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HOUSE BILL 110

**54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020**

INTRODUCED BY  
Raymundo Lara

AN ACT

RELATING TO PUBLIC EDUCATION; ALLOWING AN EXCUSED ABSENCE FOR  
ONE MENTAL HEALTH DAY PER YEAR PER STUDENT; PROVIDING  
LIMITATIONS.

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

**SECTION 1.** Section 22-12A-2 NMSA 1978 (being Laws 2019,  
Chapter 223, Section 2) is amended to read:

"22-12A-2. 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;

B. "attendance improvement plan" means a tiered  
data-informed system for public schools and school districts to

1 identify students who are chronically or excessively absent and  
2 to aid public schools in developing whole-school prevention  
3 strategies and targeted interventions. Each of the tiers is  
4 defined as follows:

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

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

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

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

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

23 D. "chronic absence rate" means the percentage of  
24 students, in the aggregate and disaggregated by the subgroups  
25 required for reporting pursuant to the federal Every Student

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1 Succeeds Act, in a public school and a school district who have  
2 been enrolled for at least ten days and who have missed ten  
3 percent or more of school days since the beginning of the  
4 school year;

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

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

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

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

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

25 J. "medical absence" or "medically absent" means

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1 that a student is not in attendance for a class or a school day  
2 for a parent- or doctor-authorized medical reason or the  
3 student is a pregnant or parenting student;

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

6 L. "school district" includes a charter school;

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

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

13 SECTION 2. Section 22-12A-9 NMSA 1978 (being Laws 2019,  
14 Chapter 223, Section 9) is amended to read:

15 "22-12A-9. MEDICAL APPOINTMENTS--ILLNESS--SPECIAL  
16 SITUATIONS--MAKE-UP WORK.--

17 A. A student may be excused for parent- or doctor-  
18 authorized medical reasons. A public school shall provide time  
19 for the student to make up the school work missed during the  
20 absence.

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

23 (1) provides at least ten days of medical  
24 absences during the school year for a student who provides  
25 documentation of the birth of the student's child, and the

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1 public school shall provide time for the student to make up the  
2 school work missed during the absence; and

3 (2) provides four days of excused absences for  
4 a student who provides appropriate documentation of pregnancy  
5 or that the student is the parent of a child under the age of  
6 thirteen needing care, and the public school shall provide time  
7 for the student to make up the school work missed during the  
8 absence.

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

15 D. A student may, subject to the approval of the  
16 school principal, be absent from school to participate in  
17 religious instruction for not more than one class period per  
18 school day with the written consent of the student's parent at  
19 a time that is not in conflict with the academic program of the  
20 school. The public school shall provide time for the student  
21 to make up the school work missed during the absence. The  
22 school district or the public school shall not assume  
23 responsibility for the religious instruction of any student or  
24 permit religious instruction to be conducted on school  
25 property.

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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.

F. A public school student, with the written or verbal consent of the student's parent, may take one day per school year as a mental health day; provided that the mental health day shall not be taken on a test day. The public school shall provide time for the student to make up the school work missed during the absence."

SECTION 3. APPLICABILITY.--The provisions of this act are applicable to the 2020-2021 and subsequent school years.