

HOUSE BILL 236

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Patricio Ruiloba

Pursuant to House Rule 24-1, this document incorporates amendments that have been adopted prior to consideration of this measure by the House. It is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

RELATING TO PUBLIC SCHOOL ATTENDANCE; ENACTING THE ATTENDANCE FOR SUCCESS ACT; PROVIDING FOR PREVENTION OF ABSENCES AND EARLIER INTERVENTION FOR STUDENTS WHO ARE ABSENT OR CHRONICALLY ABSENT; PROVIDING A PROCESS FOR PREVENTION OF ABSENCES, FOR EARLY INTERVENTION, FOR SPECIALIZED SUPPORTS AND FOR REFERRALS TO THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT; REQUIRING DATA COLLECTION AND USE; REPEALING THE COMPULSORY SCHOOL ATTENDANCE LAW.

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

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SECTION 1. A new section of the Public School Code is enacted to read:

"[NEW MATERIAL] SHORT TITLE.--Sections 1 through 14 of this act may be cited as the "Attendance for Success Act"."

SECTION 2. A new section of the Public School Code is enacted to read:

"[NEW MATERIAL] DEFINITIONS.--As used in the Attendance for Success Act:

A. "absent" means not in attendance for a class or school day for any reason, whether excused or not; provided that "absent" does not apply to participation in interscholastic extracurricular activities;

HEC→B. ~~"attendance improvement plan" means a tiered data-informed system for public schools and school districts to identify students who are chronically or excessively absent and to aid public schools in developing whole-school prevention strategies and targeted interventions. Each of the tiers is defined as follows:~~

(1) ~~"prevention" means universal, whole-school prevention strategies for all students;~~

(2) ~~"early intervention" means targeted interventions for students who are missing ten percent or more, but less than twenty percent, of classes or school days for any reason;~~

(3) ~~"specialized support" means individualized, targeted interventions for students who are~~

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~~missing twenty percent or more of classes or school days for any reason; and~~

~~(4) "intensive support and intervention" means intensive, individualized, targeted interventions, including referral to the children, youth and families department, for students who are excessively absent;~~

~~G. "attendance team" means a group of school-based administrators, teachers, staff and other school personnel who collaborate to implement an attendance improvement plan;~~

~~D. "chronic absence rate" means the percentage of students, in the aggregate and disaggregated by the subgroups required for reporting pursuant to the federal Every Student Succeeds Act, in a public school and a school district that missed ten percent or more of school days since the beginning of the school year;~~

~~E. "chronically absent" or "chronic absenteeism" means that a student has been absent for ten percent or more of classes or school days for any reason, whether excused or not, when enrolled for more than ten days;~~

~~F. "excessively absent" or "excessive absenteeism" means that a student has ten or more unexcused absences, including suspensions, from classes or school days;~~ ←HEC

HEC → B. "attendance improvement plan" means a tiered data-informed system for public schools and school districts to identify students who are chronically or excessively absent and

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to aid public schools in developing whole-school prevention strategies and targeted interventions. Each of the tiers is defined as follows:

(1) "whole school prevention" means universal, whole-school prevention strategies for all students, including students who have missed less than five percent of classes or school days for any reason;

(2) "individualized prevention" means targeted prevention strategies for individual students who are missing five percent or more but less than ten percent of classes or school days for any reason;

(3) "early intervention" means interventions for students who are missing ten percent or more but less than twenty percent of classes or school days for any reason; and

(4) "intensive support" means interventions for students who are missing twenty percent or more of classes or school days for any reason;

C. "attendance team" means a group of school-based administrators, teachers, staff, other school personnel and community members who collaborate to implement an attendance improvement plan;

D. "chronic absence rate" means the percentage of students, in the aggregate and disaggregated by the subgroups required for reporting pursuant to the federal Every Student Succeeds Act, in a public school and a school district who have

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been enrolled for at least ten days and who have missed ten percent or more of school days since the beginning of the school year;

E. "chronically absent" or "chronic absenteeism" means that a student has been absent for ten percent or more of classes or school days for any reason, whether excused or not, when enrolled for more than ten days;

F. "excessively absent" or "excessive absenteeism" means a student who is identified as needing intensive support and has not responded to intervention efforts implemented by the public school; ←HEC

G. "excused absence" means absence from a class or school day for a death in the family, medical absence, religious instruction or tribal obligations or any other allowable excuse pursuant to the policies of the local school board;

H. "interscholastic extracurricular activities" means those activities sponsored by a public school or an organization whose principal purpose is the regulation, direction, administration and supervision of interscholastic extracurricular activities in public schools;

I. "local school board" includes the governing body of a charter school;

J. "medical absence" or "medically absent" means that a student is not in attendance for a class or a school day

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for a parent- or doctor-authorized medical reason or the student is a pregnant or parenting student;

K. "school day" means a portion of the school day that is at least one-half of a student's approved program;

L. "school district" includes a charter school;

M. "school principal" includes the head administrator of a charter school; and

N. "unexcused absence" means an absence from a class or school day for which the student does not have an allowable excuse pursuant to the Attendance for Success Act or policies of the local school board."

SECTION 3. A new section of the Public School Code is enacted to read:

"[NEW MATERIAL] RIGHT TO EDUCATION.--A school-age person in the state shall have a right to a free public education as follows:

A. except for a school-age person who is detained in a state or local detention center or enrolled or residing in a state institution, other than a school-age person provided for in Subsection C of this section, a school-age person has a right to attend public school within the school district in which the school-age person resides;

B. except as provided in Subsection C of this section, a state or local detention center or state institution in which a school-age person is detained, enrolled or residing

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shall be responsible for providing educational services for the school-age person; and

C. a school-age person who is a client as defined in Section 43-1-3 NMSA 1978 in a state institution under the authority of the secretary of human services shall have a right to attend public school in the school district in which the institution in which the school-age person is a client is located if the school-age person has been recommended for placement in a public school:

(1) by the educational appraisal and review committee of the school district in which the institution is located; or

(2) as a result of the appeal process as provided in the special education rules of the department."

SECTION 4. A new section of the Public School Code is enacted to read:

"[NEW MATERIAL] SCHOOL ATTENDANCE--RESPONSIBILITY--PRIVATE SCHOOL ATTENDANCE POLICIES.--

A. Except as otherwise provided in the Public School Code, a school-age person shall attend public school, private school, home school or a state institution until the school-age person is at least eighteen years of age unless that school-age person has graduated from high school, received a high school equivalency credential or withdrawn from school on a hardship waiver. A parent may give written, signed

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permission for the school-age person to leave school between the ages of sixteen and eighteen in case of hardship approved by the local superintendent or private school.

B. A school-age person subject to the provisions of the Attendance for Success Act shall attend school for at least the length of time of the school year that is established in that school-age person's school district, charter school or private school. The school district or private school shall not excuse a school-age person from attending school except as provided in that act.

C. The parent of a school-age person subject to the provisions of the Attendance for Success Act is responsible for the school attendance of that school-age person.

D. Local school boards and private schools shall enforce the provisions of the Attendance for Success Act for students enrolled in their respective schools.

E. A private school in this state shall have an attendance policy that as closely as practicable follows the law for public schools. A school-age person attending a private school and the school-age person's parent shall be given a copy of the private school's attendance policy each year."

SECTION 5. A new section of the Public School Code is enacted to read:

"[NEW MATERIAL] PUBLIC SCHOOL ATTENDANCE.--

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A. Local school boards may admit as students school-age persons who do not live within the school district to the public schools within the school district when there are sufficient school accommodations to provide for them.

B. Local school boards may allow students to transfer to a public school outside the student's attendance zone but within the school district when there are sufficient school accommodations to provide for them.

C. Local school boards shall charge a tuition fee for the right to attend public school within the school district to those school-age persons who do not live within the state. The tuition fee shall not exceed the amount generated by the public school fund for a student similarly situated within the school district for the current school year.

D. When the parent of a student not living in the state pays an ad valorem property tax for school purposes within a school district, the amount of the tuition payable for the school year shall be reduced by the district average ad valorem tax per student as determined by the ad valorem tax credit used in calculating the state equalization guarantee distribution."

SECTION 6. A new section of the Public School Code is enacted to read:

"[NEW MATERIAL] PUBLIC SCHOOL ATTENDANCE POLICIES--
REPORTING.--

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A. A public school shall maintain an attendance policy that:

(1) establishes an early warning system that includes evidence-based metrics to identify students at risk of chronic absenteeism or excessive absenteeism;

(2) provides for early identification of chronically absent and excessively absent students;

(3) employs an attendance improvement plan that focuses on:

(a) keeping students in an educational setting;

(b) prohibiting out-of-school suspension or expulsion as the punishment for absences; HEC→and←HEC

(c) assisting a student's family to remove barriers to the student's regular school attendance or attendance in another educational setting; HEC→and

(d) providing additional educational opportunities to students who are struggling with attendance;←HEC

(4) limits the ability of a student to withdraw to only after all intervention efforts by the public school or the children, youth and families department to keep the student in an educational setting have been exhausted;

(5) requires that accurate class attendance be taken for every instructional class and school day in a public

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school or school program;

(6) provides that a public school shall differentiate between different types of absences;

(7) requires a public school to document the following for each chronically or excessively absent student:

(a) attempts by the public school to notify a parent that the student was absent from class or the school day;

(b) attempts to improve attendance by talking to a student or parent to identify barriers to school attendance, identify solutions to improve the student's attendance behavior and discuss necessary interventions for the student or the student's family; and

(c) intervention strategies implemented to support keeping the student in an educational setting HEC→, including additional educational opportunities offered to the student←HEC;

(8) requires a student or the parent of a student who intends to claim excused absence because of medical condition, pregnancy or parenting to communicate the student's status to the appropriate school personnel and to provide required documentation; and

(9) encourages and supports compliant data sharing, pursuant to the federal Family Educational Rights and Privacy Act of 1974, between a public school and community-

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based organizations that provide services to students for the purpose of providing more personalized interventions and specialized supports as part of the public school's attendance improvement plan.

B. Local school boards shall review and approve their public school attendance policies.

C. School districts shall report absences, chronic absences and excessive absences data to the department at each reporting date and the end of the school year and shall document intervention efforts made to keep students in an educational setting. The department shall compile school district reports as provided in Section 13 of the Attendance for Success Act and require school districts to certify that the information is being reported consistently and correctly. The department shall share information from state-chartered charter schools with the commission.

D. A public school shall provide a copy of the public school's attendance policy to all parents of students in that school HEC→and publish the policy on the public school's website←HEC. The attendance policy shall include:

- (1) the rights and obligations of parents and students pursuant to the Attendance for Success Act;
- (2) the prevention strategies that will be implemented to ensure that students attend classes; and
- (3) details about consequences of failing to

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adhere to the attendance policy.

E. A public school shall provide a parent, within five days of the parent's written request, with access to the attendance data of that parent's child, including information about any intervention strategies that have been employed to help the student improve the student's attendance.

F. Upon request, school districts shall provide the chronic absence rate from the most current reporting date or end-of-year report, in the aggregate and disaggregated by HEC→subpopulations←HEC HEC→subgroups←HEC, for all its public schools."

SECTION 7. A new section of the Public School Code is enacted to read:

"[NEW MATERIAL] ENFORCEMENT OF ATTENDANCE FOR SUCCESS ACT--DISTRICT RESPONSIBILITIES--DIFFERENTIATION--DISTRICT PLAN--ADDITIONAL SUPPORT.--

A. School districts shall differentiate public schools based on their chronic absence rates into no fewer than four categories.

B. School districts shall differentiate student HEC→subpopulations←HEC HEC→subgroups←HEC based on their chronic absence rates into no fewer than four categories.

C. Using the differentiation scheme pursuant to Subsections A and B of this section, a school district shall develop attendance improvement plans that include the following

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elements:

(1) specific school district supports and resources available to public schools at each level to further the implementation of their attendance improvement plans;

(2) attendance improvement targets for public schools or subpopulations with chronic absence rates of ten percent or greater, developed in collaboration with each public school; and

(3) an attendance improvement target for school districts with chronic absence rates of ten percent or greater.

D. Each school district shall report its attendance improvement plan to the department no later than forty-five days after the beginning of the school year. The department may allow a school district to report its attendance improvement plan as part of the educational plan for student success.

E. At the end of each school year, each school district shall report to the local school board and to the public on the school district's website, the progress made on its attendance improvement plan, to include:

(1) a description of the supports and resources provided to public schools at each tier of the attendance improvement plan;

(2) the extent to which public schools with

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chronic absence rates greater than ten percent achieved their attendance improvement targets;

(3) the extent to which the school district achieved its attendance improvement targets;

(4) barriers and challenges to reducing chronic absence rates, as reported by the public school and school district personnel;

(5) effective school-based practices, as evidenced by decreased chronic absence rates; and

(6) recommendations for improvement during the next school year at both the public school and school district level.

F. Attendance teams may be formed in whole or in part from preexisting groups or teams within a public school or may be formed for the explicit purpose of improving school attendance. HEC→~~Attendance teams may include persons who are not school personnel.~~←HEC School districts shall reserve time for school personnel to collaborate as an attendance team.

G. School districts shall provide support and guidance to attendance teams on transportation and school scheduling options when these are identified as barriers to school attendance."

SECTION 8. A new section of the Public School Code is enacted to read:

"[NEW MATERIAL] ENFORCEMENT OF ATTENDANCE FOR SUCCESS

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ACT--ATTENDANCE IMPROVEMENT PLAN--PROCEDURES.--

A. A public school shall initiate the enforcement of the provisions of the Attendance for Success Act for its enrolled students. The enforcement policies of a public school shall focus on prevention and intervention.

B. Beginning in the 2020-2021 school year, a public school with five percent or greater of students with a chronic absence rate during the prior school year, or with five percent or greater of one or more HEC→subpopulations←HEC HEC→subgroups←HEC of students with a chronic absence rate during the prior school year, shall develop an attendance improvement plan HEC→no later than thirty days after the beginning of each new school year, and again no later than thirty days after the beginning of the spring semester, to be submitted to the department and may be←HEC HEC→to be submitted to the department as←HEC part of the public school's educational plan for student success.

C. A public school, regardless of its chronic absence rate, shall develop and implement a whole-school absence prevention strategy to be reported to the department as part of the public school's educational plan for student success.

D. An attendance improvement plan shall include:

(1) attendance data for each of the preceding two school years and the current school year, including:

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(a) the public school's overall absence rate;

(b) chronic absence rates disaggregated by student subpopulation;

(c) chronic absence rates disaggregated by grade level; and

(d) student attendance for every day of the school year;

(2) school-wide identification of potential root causes of chronic and excessive absenteeism through one or more of the following:

(a) national or local research;

(b) analysis of supportive factors and barriers;

(c) student surveys or focus groups;

(d) youth participatory research; or

(e) other appropriate school-based research methods;

(3) identification of strategies for each tier of the attendance improvement plan;

(4) identification of performance measures for each strategy; and

(5) a data-collection plan for performance measures.

E. A public school shall provide interventions to

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students who are absent or chronically absent, which may include:

(1) assessing student and family needs and matching those needs with appropriate public or private providers, including civic and corporate sponsors;

(2) making referrals to health care and social service providers;

(3) collaborating and coordinating with health and social service agencies and organizations through school-based and off-site delivery systems;

(4) recruiting service providers and business, community and civic organizations to provide needed services and goods that are not otherwise available to a student or the student's family;

(5) establishing partnerships between the public school and community organizations, such as civic, business and professional groups and organizations and recreational, social and out-of-school programs;

(6) identifying and coordinating age-appropriate resources for students in need of:

(a) counseling, training and placement for employment;

(b) drug and alcohol abuse counseling;

(c) family crisis counseling; and

(d) mental health counseling;

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(7) promoting family support and parent education programs; and

(8) seeking out other services or goods that a student or the student's family needs to assist the student to stay in school and succeed.

F. Beginning on the first day of school, a classroom teacher or that teacher's adult designee shall be responsible for taking accurate attendance for every class and reporting absences to the attendance team."

SECTION 9. A new section of the Public School Code is enacted to read:

"[NEW MATERIAL] MEDICAL APPOINTMENTS--ILLNESS--SPECIAL SITUATIONS--MAKE-UP WORK.--

A. A student may be excused for parent- or doctor-authorized medical reasons. A public school shall provide time for the student to make up the school work missed during the absence. HEC→~~If the student does not make up the school work within a reasonable time, the absence may be counted as unexcused.~~←HEC

B. A school district shall maintain an attendance policy that:

(1) provides at least ten days of medical absences during the school year for a student who provides documentation of the birth of the student's child, and the public school shall provide time for the student to make up the

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school work missed during the absence HEC→. ~~If the student does not make up the school work within a reasonable time, the absence may be counted as unexcused~~←HEC; and

(2) provides four days of excused absences for a student who provides appropriate documentation of pregnancy or that the student is the parent of a child under the age of thirteen needing care, and the public school shall provide time for the student to make up the school work missed during the absence. HEC→~~If the student does not make up the school work within a reasonable time, the absence may be counted as unexcused.~~←HEC

C. A school district that has an alternative public school for, among others, pregnant and parenting students and that allows for off-site attendance through online education shall not count students as absent as long as the students are online with the public school or other appropriate virtual course and complete their class assignments.

D. A student may, subject to the approval of the school principal, be absent from school to participate in religious instruction for not more than one class period per school day with the written consent of the student's parent at a time that is not in conflict with the academic program of the school HEC→~~and the student's academic class schedule~~←HEC. The public school shall provide time for the student to make up the school work missed during the absence. HEC→~~If the student does~~

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~~not make up the school work within a reasonable time, the absence may be counted as unexcused.~~ ←HEC The school district or the public school shall not assume responsibility for the religious instruction of any student or permit religious instruction to be conducted on school property.

E. A public school student, with the written consent of the student's parent and subject to the approval of the school principal, may be absent from school to participate in tribal obligations. The public school shall provide time for the student to make up the school work missed during the absence. HEC→~~If the student does not make up the school work within a reasonable time, the absence may be counted as unexcused.~~ ←HEC"

SECTION 10. A new section of the Public School Code is enacted to read:

"[NEW MATERIAL] INTERSCHOLASTIC EXTRACURRICULAR ACTIVITIES--STUDENT PARTICIPATION.--

A. A public school student shall have at least a 2.0 grade point average on a 4.0 scale, or its equivalent, either cumulatively or for the grading period immediately preceding participation, to be eligible to participate in any interscholastic extracurricular activity. For purposes of this section, "grading period" is a period of time not less than six weeks. The provisions of this subsection shall not apply to students receiving C or D level special education services.

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B. A student shall not be absent from school for interscholastic extracurricular activities in excess of fifteen days per semester, and no class shall be missed in excess of fifteen times per semester for interscholastic extracurricular activities.

C. The secretary may issue a waiver relating to the number of absences for participation in any state or national competition that is not an interscholastic extracurricular activity. The secretary shall develop a procedure for petitioning cumulative provision eligibility cases, similar to other eligibility situations.

D. Student standards for participation in interscholastic extracurricular activities shall be applied beginning with a student's academic record in ninth grade."

HEC → ~~SECTION 11. A new section of the Public School Code is enacted to read:~~

~~"[NEW MATERIAL] PROGRESSIVE INTERVENTIONS FOR ABSENT, CHRONICALLY ABSENT AND EXCESSIVELY ABSENT STUDENTS.--~~

~~A. A public school shall provide interventions for students who are missing school, depending on the number of absences. The process for notification and interventions is:~~

~~(1) for a student who has three unexcused absences or who has missed more than five percent but less than ten percent of the school year for any reason, the attendance team shall:~~

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~~(a) for elementary students, talk to the parent and inform the parent of the student's attendance history, the impact of student absences on student academic outcomes, the interventions or services available to the student or family and the consequences of further absences, including referral to the children, youth and families department for excessive absenteeism; and~~

~~(b) for a middle or high school student, talk to the parent and the student about the student's attendance history and the impact of student absences on student academic outcomes, interventions or services available to the student or family and the consequences of further absences, including referral to the children, youth and families department for excessive absenteeism;~~

~~(2) for a student who has five unexcused absences, or whose absences fall within the guidelines for the early intervention tier of the attendance improvement plan, and who has missed more than ten percent but less than twenty percent of school days, the attendance team shall notify the parent in writing by mail or personal service on the parent of the student's absenteeism. The notice shall include a date, time and place for the parent to meet with the public school to develop intervention strategies that focus on keeping the student in an educational setting. The attendance team shall be convened to establish a specific intervention plan for the~~

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~~student that includes establishing weekly progress monitoring and a contract for attendance;~~

~~(3) for a student who has more than seven absences, or whose absences fall within the guidelines for the specialized support tier of the attendance improvement plan, the attendance team shall:~~

~~(a) give written notice to the parent, including a date, time and place for the parent to meet with the school principal and the attendance team;~~

~~(b) establish nonpunitive consequences at the school level;~~

~~(c) identify appropriate specialized supports that may be needed to help the student address the underlying causes of excessive absenteeism; and~~

~~(d) apprise the student and the parent of the consequences of further absences; and~~

~~(4) for a student whose absences fall within the guidelines for the intensive support and intervention tier of the attendance improvement plan and who has excessive absences, the public school shall refer the student to the children, youth and families department.~~

~~B. A public school shall initiate the enforcement of the provisions of the Attendance for Success Act for excessively absent students.~~

~~G. The school principal shall consult with a~~

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~~student's teacher and initiate meetings with the teacher, the student and the parent if the alleged cause of absence from class is teacher-student incompatibility."~~

~~SECTION 12. A new section of the Public School Code is enacted to read:~~

~~"[NEW MATERIAL] EXCESSIVE ABSENTEEISM--NEGLECTED CHILD OR CHILD OR FAMILY IN NEED OF FAMILY SERVICES--CASEWORKER--ENFORCEMENT--DRIVER'S LICENSE SUSPENSION--PENALTY.--~~

~~A. If unexcused absences continue after written notice of excessive absenteeism as provided in Section 11 of the Attendance for Success Act, the school principal, after consultation with the local superintendent, shall report the excessively absent student to the children, youth and families department. The children, youth and families department shall investigate whether the student should be considered to be a neglected child or a child in a family in need of family services because of excessive absenteeism and thus subject to the provisions of the Children's Code. The record of the public school's interventions and the student's and parent's responses to the interventions shall be provided to the children, youth and families department. If the children, youth and families department determines that the student is a child in a family in need of family services, a caseworker from the child or family in need of family services program shall meet with the family at the public school in which the student~~

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~~is enrolled to determine if there are other intervention services that may be provided. The meeting shall involve the school principal or other school personnel and, unless the parent objects in writing, appropriate community partners that provide services to children and families. The children, youth and families department shall determine if additional interventions, including monitoring, will positively affect the student's behavior.~~

~~B. If the student has a driver's license, the caseworker assigned to the student shall notify the student and the parent at the meeting provided for in Subsection A of this section that if the child or family in need of family services does not see behavioral improvements, including class or school day attendance, the caseworker shall report the student's noncompliance to the public education department and the student's driver's license may be suspended if the suspension is not likely to exacerbate the student's absenteeism and will not result in hardship to the student's family. The notification provided for in this subsection serves as notice for purposes of due process.~~

~~C. No later than thirty days after the meeting, the caseworker shall notify the public school and the public education department of the student's progress. If the student has refused interventions, including placement in an alternative educational setting, and the student's attendance~~

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~~has not improved, the caseworker shall notify the motor vehicle division of the taxation and revenue department that the student's driver's license is suspended. The caseworker shall notify the public education department and shall forward the student's attendance record to the public education department.~~

~~D. The motor vehicle division shall issue a notice of suspension to the student. The student or the student's parent may request an administrative hearing to oppose the suspension. Unless reinstatement is required as a result of a hearing, a suspended license pursuant to this section shall continue until the:~~

~~(1) child or family in need of family services issues a written certificate of compliance to the student;~~

~~(2) student presents the certificate of compliance to the motor vehicle division; and~~

~~(3) student pays the motor vehicle division the reinstatement fee required by Section 66-5-33.1 NMSA 1978.~~

~~E. If a student turns eighteen or withdraws from school under a hardship waiver and leaves school during the period of suspension, the student's driver's license shall be reinstated."~~

~~SECTION 13. A new section of the Public School Code is enacted to read:~~

~~"[NEW MATERIAL]—REPORTING REQUIREMENTS.—~~

~~A. For each reporting date and at the end of the~~

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~~year, each school district shall report:~~

~~(1) the total number of days missed for excused and unexcused absences for each student in each public school, the total number of days each student was enrolled and in which tier each student with absences fell during the reporting period, along with the student's demographics;~~

~~(2) the number of students at each public school who were referred to the children, youth and families department because of unexcused absences, in the aggregate and disaggregated by subpopulations; and~~

~~(3) the number of excused absences that were converted to unexcused absences because a student did not make up missed class work.~~

~~B. The department shall compile a report by public school and school district that includes:~~

~~(1) the total number and percent of students who were in each tier of chronic absenteeism or were excessively absent at each public school and school district in the aggregate for each public school and school district and disaggregated by subpopulations;~~

~~(2) the average number of excused and unexcused absences per student for all students and subpopulations, with excused absences reported as death in the family; medical; religious instruction; tribal obligations; or interscholastic extracurricular activities;~~

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~~(3) a calculated chronic absenteeism rate for the school district for all students and for each subpopulation; and~~

~~(4) the number of excused absences that were converted to unexcused absences because the student did not make up missed classwork.~~ ←HEC" HEC→SECTION 11. A new section of the Public School Code is enacted to read:

"[NEW MATERIAL] PROGRESSIVE INTERVENTIONS FOR ABSENT, CHRONICALLY ABSENT AND EXCESSIVELY ABSENT STUDENTS.--

A. A public school shall provide interventions for students who are missing school, depending on the number of absences. The process for notification and interventions is:

(1) for a student who has been identified as in need of individualized prevention, the attendance team shall:

(a) for an elementary student, talk to the parent and inform the parent of the student's attendance history, the impact of student absences on student academic outcomes, the interventions or services available to the student or family and the consequences of further absences, which may include referral to the children, youth and families department for excessive absenteeism; and

(b) for a middle or high school student, talk to the parent and the student about the student's attendance history and the impact of student absences on

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student academic outcomes, interventions or services available to the student or family and the consequences of further absences, which may include referral to the children, youth and families department for excessive absenteeism;

(2) for a student who has been identified as in need of early intervention, the attendance team shall notify the parent in writing by mail or personal service on the parent of the student's absenteeism. The notice shall include a date, time and place for the parent to meet with the public school to develop intervention strategies that focus on keeping the student in an educational setting. The attendance team shall be convened to establish a specific intervention plan for the student that includes establishing weekly progress monitoring and a contract for attendance; and

(3) for a student who has been identified as in need of intensive support, the attendance team shall:

(a) give written notice to the parent, including a date, time and place for the parent to meet with the school principal and the attendance team;

(b) establish nonpunitive consequences at the school level;

(c) identify appropriate specialized supports that may be needed to help the student address the underlying causes of excessive absenteeism; and

(d) apprise the student and the parent

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of the consequences of further absences.

B. The school principal shall consult with a student's teacher and initiate meetings with the teacher, the student and the parent if the alleged cause of absence from class is teacher-student incompatibility."

SECTION 12. A new section of the Public School Code is enacted to read:

"[NEW MATERIAL] EXCESSIVE ABSENTEEISM--ENFORCEMENT.--

A. Each local school board and each governing body of a charter school or private school shall initiate the enforcement of the provisions of the Attendance for Success Act for excessively absent students.

B. If unexcused absences continue after written notice of excessive absenteeism as provided in Section 11 of the Attendance for Success Act, the local school board or governing body of a charter school or private school, after consultation with the local superintendent or head administrator of a charter school or private school, shall report the excessively absent student to the probation services office of the judicial district in which the student resides for an investigation as to whether the student should be considered to be a neglected child or a child in a family in need of family services because of excessive absenteeism and, thus, subject to the provisions of the Children's Code. The record of the public school's interventions and the student's

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and parent's responses to the interventions shall be provided to the juvenile probation services office. The local superintendent or head administrator of a charter school or private school shall provide the documentation to the juvenile probation services office within ten business days of the student being identified as excessively absent.

C. If the juvenile probation services office determines that the student is a child in a family in need of family services, a caseworker from the child or family in need of family services program shall meet with the family at the public school in which the student is enrolled to determine if there are other intervention services that may be provided. The meeting shall involve the school principal or other school personnel and, unless the parent objects in writing, appropriate community partners that provide services to children and families. The children, youth and families department shall determine if additional interventions, including monitoring, will positively affect the student's behavior."

SECTION 13. A new section of the Public School Code is enacted to read:

"[NEW MATERIAL] REPORTING REQUIREMENTS.--

A. For each reporting date and at the end of the year, each school district shall report:

(1) the total number of days missed for

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excused and unexcused absences for each student in each public school, the total number of days each student was enrolled and in which tier each student with absences fell during the reporting period, along with the student's demographics; and

(2) the number of students at each public school who were referred to the children, youth and families department because of excessive absences, in the aggregate and disaggregated by subgroups.

B. The department shall compile a report by public school and school district that includes:

(1) the total number and percent of students who were in each tier of chronic absenteeism or were excessively absent at each public school and school district in the aggregate for each public school and school district and disaggregated by subgroups;

(2) the average number of excused and unexcused absences per student for all students and subgroups, not including interscholastic extracurricular activities; and

(3) a calculated chronic absenteeism rate for the school district for all students and for each subgroup."←HEC

SECTION 14. A new section of the Public School Code is enacted to read:

"[NEW MATERIAL] TIMELY GRADUATION AND SUPPORT FOR STUDENTS WHO EXPERIENCE DISRUPTION IN THE STUDENT'S EDUCATION.--

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A. For purposes of this section, "a student who has experienced a disruption in the student's education" means a student who experiences one or more changes in public school or school district enrollment during a single school year as the result of:

(1) homelessness as defined in the federal McKinney-Vento Homeless Assistance Act and as determined by the public school or school district;

(2) adjudication:

(a) as an abused or neglected child as determined by the children, youth and families department pursuant to the Abuse and Neglect Act;

(b) as part of a family in need of court-ordered services voluntary placement pursuant to the Family Services Act; or

(c) as a delinquent if the parent wishes to disclose the adjudication of delinquency; or

(3) placement in a mental health treatment facility or habilitation program for developmental disabilities pursuant to the Children's Mental Health and Developmental Disabilities Act or placement in treatment foster care.

B. When a student who has experienced a disruption in the student's education transfers to a new public school or school district, the receiving public school or school district shall communicate with the sending public school or school

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district within two days of the student's enrollment. The sending public school or school district shall provide the receiving public school or school district with any requested records within two days of having received the receiving public school's or school district's communication.

C. A student who has experienced a disruption in the student's education because of transferring to a new public school as the result of circumstances set forth in this section shall have:

(1) priority placement in classes that meet state graduation requirements; and

(2) timely placement in elective classes that are comparable to those in which the student was enrolled at the student's previous public school or schools as soon as the public school or school district receives verification from the student's records.

D. For a student who has experienced a disruption in the student's education at any time during the student's high school enrollment, a school district and public schools shall ensure:

(1) acceptance of the student's state graduation requirements for a diploma of excellence pursuant to the Public School Code;

(2) equal access to participation in sports and other extracurricular activities, career and technical

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programs or other special programs for which the student qualifies;

(3) timely assistance and advice from counselors to improve the student's college or career readiness; and

(4) that the student receives all special education services to which the student is entitled."

SECTION 15. Section 32A-3A-2 NMSA 1978 (being Laws 1993, Chapter 77, Section 64, as amended) is amended to read:

"32A-3A-2. DEFINITIONS.--As used in the Family Services Act:

A. "child or family in need of family services" means a family:

(1) [~~a family~~] whose child's behavior endangers the child's health, safety, education or well-being;

(2) whose child is excessively absent from public school as defined in the Attendance for Success Act;

[~~(2) a family~~] (3) whose child is absent from the child's place of residence for twenty-four hours or more without the consent of the parent, guardian or custodian;

[~~(3) a family~~] (4) in which the parent, guardian or custodian of a child refuses to permit the child to live with the parent, guardian or custodian; or

[~~(4) a family~~] (5) in which the child refuses to live with [~~his~~] the child's parent, guardian or custodian;

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and

B. "family services" means services that address specific needs of the child or family."

SECTION 16. Section 32A-3A-3 NMSA 1978 (being Laws 1993, Chapter 77, Section 65, as amended) is amended to read:

"32A-3A-3. REQUEST FOR FAMILY SERVICES--WITHDRAWAL OF REQUEST--PRESUMPTION OF GOOD FAITH.--

A. Any child or family member who has a reasonable belief that the child or family is in need of family services may request family services from the department.

B. Any person, including a public or private school principal, who has a reasonable belief that a child or family is in need of family services may submit a referral to the department.

C. A family that requests or accepts family services may withdraw its request for or acceptance of family services at any time.

D. A person who refers a child or family for family services is presumed to be acting in good faith and shall be immune from civil or criminal liability, unless the person acted in bad faith or with malicious purpose."

SECTION 17. REPEAL.--Sections 22-12-1 through 22-12-10 NMSA 1978 (being Laws 1967, Chapter 16, Sections 169 and 170; Laws 1986, Chapter 33, Section 27; Laws 1971, Chapter 238, Section 1; Laws 2013, Chapter 198, Section 1; Laws 1978,

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Chapter 211, Section 10; Laws 1967, Chapter 16, Sections 172 and 175; Laws 1985, Chapter 104, Section 1; Laws 2004, Chapter 28, Section 1; and Laws 2017, Chapter 53, Section 1 and Laws 2017, Chapter 85, Section 1, as amended) are repealed.

- 38 -

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