

HOUSE BILL 199

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

Brian G. Baca and G. Andrés Romero and Joy Garratt
and Tanya Mirabal Moya and Jason C. Harper

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

AN ACT

RELATING TO PUBLIC EDUCATION; INCREASING THE AT-RISK INDEX;
INCREASING THE FINE ARTS FACTOR; INCREASING THE RESPONSIBILITY
FACTORS FOR ELEMENTARY, MIDDLE AND HIGH SCHOOL PRINCIPALS AND
ASSISTANT PRINCIPALS.

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

SECTION 1. Section 22-8-23.3 NMSA 1978 (being Laws 1997,
Chapter 40, Section 7, as amended) is amended to read:

.223517.3AIC March 2, 2023 (4:01pm)

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight↔
delete = →bold, red, highlight, strikethrough↔

"22-8-23.3. AT-RISK PROGRAM UNITS.--

A. A school district is eligible for additional program units if it establishes within its department-approved educational plan identified services to assist students to reach their full academic potential. A school district receiving additional at-risk program units shall include a report of specified services implemented to improve the academic success of at-risk students. The report shall identify the ways in which the school district and individual public schools use funding generated through the at-risk index and the intended outcomes. For purposes of this section, "at-risk student" means a student who meets the criteria to be included in the calculation of the three-year average total rate in Subsection B of this section. The number of additional units to which a school district is entitled under this section is computed in the following manner:

$$\text{At-Risk Index} \times \text{MEM} = \text{Units}$$

where MEM is equal to the total district membership, including early childhood education, full-time-equivalent membership and special education membership and where the at-risk index is calculated in the following manner:

$$\text{Three-Year Average Total Rate} \times [\text{0.30}] \text{ HAFC} \rightarrow \text{0.35} \leftarrow \text{HAFC}$$

$$\text{HAFC} \rightarrow \text{0.33} \leftarrow \text{HAFC} = \text{At-Risk}$$

Index.

B. To calculate the three-year average total rate,

underscored material = new
[bracketed material] = delete
Amendments: new = bold, blue, highlight
delete = bold, red, highlight, strikethrough

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

the department shall compute a three-year average of the school district's percentage of membership used to determine its Title 1 allocation, a three-year average of the percentage of membership classified as English language learners using criteria established by the office for civil rights of the United States department of education and a three-year average of the percentage of student mobility. The department shall then add the three-year average rates. The number obtained from this calculation is the three-year average total rate.

C. The department shall recalculate the at-risk index for each school district every year.

D. For purposes of this section, "services" means research-based or evidence-based social, emotional or academic interventions, such as:

(1) case management, tutoring, reading interventions and after-school programs that are delivered by social workers, counselors, teachers or other professional staff;

(2) culturally relevant professional and curriculum development, including those necessary to support language acquisition, bilingual and multicultural education;

(3) additional compensation strategies for high-need schools;

(4) whole school interventions, including school-based health centers and community schools;

.223517.3AIC March 2, 2023 (4:01pm)

underscoring material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

(5) educational programming intended to improve career and college readiness of at-risk students, including dual or concurrent enrollment, career and technical education, guidance counseling services and coordination with post-secondary institutions; and

(6) services to engage and support parents and families in the education of students."

SECTION 2. Section 22-8-23.5 NMSA 1978 (being Laws 2003, Chapter 144, Section 3 and Laws 2003, Chapter 152, Section 8) is amended to read:

"22-8-23.5. FINE ARTS EDUCATION PROGRAM UNITS.--The number of fine arts education program units is determined by multiplying the full-time-equivalent MEM in programs implemented in accordance with the provisions of the Fine Arts Education Act by the cost differential factor of [~~0.0166 for fiscal year 2004, 0.0332 for fiscal year 2005 and 0.05~~] 0.055 for fiscal year [~~2006~~] 2024 and succeeding fiscal years."

SECTION 3. Section 22-10A-2 NMSA 1978 (being Laws 2019, Chapter 238, Section 1, as amended by Laws 2021, Chapter 92, Section 1 and by Laws 2021, Chapter 94, Section 4) is amended to read:

"22-10A-2. DEFINITIONS.--As used in the School Personnel Act:

A. "child abuse" means a child:

(1) who has suffered or who is at risk of

.223517.3AIC March 2, 2023 (4:01pm)

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight↔
delete = →bold, red, highlight, strikethrough↔

suffering serious harm because of the action or inaction of the child's parent, guardian, custodian or other adult;

(2) who has suffered physical abuse, emotional abuse or psychological abuse inflicted or caused by the child's parent, guardian, custodian or other adult;

(3) who has suffered sexual abuse or sexual exploitation inflicted by the child's parent, guardian, custodian or other adult;

(4) whose parent, guardian, custodian or other adult has knowingly, intentionally or negligently placed the child in a situation that may endanger the child's life or health; or

(5) whose parent, guardian, custodian or other adult has knowingly or intentionally tortured, cruelly confined or cruelly punished the child;

B. "constitutional special school" means the New Mexico military institute, New Mexico school for the deaf and New Mexico school for the blind and visually impaired;

C. "contractor" means an individual who is under contract with a public school and is hired to provide services to the public school, but does not include a general contractor or a building or maintenance contractor who is supervised and has no access to students at the public school;

D. "discharge" means the act of severing the employment relationship with a licensed school employee prior

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

to the expiration of the current employment contract;

E. "employed for three consecutive school years" means a licensed school employee has been offered and accepted in writing a notice of reemployment for the third consecutive school year;

F. "ethical misconduct" means the following behavior or conduct by school district personnel, school employees, school volunteers, contractors or contractors' employees:

(1) discriminatory practice based on race, age, color, national origin, ethnicity, sex, pregnancy, sexual orientation, gender identity, mental or physical disability, marital status, religion, citizenship, domestic abuse reporting status or serious medical condition;

(2) sexual misconduct or any sexual offense prohibited by Chapter 30, Article 6A or 9 NMSA 1978 involving an adult or child, regardless of a child's enrollment status;

(3) fondling a child or student, including touching private body parts, such as breasts, buttocks, genitals, inner thighs, groin or anus; or

(4) any other behavior, including licentious, enticing or solicitous behavior, that is reasonably apparent to result in inappropriate sexual contact with a child or student or to induce a child or student into engaging in illegal, immoral or other prohibited behavior;

.223517.3AIC March 2, 2023 (4:01pm)

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

G. "governing authority" means the policy-setting body of a school district, charter school, constitutional special school or regional education cooperative, or the final decision maker of another state agency;

H. "instructional support provider" means a person who is employed to support the instructional program of a public school, including educational assistant, school counselor, social worker, school nurse, speech-language pathologist, psychologist, physical therapist, occupational therapist, recreational therapist, marriage and family therapist, interpreter for the deaf and diagnostician;

I. "just cause" means a reason that is rationally related to a school employee's competence or turpitude or the proper performance of the school employee's duties and that is not in violation of the school employee's civil or constitutional rights;

J. "military service member" means a person who is:

(1) serving in the armed forces of the United States as an active duty member or in an active reserve component of the armed forces of the United States, including the national guard;

(2) the spouse of a person who is serving in the armed forces of the United States as an active duty member or in an active reserve component of the armed forces of the United States, including the national guard; or a surviving

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

spouse of a member who at the time of death was serving on active duty; or

(3) the child of a person who is serving in the armed forces of the United States as an active duty member or in an active reserve component of the armed forces of the United States, including the national guard; provided that child is also a dependent of that person for federal income tax purposes;

K. "moral turpitude" means an act or behavior that gravely violates the accepted standards of moral conduct, justice or honesty and may include ethical misconduct;

L. "public school" means a school district, charter school, constitutional special school, regional education cooperative or the educational program of another state agency;

M. "responsibility factor" means a value of ~~[1.20]~~ 1.25 for an elementary school principal, ~~[1.40]~~ 1.45 for a middle school or junior high school principal, ~~[1.60]~~ 1.65 for a high school principal, ~~[1.10]~~ 1.15 for an assistant elementary school principal, ~~[1.15]~~ 1.20 for an assistant middle school or assistant junior high school principal and ~~[1.25]~~ 1.30 for an assistant high school principal;

N. "sabbatical leave" means leave of absence with pay as approved by the governing authority during all or part of a regular school term for purposes of study or travel related to a licensed school employee's duties and of direct

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

benefit to the instructional program;

O. "school administrator" means a person licensed to administer in a school district, charter school, constitutional special school or regional education cooperative or a person employed with another state agency who administers an educational program and includes local superintendents, school principals, central district administrators, business managers, charter school head administrators and state agency education supervisors;

P. "school employee" includes licensed and unlicensed employees of a public school;

Q. "school premises" means:

(1) the buildings and grounds, including playgrounds, playing fields and parking areas and a school bus of a public school, in or on which school or school-related activities are being operated under the supervision of a local school board, charter school or state agency; or

(2) any other public buildings or grounds, including playing fields and parking areas that are not public school property, in or on which public school-related and -sanctioned activities are being performed;

R. "school volunteer" means a person, including a relative of a student, who commits to serve on a regular basis at a school district, charter school or other educational entity without compensation;

.223517.3AIC March 2, 2023 (4:01pm)

underscored material = new

[bracketed material] = delete

Amendments: new = →bold, blue, highlight↔

delete = →bold, red, highlight, strikethrough↔

S. "state agency" means a regional education cooperative or state institution;

T. "state institution" means the New Mexico boys' school, girls' welfare home, New Mexico youth diagnostic and development center, Sequoyah adolescent treatment center, Carrie Tingley crippled children's hospital, New Mexico behavioral health institute at Las Vegas and any other state agency responsible for educating resident children;

U. "substitute teacher" means a person who holds a certificate to substitute for a teacher in the classroom;

V. "superintendent" means a local superintendent, head administrator of a charter school or regional education cooperative, superintendent or commandant of a special school or head administrator of the educational program of a state agency;

W. "teacher" means a person who holds a level one, level two or level three-A license and whose primary job is classroom instruction or the supervision, below the school principal level, of an instructional program or whose duties include curriculum development, peer intervention, peer coaching or mentoring or serving as a resource teacher for other teachers;

X. "terminate" means the act of severing the employment relationship with a school employee;

Y. "unsupervised contact with children or students"

.223517.3AIC March 2, 2023 (4:01pm)

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight↔
delete = →bold, red, highlight, strikethrough↔

means access to or contact with, or the opportunity to have access to or contact with, a child or student for any length of time in the absence of:

- (1) a licensed staff person from the same school or institution;
- (2) a school volunteer who has undergone a background check pursuant to Section 22-10A-5 NMSA 1978; or
- (3) any adult relative or guardian of the child or student; [~~and~~]

Z. "veteran" means a person who has received an honorable discharge or separation from military service in the armed forces of the United States or in an active reserve component of the armed forces of the United States, including the national guard; and

AA. "working day" means every school calendar day, excluding Saturdays, Sundays and legal holidays."

SECTION 4. APPLICABILITY.--The provisions of this act apply to the 2023-2024 school year and subsequent school years.