.103.

**(9)(a) Notwithstanding subsection (8) of this section and pursuant to rules adopted by the State Board of Education, the Superintendent of Public Instruction may grant a waiver of the requirements of this section to a school district or a public charter school if the superintendent finds that the school district or public charter school is unable to meet the requirements because of a human-created disaster or a natural disaster.**

**(b) A waiver granted under this subsection may be:**

**(A) In whole or in part of the requirements prescribed by this section; and**

**(B) Granted for only one school year, but may be renewed for subsequent school years based on rules adopted by the board if the school district or public charter school continues to be impacted by the disaster.**

**SECTION 21. (1) The amendments to ORS 329.496 by section 20 of this 2022 Act first apply to the 2020-2021 school year.**

**(2) Notwithstanding ORS 329.496 or section 2, chapter 301, Oregon Laws 2017, a school district may not be considered to be nonstandard**

for failure to comply with the provisions of ORS 329.496 or section 2, chapter 301, Oregon Laws 2017, if the school district receives a waiver as provided by ORS 329.496 (9).

## LOCATIONS OF MARIJUANA RETAILERS

**SECTION 22.** ORS 475C.097 is amended to read:

475C.097. (1) The retail sale of marijuana items is subject to regulation by the Oregon Liquor and Cannabis Commission.

(2) A marijuana retailer must have a retail license issued by the commission for the premises at which marijuana items are sold. To hold a retail license under this section, a marijuana retailer:

(a) Must apply for a license in the manner described in ORS 475C.033;

(b) Must provide proof that the applicant is 21 years of age or older;

(c) May not be located in an area that is zoned exclusively for residential use;

(d) Except as provided in ORS 475C.101, may not be located within 1,000 feet of:

**(A) A building where a public prekindergarten or kindergarten program is provided by a school district or an education service district;**

[(A)] **(B)** A public elementary or secondary school for which attendance is compulsory under ORS 339.020; or

[(B)] **(C)** A private or parochial elementary or secondary school, teaching children as described in ORS 339.030 (1)(a); and

(e) Must meet the requirements of any rule adopted by the commission under subsection (3) of this section.

(3) The commission shall adopt rules that:

(a) Require a marijuana retailer to annually renew a license issued under this section;

(b) Establish application, licensure and renewal of licensure fees for marijuana retailers;

(c) Require marijuana items sold by a marijuana retailer to be tested in accordance with ORS 475C.544;

(d) Notwithstanding ORS 475C.205, allow a marijuana retailer to deliver marijuana items to another marijuana retailer that has on the marijuana retailer's license application a person that has an interest in or authority over the management of the other marijuana retailer;

(e) Subject to the limitations and privileges described in ORS 475C.149 (3), allow a marijuana retailer registered under ORS 475C.149 to sell medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts at retail in the same manner that rules adopted under ORS 475C.005 to 475C.525 allow a marijuana retailer to sell general use cannabinoid products, cannabinoid concentrates and cannabinoid extracts at retail, excepting those circumstances where differentiating between the sale of medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts

and the sale of general use cannabinoid products, cannabinoid concentrates and cannabinoid extracts is necessary to protect the public health and safety; and

(f) Require a marijuana retailer to meet any public health and safety standards and industry best practices established by the commission by rule.

(4) Fees adopted under subsection (3)(b) of this section:

(a) May not exceed, together with other fees collected under ORS 475C.005 to 475C.525, the cost of administering ORS 475C.005 to 475C.525; and

(b) Shall be deposited in the Marijuana Control and Regulation Fund established under ORS 475C.297.

**SECTION 23.** ORS 475C.101 is amended to read:

475C.101. Notwithstanding ORS 475C.097 (2)(d), a marijuana retailer may be located within 1,000 feet of a [school] **building described in ORS 475C.097 (2)(d)** if:

(1)(a) The marijuana retailer is not located within 500 feet of:

**(A) A building where a public prekindergarten or kindergarten program is provided by a school district or an education service district;**

[(A)] **(B)** A public elementary or secondary school for which attendance is compulsory under ORS 339.020; or

[(B)] **(C)** A private or parochial elementary or secondary school, teaching children as described in ORS 339.030 (1)(a); and

(b) The Oregon Liquor and Cannabis Commission determines that there is a physical or geographic barrier capable of preventing children from traversing to the premises of the marijuana retailer; or

(2) The marijuana retailer was established before August 1, 2017, in accordance with a city or county ordinance adopted under section 29b, chapter 83, Oregon Laws 2016.

**SECTION 24.** ORS 475C.105 is amended to read:

475C.105. If a [school] **building** described in ORS 475C.097 (2)(d) that has not previously been attended by children is established within 1,000 feet of a premises for which a license has been issued under ORS 475C.097, the marijuana retailer located at that premises may remain at that location unless the Oregon Liquor and Cannabis Commission revokes the license of the marijuana retailer under ORS 475C.265.

**SECTION 25.** ORS 475C.833 is amended to read:

475C.833. (1)(a) The Oregon Health Authority shall establish by rule a medical marijuana dispensary registration system for the purpose of tracking and regulating the transfer of:

(A) Usable marijuana, immature marijuana plants and seeds from registry identification cardholders, designated primary caregivers and persons responsible for marijuana grow sites to medical marijuana dispensaries;

(B) Medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts from persons responsible for marijuana processing sites to medical marijuana dispensaries; and

(C) Usable marijuana, immature marijuana plants, seeds, medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts from medical marijuana dispensaries to registry identification cardholders and designated primary caregivers.

(b) A person may not operate an establishment for the purpose of providing the services described in paragraph (a) of this subsection unless the person is registered under this section.

(2) The registration system established under subsection (1) of this section must require an applicant for a medical marijuana dispensary to submit an application to the authority that includes:

(a) The name of the individual who owns the medical marijuana dispensary or, if a business entity owns the medical marijuana dispensary, the name of each individual who has a financial interest in the medical marijuana dispensary;

(b) The name of the individual or individuals responsible for the medical marijuana dispensary, if different from the name of the individual who owns the medical marijuana dispensary;

(c) The address of the medical marijuana dispensary;

(d) Proof that each individual responsible for the medical marijuana dispensary is 21 years of age or older;

(e) Documentation, as required by the authority by rule, that demonstrates the medical marijuana dispensary meets the requirements of subsection (3) of this section; and

(f) Any other information that the authority considers necessary.

(3) To qualify for registration under this section, a medical marijuana dispensary:

(a) May not be located in an area that is zoned for residential use;

(b) May not be located at the same address as a marijuana grow site;

(c) Must be registered as a business, or have filed an application to register as a business, with the office of the Secretary of State;

(d) Except as provided under ORS 475C.840, may not be located within 1,000 feet of:

**(A) A building where a public prekindergarten or kindergarten program is provided by a school district or an education service district;**

[(A)] **(B)** A public elementary or secondary school for which attendance is compulsory under ORS 339.020; or

[(B)] **(C)** A private or parochial elementary or secondary school, teaching children as described in ORS 339.030 (1)(a);

(e) Must not be located within 1,000 feet of another medical marijuana dispensary; and

(f) Must meet the requirements of any rule adopted by the authority under subsection (10) of this section.

(4)(a) The authority shall conduct a criminal records check under ORS 181A.195 for each individual named in an application submitted under subsection (2) of this section.

(b) An individual convicted for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may not own or be responsible for a medical marijuana dispensary for two years from the date the individual is convicted.

(c) An individual convicted more than once for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may not own or be responsible for a medical marijuana dispensary.

(5) If a person submits the application required under subsection (2) of this section, if the medical marijuana dispensary identified in the application meets the requirements of this section and any rules adopted under this section and if each individual named in the application passes the criminal records check required under subsection (4) of this section, the authority shall register the medical marijuana dispensary and issue proof of registration. Proof of registration must be displayed on the premises of the medical marijuana dispensary at all times.

(6) A medical marijuana dispensary that is registered under this section is not required to register with the State Board of Pharmacy under ORS 475.125.

(7) The individual or individuals responsible for a medical marijuana dispensary shall maintain documentation of each transfer of usable marijuana, medical cannabinoid products, cannabinoid concentrates, cannabinoid extracts, immature marijuana plants and seeds.

(8) The authority may inspect:

(a) The premises of a proposed medical marijuana dispensary or a registered medical marijuana dispensary to ensure compliance with this section and ORS 475C.843 and any rules adopted under this section or ORS 475C.843; and

(b) The records of a registered medical marijuana dispensary to ensure compliance with subsection (7) of this section.

(9) Subject to the provisions of ORS chapter 183, the authority may refuse to register an applicant under this section or may suspend or revoke the registration of a medical marijuana dispensary if the authority determines that the applicant, the owner of the medical marijuana dispensary, a person responsible for the medical marijuana dispensary, or an employee of the medical marijuana dispensary, violated a provision of ORS 475C.770 to 475C.919, a rule adopted under ORS 475C.770 to 475C.919 or an ordinance adopted pursuant to ORS 475C.897.

(10) The authority shall adopt rules to implement this section, including rules that:

(a) Require a registered medical marijuana dispensary to annually renew the registration for that dispensary;

(b) Establish fees for registering, and renewing the registration of, a medical marijuana dispensary;

(c) Require that each medical marijuana dispensary install and maintain a minimum security system that includes video surveillance, an alarm system and a safe;

(d) Require that usable marijuana, medical cannabinoid products, cannabinoid concentrates, cannabinoid extracts and immature marijuana plants transferred by a medical marijuana dispensary be tested to ensure the public health and safety; and

(e) Impose any other standard on the operation of a medical marijuana dispensary to ensure the public health and safety.

**SECTION 26.** ORS 475C.840 is amended to read: 475C.840. Notwithstanding ORS 475C.833 (3)(d), a medical marijuana dispensary may be located within 1,000 feet of a [school] **building described in ORS 475C.833 (3)(d) if:**

(1)(a) The medical marijuana dispensary is not located within 500 feet of:

(A) **A building where a public prekindergarten or kindergarten program is provided by a school district or an education service district;**

[A] (B) A public elementary or secondary school for which attendance is compulsory under ORS 339.020; or

[B] (C) A private or parochial elementary or secondary school, teaching children as described in ORS 339.030 (1)(a); and

(b) The Oregon Health Authority determines that there is a physical or geographic barrier capable of preventing children from traversing to the premises of the medical marijuana dispensary; or

(2) The medical marijuana dispensary was established before August 1, 2017, in accordance with a city or county ordinance adopted under section 29, chapter 83, Oregon Laws 2016.

**SECTION 27.** ORS 475C.847 is amended to read: 475C.847. If a [school] **building** described in ORS 475C.833 (3)(d) that has not previously been attended by children is established within 1,000 feet of a medical marijuana dispensary, the medical marijuana dispensary may remain at its current location unless the Oregon Health Authority revokes the registration of the medical marijuana dispensary.

**SECTION 28.** The amendments to ORS 475C.097, 475C.101, 475C.105, 475C.833, 475C.840 and 475C.847 by sections 22 to 27 of this 2022 Act become operative on January 1, 2023.

## PERS FOR PUBLIC CHARTER SCHOOL MEMBERS

**SECTION 29.** ORS 338.135 is amended to read: 338.135. (1) Employee assignment to a public charter school shall be voluntary.

(2)(a) A public charter school or the sponsor of the public charter school is considered the employer of any employees of the public charter school. If a school district board is not the sponsor of the public charter school, the school district board may not be the employer of the employees of the public charter school and the school district board may not collectively bargain with the employees of the public charter school. The public charter school governing body shall control the selection of employees at the public charter school.

(b) If a virtual public charter school or the sponsor of a virtual public charter school contracts with a for-profit entity to provide educational services through the virtual public charter school, the for-profit entity may not be the employer of any employees of the virtual public charter school unless:

(A) The employee is an administrator who does not have any teaching responsibilities; and

(B) Both the executive officer of the sponsor and the public charter school governing body approve employment by the for-profit entity. The executive officer or governing body may choose to grant approval under this subparagraph:

(i) For all employees of the for-profit entity who meet the description in subparagraph (A) of this paragraph;

(ii) Based on the job categories of the employees who meet the description in subparagraph (A) of this paragraph; or

(iii) On a case-by-case basis for each employee who meets the description in subparagraph (A) of this paragraph.

(3) The school district board of the school district within which the public charter school is located shall grant a leave of absence to any employee who chooses to work in the public charter school. The length and terms of the leave of absence shall be set by negotiated agreement or by board policy. However, the length of the leave of absence may not be less than two years unless:

(a) The charter of the public charter school is terminated or the public charter school is dissolved or closed during the leave of absence; or

(b) The employee and the school district board have mutually agreed to a different length of time.

(4) An employee of a public charter school operating within a school district who is granted a leave of absence from the school district and returns to employment with the school district shall retain seniority and benefits as an employee pursuant to the terms of the leave of absence. Notwithstanding ORS 243.650 to 243.809, a school district that was the employer of an employee of a public charter school not operating within the school district may make provisions for the return of the employee to employment with the school district.

(5)(a) For purposes of ORS chapters 238 and 238A, a public charter school shall be considered a public employer and as such shall participate in the Public Employees Retirement System.

(b) For purposes of determining the salary paid [between August 29, 2003, and January 1, 2020, to a]

to an active member of the Public Employees Retirement System under ORS 238A.005 (17) during the period between August 29, 2003, and January 1, 2020, remuneration paid to a member in return for services to a public charter school is deemed includable in the member's taxable income under Oregon law during a period of continuous employment with any public charter school if:

(A) The member was hired in a qualifying position by any public charter school on or after August 29, 2003;

**(B) The member was informed in writing by the public charter school during the period of continuous employment that the member was eligible to participate in the Public Employees Retirement System and the public charter school made contributions to the system on the member's behalf;**

[*(B)*] (C) The remuneration was, or would have been if the member were an Oregon resident, includable in the member's taxable income under Oregon law during the period of continuous employment; and

[*(C)*] (D) The member resided and performed services in the United States during the period of continuous employment.

(c) As used in this subsection, "continuous employment" means employment with a public charter school that is not interrupted by a period of more than 30 consecutive calendar days.

(6) For teacher licensing, employment experience in public charter schools shall be considered equivalent to experience in public schools.

(7)(a) Any person employed as an administrator in a public charter school shall be licensed or registered to administer by the Teacher Standards and Practices Commission.

(b) Any person employed as a teacher in a public charter school shall be licensed or registered to teach by the commission.

(c) Notwithstanding paragraph (a) or (b) of this subsection, at least one-half of the total full-time equivalent (FTE) teaching and administrative staff at the public charter school shall be licensed by the commission pursuant to ORS 342.125.

(8) Notwithstanding ORS 243.650, a public charter school shall be considered a school district for purposes of ORS 243.650 to 243.809. An employee of a public charter school may be a member of a labor organization or organize with other employees to bargain collectively. Bargaining units at the public charter school may be separate from other bargaining units of the sponsor or of the school district in which the public charter school is located. Employees of a public charter school may be part of the bargaining units of the sponsor or of the school district in which the public charter school is located.

(9) An entity described in ORS 338.005 (4) may not waive the right to sponsor a public charter school in a collective bargaining agreement.

## HEALTH CARE BENEFITS FOR PART-TIME FACULTY

**SECTION 30.** ORS 350.355 is amended to read:

350.355. (1)(a) Except as provided in paragraph (b) of this subsection, a part-time faculty member at a public institution of higher education is eligible for the same employee-only health care benefits as full-time faculty members if the part-time faculty member is working at a level equal to at least half of a full-time equivalent employee **determined as an average** either at a single public institution of higher education or in aggregate at multiple public institutions of higher education during at least three of the four previous academic terms.

(b) The total cost of providing any health benefit plan offered by a public institution of higher education to a part-time faculty member under this section may not increase annually by more than the annual increase in premium amounts paid for contracted health benefit plans that is permitted under ORS 243.135 (8)(b) or 243.866 (9)(b).

(2)(a) In order to receive employee-only health care benefits under this section, a part-time faculty member must select a home public institution of higher education for the duration of the benefit year under a process established by each institution. A home public institution of higher education selected under this subsection:

(A) Must be one at which the part-time faculty member is working during the academic term at the time of the application; and

(B) Is responsible for:

(i) Determining whether the part-time faculty member is eligible to receive health care benefits under this section;

(ii) Determining, on [*a semiannual*] **an annual** basis, whether a part-time faculty member who was found to be eligible to receive health care benefits under sub-subparagraph (i) of this subparagraph continues to be eligible to receive health care benefits under this section;

(iii) Collecting the premiums for health benefit plans that must be paid by the part-time faculty member under subsection (3) of this section;

(iv) Paying the full cost of the insurance premiums for providing health benefit plans to the part-time faculty member, subject to reimbursement as described in subsection (4) of this section; and

(v) Administering and providing health benefit plans to the part-time faculty member in the manner described in this section.

(b) In order to receive health care benefits under this section, a part-time faculty member must provide the home public institution of higher education with all information necessary for the institution to determine the eligibility of the part-time faculty member to receive health care benefits under this section.

(3)(a) Except as provided in paragraph (b) of this subsection, a part-time faculty member at a public

institution of higher education shall pay 10 percent of all insurance premiums for health benefit plans.

(b) A public institution of higher education may provide by collective bargaining at the institution to pay for some or all of the insurance premiums that must otherwise be paid by a part-time faculty member under paragraph (a) of this subsection. The public institution of higher education may not be reimbursed under subsection (4) of this section for the costs the institution incurs to provide health benefit plans under this paragraph.

(4)(a) Every three months a public institution of higher education may request reimbursement from the Higher Education Coordinating Commission for the cost of paying insurance premiums for providing health benefit plans to each part-time faculty member who has selected the institution as the faculty member's home public institution of higher education under subsection (2) of this section.

(b) The commission shall use moneys from the Part-Time Faculty Insurance Fund established under ORS 350.357 to fully reimburse each public institution of higher education for all documented costs requested by the institution under this subsection, except for any costs described in subsection (3) of this section.

(5) Unless otherwise provided for by collective bargaining, a part-time faculty member at a public institution of higher education who is eligible for health care benefits under subsection (1) of this section may receive health care benefits only in the manner provided by this section.

(6) The Higher Education Coordinating Commission may adopt rules necessary to implement subsection (4) of this section.

**SECTION 31.** The amendments to ORS 350.355 by section 30 of this 2022 Act apply to determinations of eligibility for health benefits that are made for an open enrollment period that occurs on or after the effective date of this 2022 Act.

#### APPROPRIATIONS

**SECTION 32.** Notwithstanding any other provision of law, the General Fund appropri-

ation made to the Department of Corrections by section 1 (2), chapter 468, Oregon Laws 2021, for the biennium ending June 30, 2023, for central administration and administrative services, is increased by \$680,737 to carry out the provisions of this 2022 Act.

**SECTION 33.** Notwithstanding any other provision of law, the General Fund appropriation made to the Department of Corrections by section 1 (3), chapter 468, Oregon Laws 2021, for the biennium ending June 30, 2023, for correctional services, is increased by \$252,842 to carry out the provisions of this 2022 Act.

**SECTION 34.** Notwithstanding any other provision of law, the General Fund appropriation made to the Higher Education Coordinating Commission by section 1 (1), chapter 660, Oregon Laws 2021, for the biennium ending June 30, 2023, for Higher Education Coordinating Commission programs and operations, is increased by \$136,667 to carry out the provisions of this 2022 Act.

#### CAPTIONS

**SECTION 35.** The unit captions used in this 2022 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2022 Act.

#### EMERGENCY CLAUSE

**SECTION 36.** This 2022 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2022 Act takes effect on its passage.

Approved by the Governor March 23, 2022  
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