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SENATE BILL 188

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

INTRODUCED BY

Mary Kay Papen

FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

AN ACT

RELATING TO EDUCATION; PROVIDING FOR A LICENSURE AND  
COMPENSATION FRAMEWORK FOR CERTAIN INSTRUCTIONAL SUPPORT  
PROVIDERS; MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.

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

Section 1. Section 22-10A-17 NMSA 1978 (being Laws 2003,  
Chapter 153, Section 48, as amended) is amended to read:

"22-10A-17. INSTRUCTIONAL SUPPORT PROVIDER LICENSES.--

A. The department shall license instructional  
support providers [~~including educational assistants, school  
counselors, school social workers, school nurses, speech-  
language pathologists, psychologists, physical therapists,  
physical therapy assistants, occupational therapists,  
occupational therapy assistants, recreational therapists,  
interpreters for the deaf, diagnosticians and other service~~

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1 ~~providers~~]. The department [~~may~~] shall provide a  
2 [~~professional~~] progressive licensing framework in which  
3 licensees can advance in their careers through the  
4 demonstration of increased competencies and the undertaking of  
5 increased duties.

6 B. [~~The department shall provide by rule for the~~  
7 ~~requirements for licensure of types of instructional support~~  
8 ~~providers.~~] If an instructional support provider practices a  
9 licensed profession, [~~he~~] the instructional support provider  
10 shall provide evidence satisfactory to the department that [~~he~~]  
11 the instructional support provider holds a current, unsuspended  
12 license in the profession for which [~~he~~] the instructional  
13 support provider is applying to provide instructional support  
14 services. The instructional support provider shall notify the  
15 school district and department immediately if [~~his~~] the  
16 instructional support provider's professional license is  
17 suspended, revoked or denied. Suspension, revocation or denial  
18 of a professional license shall be just cause for discharge or  
19 termination and suspension, revocation or denial of the  
20 instructional support provider license.

21 C. If an instructional support provider practices a  
22 licensed profession that requires a bachelor's or higher  
23 degree, the instructional support provider shall be licensed as  
24 provided in Section 2 of this 2007 act. If the instructional  
25 support provider does not practice a licensed profession or

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1 practices a profession or occupation that does not require at  
2 least a bachelor's degree, the instructional support provider  
3 shall be licensed as provided by specific law or by rule of the  
4 department. The department may designate licenses of  
5 instructional support providers licensed by rule as numeric  
6 levels or any other designation it determines as long as the  
7 licensure denotes a progressive framework."

8 Section 2. A new section of the School Personnel Act is  
9 enacted to read:

10 "[NEW MATERIAL] PROFESSIONAL INSTRUCTIONAL SUPPORT  
11 PROVIDER LICENSING FRAMEWORK--REQUIREMENTS AND SALARY.--

12 A. This section applies to professional  
13 instructional support providers whose professional duties  
14 require a bachelor's or higher degree to practice in public  
15 schools.

16 B. The department shall issue professional  
17 instructional support provider licenses endorsed for the  
18 applicable professions to applicants who meet the requirements  
19 for each level of licensure. In determining the appropriate  
20 licensure level for an applicant, the department shall adopt  
21 rules to consider verified employment as a certified  
22 professional in a clinical or parallel setting in lieu of  
23 experience in a school setting.

24 C. A level one professional instructional support  
25 provider license is a provisional license for the first three

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1 years of practice in a school setting that gives a beginning  
2 instructional support provider the opportunity, through a  
3 formal mentorship program, for additional preparation to be an  
4 instructional support provider in the endorsed profession  
5 listed on the license. As a condition of licensure, the  
6 instructional support provider is required to undergo a formal  
7 mentorship program and an annual intensive performance  
8 evaluation by a school administrator or a level three  
9 professional instructional support provider endorsed for the  
10 same profession as the licensee for three full school years  
11 before applying for a level two license. At the end of each  
12 year and at the end of the license period, the level one  
13 professional instructional support provider shall be evaluated  
14 for competency. If the instructional support provider has not  
15 demonstrated satisfactory progress and competence by the end of  
16 the three-year period, the provider shall not be granted a  
17 level two license. Except in exigent circumstances defined by  
18 department rule, a level one professional instructional support  
19 provider license shall not be extended beyond the initial  
20 three-year period and shall not be renewed. The department  
21 shall issue a level one professional instructional support  
22 provider license to an applicant who is at least eighteen years  
23 of age and who:

24 (1) if required to do so, holds a license or  
25 certification in the professional area in which the provider

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1 seeks to practice in a school setting; and

2 (2) meets other qualifications for level one  
3 licensure as determined by the department, including clearance  
4 of the required background check.

5 D. A level two professional instructional support  
6 provider license is granted to an instructional support  
7 provider who is a fully qualified professional who annually  
8 demonstrates essential competencies. The department shall  
9 issue a level two professional instructional support provider  
10 license to an applicant who successfully completes the three-  
11 year level one professional license or is granted reciprocity  
12 as provided by department rule and meets other qualifications  
13 as required by the department. If a level two professional  
14 instructional support provider does not demonstrate essential  
15 competency in a given school year, the school district shall  
16 provide the provider with additional professional development  
17 and peer intervention during the following school year. To  
18 maintain the nine-year level two professional instructional  
19 support provider license, the licensee shall:

20 (1) demonstrate essential competency required  
21 by the department as verified by the local superintendent  
22 through annual evaluations;

23 (2) hold a valid license or certification in  
24 the licensee's profession; and

25 (3) meet all continuing education requirements

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1 of the licensee's profession.

2 E. A level three professional instructional support  
3 provider license is granted to an instructional support  
4 provider who is a fully qualified professional who demonstrates  
5 leadership competencies beyond those required for a level two  
6 license. A level three license shall be granted to an  
7 applicant who has been a level two professional instructional  
8 support provider for at least three years or is granted  
9 reciprocity as provided by department rule and meets other  
10 qualifications as required by the department, including  
11 successful demonstration of essential and leadership  
12 competencies. If a level three professional instructional  
13 support provider does not demonstrate essential and leadership  
14 competencies in a given school year, the school district shall  
15 provide the provider with additional professional development  
16 and peer intervention during the following school year. To  
17 maintain the nine-year level three professional instructional  
18 support provider license, the licensee shall:

19 (1) demonstrate essential and leadership  
20 competencies required by the department as verified by the  
21 local superintendent through annual evaluations;

22 (2) hold a valid license or certification in  
23 the licensee's profession;

24 (3) meet all continuing education requirements  
25 of the licensee's profession; and

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1 (4) hold an advanced degree or certification  
2 as required by department rule.

3 F. Beginning with the 2008-2009 school year, with  
4 the adoption by the department of a highly objective  
5 performance evaluation for professional instructional support  
6 providers, the minimum salaries for professional instructional  
7 support providers licensed pursuant to this section shall be as  
8 follows:

9 (1) for level one professional instructional  
10 support providers, for the school year following adoption of  
11 the performance evaluation, thirty thousand dollars (\$30,000);

12 (2) for level two professional instructional  
13 support providers, for the first school year following adoption  
14 of the performance evaluation, forty thousand dollars  
15 (\$40,000); and

16 (3) for level three professional instructional  
17 support providers, for the first school year following adoption  
18 of the performance evaluation and the adoption of the minimum  
19 of fifty thousand dollars (\$50,000) salary for level three  
20 teachers, fifty thousand dollars (\$50,000).

21 G. The department shall consult with professional  
22 licensing boards and professional organizations in the  
23 development of the three-level licensure system to include  
24 essential and leadership competencies and the performance  
25 evaluation instruments."

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Section 3. APPROPRIATION.--Two hundred fifty thousand dollars (\$250,000) is appropriated from the general fund to the public education department for expenditure in fiscal years 2007 and 2008 to establish a progressive licensure and compensation framework for all instructional support providers and to develop and implement a highly objective performance evaluation for professional instructional support providers by June 30, 2008. Any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the general fund.

Section 4. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.