

HOUSE BILL 67

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016

INTRODUCED BY

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AN ACT

RELATING TO PUBLIC SCHOOLS; REQUIRING THE PROVISION OF READING
IMPROVEMENT PLANS THAT INCLUDE STEPPED INTERVENTIONS AND
REMEDICATION FOR STUDENTS WHO ARE NOT PROFICIENT IN READING AT
THE END OF KINDERGARTEN OR GRADE ONE OR GRADE TWO AND ALLOWING
THOSE STUDENTS TO BE RETAINED; PROVIDING THAT A STUDENT WHO IS
NOT PROFICIENT IN READING AT THE END OF GRADE THREE SHALL BE
RETAINED AND PROVIDED WITH A READING IMPROVEMENT PLAN THAT
INCLUDES INTERVENTIONS AND REMEDIATION THAT ARE DIFFERENT FROM
EARLIER PLANS; PROVIDING THAT A STUDENT WHO IS NOT ACADEMICALLY
PROFICIENT AT THE END OF GRADES FOUR THROUGH EIGHT SHALL NOT BE
RETAINED BUT SHALL BE PROVIDED WITH AN ACADEMIC IMPROVEMENT
PLAN; PROVIDING FOR SCREENING AND STANDARDS-BASED ASSESSMENTS,
INTERVENTIONS AND REMEDIATION TO ADDRESS READING AND ACADEMIC
DEFICIENCIES IDENTIFIED BETWEEN KINDERGARTEN AND GRADE EIGHT;
PROVIDING EXCEPTIONS; REPEALING AND ENACTING A SECTION OF THE

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1 NMSA 1978.

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3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

4 SECTION 1. Section 22-2C-6 NMSA 1978 (being Laws 1986,
5 Chapter 33, Section 7, as amended) is repealed and a new
6 Section 22-2C-6 NMSA 1978 is enacted to read:

7 "22-2C-6. [NEW MATERIAL] GRADE PROMOTIONS--IMPROVEMENT
8 PLANS TO INCLUDE INTERVENTIONS AND REMEDIATION--RETENTION
9 POLICIES--EXCEPTIONS.--

10 A. As used in this section:

11 (1) "academic proficiency plan" means a
12 written document developed by the student assistance team that
13 describes the specific academic standards required for a
14 certain grade level that a student has not achieved and that
15 prescribes specific intensive targeted instruction,
16 intervention and remediation methods that have demonstrated
17 effectiveness;

18 (2) "intensive targeted instruction" means
19 extra instruction that is provided for small groups of students
20 or individual students and that shall be no less than twenty
21 minutes per day and five days per week or the equivalent;

22 (3) "intervention" means targeted
23 instructional practices for small groups of students or
24 individual students that are aligned with the results of a
25 valid and reliable assessment and, if applicable, with response

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1 to intervention, which is a multitiered intervention model that
2 uses a set of increasingly intensive academic or behavioral
3 supports, matched to student need, as a framework for making
4 educational programming and eligibility decisions;

5 (4) "reading improvement plan" means a written
6 document developed by the student assistance team that
7 describes the specific reading standards required for a certain
8 grade level that a student has not achieved and that prescribes
9 specific intensive targeted instruction, intervention and
10 remediation methods that have demonstrated effectiveness;

11 (5) "reading proficiency" or "proficient in
12 reading" means a student has attained a score on the statewide
13 standards-based assessment or the screening assessment that is
14 higher than the lowest proficiency level established by the
15 department;

16 (6) "remediation" includes summer school,
17 extended-day or -week programs, tutoring, progress-based
18 monitoring and other research-based models for student
19 improvement;

20 (7) "school district" includes a charter
21 school;

22 (8) "screening assessment" means the
23 assessment that measures the acquisition of reading skills,
24 including phonological awareness, phonics, spelling, reading
25 fluency, vocabulary and comprehension approved and provided by

1 the department;

2 (9) "student assistance team" means a group
3 consisting of a student's:

- 4 (a) teacher;
- 5 (b) school counselor;
- 6 (c) school administrator;
- 7 (d) parent; and
- 8 (e) student advocate chosen by the
9 student or parent, if the student or parent wishes; and

10 (10) "valid and reliable assessments" means
11 assessments that:

- 12 (a) are appropriate to targeted
13 populations;
- 14 (b) provide predictive values; and
- 15 (c) are thoroughly tested, peer-reviewed
16 and accepted by authorities and practitioners in the field.

17 B. Using data from the 2015-2016 school year, each
18 public school shall establish baseline assessment data on
19 reading proficiency for students in kindergarten and grades one
20 through three. The baseline assessment data shall include
21 levels of performance in reading based on the screening
22 assessment below which a student must be provided with a
23 reading improvement plan.

24 C. Effective with the beginning of the 2016-2017
25 school year, school districts shall provide reading improvement

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1 plans that have demonstrated effectiveness to provide special
2 instructional assistance to students in kindergarten through
3 grade three who are not proficient in reading. Reading
4 improvement plans and promotion policies shall be aligned with
5 the screening assessment results and be aligned with state
6 standards. The screening assessment, including, if
7 appropriate, assessments in the student's first and second
8 languages for English language learners, shall be given. If
9 students do not demonstrate reading proficiency in English or
10 another language, reading improvement plans shall be
11 implemented for those students in kindergarten through grade
12 three as follows:

13 (1) at the end of the first nine weeks of the
14 school year, school districts shall administer the screening
15 assessment to students enrolled in kindergarten. The
16 assessment shall screen students for reading proficiency;

17 (2) at the beginning of the school year,
18 school districts shall administer the screening assessment to
19 students enrolled in grades one through three. The assessment
20 shall screen students for reading proficiency; and

21 (3) if the screening assessment results for a
22 student in kindergarten through grade three indicates that the
23 student is not proficient in reading, the student assistance
24 team shall develop a reading improvement plan for the student
25 that clearly delineates the student's reading deficiencies and

1 that clearly delineates intensive targeted instruction,
2 interventions and remediation that shall be included in the
3 plan, including the specific strategies for a parent to use in
4 helping the student achieve reading proficiency. If a parent
5 refuses to allow the student to participate in any prescribed
6 intervention, the school district shall provide an appropriate
7 form that must be signed by the parent that clearly indicates
8 the parent's refusal to allow the student to participate in the
9 prescribed intervention.

10 D. Beginning with the 2016-2017 school year, the
11 parent of a student who is in kindergarten or grade one, two or
12 three and who is not proficient in reading at the end of the
13 first grading period shall be given notice that the student
14 must be provided with a reading improvement plan and a
15 conference of the student assistance team shall develop the
16 reading improvement plan.

17 E. Beginning with the 2017-2018 school year, except
18 as provided in Subsection M of this section, at the end of
19 grade three, grade promotion and retention decisions for each
20 student shall be based upon the determination that the student
21 is:

22 (1) proficient in reading and shall enter the
23 next highest grade;

24 (2) not proficient in reading and shall
25 participate in the required level of remediation. Upon

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1 certification by the school district that the student is
2 proficient in reading, the student shall enter the next highest
3 grade; or

4 (3) not proficient in reading after
5 remediation and shall be retained in the same grade with a
6 reading improvement plan that is different from the prior
7 year's reading improvement plan so that the student may become
8 proficient in reading. A student shall not be retained for a
9 total of more than one school year between kindergarten and
10 grade three as a result of not being proficient in reading.

11 F. In grades four through eight, academic
12 proficiency plans and promotion policies shall be aligned with
13 school-district-approved, valid and reliable assessment results
14 and be aligned with state standards.

15 G. A parent shall be notified in writing no later
16 than the end of the second grading period of each school year
17 in grades four through eight that the parent's student is not
18 academically proficient, and a conference with the student
19 assistance team shall be held to discuss strategies, including
20 intensive targeted instruction, interventions and remediation
21 available to assist the student in becoming academically
22 proficient. The student's specific academic deficiencies and
23 the available strategies and interventions and remediation
24 shall be explained to the student's parent and a written
25 academic proficiency plan shall be developed that contains time

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1 lines, academic expectations and the measurements to be used to
2 verify that a student has overcome academic deficiencies. The
3 parent shall be provided with specific strategies to use in
4 helping the student achieve academic proficiency. The
5 interventions and remediation included in the academic
6 proficiency plan shall be implemented immediately.

7 H. At the end of grades four through eight, grade
8 promotion decisions for each student shall be based upon the
9 determination that the student is:

10 (1) academically proficient and shall enter
11 the next highest grade; or

12 (2) not academically proficient and shall
13 participate in required remediation.

14 I. For students in grades four through eight who
15 are not promoted to the next grade because of academic
16 deficiencies, academic proficiency plans shall be developed by
17 student assistance teams outlining time lines and monitoring
18 activities to ensure progress toward overcoming the student's
19 academic deficiencies. Students who have been evaluated to
20 determine the nature of their academic deficiencies and who
21 have received an academic proficiency plan that is different
22 from the previous year's academic proficiency plan but fail to
23 become academically proficient at the end of that year as
24 measured by grades, performance on the screening assessment and
25 other measures identified by the school district shall be

1 provided with an alternative program that shall be implemented
2 immediately. A student who is not proficient in reading for
3 two successive school years shall be referred to the student
4 assistance team for placement in an alternative program
5 designed by the school district. Alternative program plans
6 shall be filed with the department.

7 J. To assess each student's growth in reading and
8 other academic subjects in kindergarten through grade two,
9 school districts shall use the screening assessment, and in
10 grades three through eight, school districts shall use the
11 statewide standards-based assessment.

12 K. The cost of remediation programs offered in
13 grades nine through twelve shall be borne by the parent;
14 however, in cases in which parents are determined to be
15 indigent according to guidelines established by the department,
16 the school district shall bear those costs.

17 L. Promotion and retention decisions affecting a
18 student enrolled in special education shall be made in
19 accordance with the provisions of the individualized education
20 program established for that student.

21 M. A student shall be exempt from the provisions of
22 Subsection E of this section if the student:

23 (1) scores at least at the fiftieth percentile
24 on a department-approved norm-referenced assessment;

25 (2) is an English language learner who is

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1 proficient in reading a language other than English on a valid
2 and reliable reading assessment or who has had less than two
3 years of instruction in English for speakers of other
4 languages;

5 (3) is a student with a disability who shall
6 be assessed, promoted or retained in accordance with the
7 provisions of the student's individualized education program;
8 or

9 (4) is a student who has already been retained
10 once in kindergarten or grade one or grade two.

11 N. The school district shall include percentages of
12 academically proficient students listed by school in its annual
13 accountability report required in Section 22-2C-11 NMSA 1978."