

SENATE EDUCATION COMMITTEE SUBSTITUTE FOR
SENATE BILL 50

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

AN ACT

RELATING TO PUBLIC SCHOOLS; PROVIDING FOR IMPROVED INTERVENTION
AND RETENTION PRACTICES FOR KINDERGARTEN THROUGH GRADE EIGHT
AND TOP TO BOTTOM ACCOUNTABILITY.

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

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Chapter 33, Section 7, as amended) is repealed and a new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

"22-2C-6. [NEW MATERIAL] GRADE PROMOTIONS--INTERVENTION
AND REMEDIATION PROGRAMS--RETENTION POLICIES--ACCOUNTABILITY.--

A. As used in this section:

(1) "academic improvement plan" means a
written document developed by the student assistance team that
describes the specific content standards required for a certain
grade level that a student has not achieved and that prescribes

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underscored material = new
[bracketed material] = delete

1 specific intervention or remediation programs that have
2 demonstrated effectiveness;

3 (2) "educational plan for student success"
4 means a student-centered tool developed to define the role of
5 the academic improvement plan within the public school and the
6 school district that addresses methods to improve student
7 learning and success in school and that identifies specific
8 measures of a student's progress;

9 (3) "formative assessments" means assessments
10 that provide information to be used as feedback to adapt
11 teaching to the student's learning needs;

12 (4) "grade-level proficiency" means a score on
13 a school-district-approved standards-based assessment that is
14 comparable among school districts statewide;

15 (5) "intensive targeted instruction" means
16 extra instruction in either small groups or as individuals that
17 shall be no less than thirty minutes per day and three days per
18 week and taught by a teacher or tutor who is not the student's
19 classroom teacher;

20 (6) "intervention" means targeted
21 instructional practice for individual students or small groups
22 of students aligned with the results of a valid and reliable
23 assessment and, if applicable, response to intervention as
24 defined in Section 22-13-6 NMSA 1978 and department rule;

25 (7) "mathematics screening assessment" means a

1 school-district-adopted, department-approved formative
2 assessment that measures content, operations, applications,
3 problem-solving and consumer skills, as appropriate for the
4 grade level;

5 (8) "parent" includes a guardian or other
6 person having custody or control of a school-age person;

7 (9) "parent involvement" means a parent
8 helping to implement an academic improvement plan by:

9 (a) attending and participating in
10 student assistance team meetings;

11 (b) using specific strategies explained
12 by the student assistance team to help the parent's student
13 reach grade-level proficiency;

14 (c) attending a school presentation that
15 delivers details about or training on the specific strategies
16 or observing an intensive targeted instruction of the parent's
17 student; and

18 (d) contributing to the student's
19 progress toward grade-level proficiency in a manner in which
20 the parent is capable and as determined by the school or school
21 district;

22 (10) "reading screening assessment" means a
23 school-district-adopted, department-approved formative
24 assessment that measures the acquisition of reading skills,
25 including phonological awareness, phonics, reading fluency,

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1 vocabulary, comprehension and oral language, as appropriate for
2 the grade level;

3 (11) "remediation programs" includes summer
4 school, extended day or week programs, tutoring, progress-based
5 monitoring and other research-based methods for improvement of
6 student proficiency, as provided by trained personnel;

7 (12) "school" includes a charter school;

8 (13) "school district" includes both a public
9 school district and a charter school;

10 (14) "small group" consists of no fewer than
11 five students and no more than ten students;

12 (15) "student assistance team" means a group
13 consisting of a student's:

14 (a) teacher;

15 (b) school counselor;

16 (c) school administrator;

17 (d) parent; and

18 (e) if the student or parent wishes, a
19 student representative chosen by the student or parent; and

20 (16) "valid and reliable assessments" means
21 assessments that:

22 (a) are appropriate to targeted
23 populations;

24 (b) provide predictive values; and

25 (c) are thoroughly tested, peer-reviewed

1 and accepted by authorities and practitioners in the field.

2 B. School districts shall approve intervention and
3 remediation programs that have demonstrated effectiveness to
4 provide special instructional assistance to students in
5 kindergarten through eighth grade who do not demonstrate grade-
6 level proficiency in reading and math.

7 C. Beginning in the 2012-2013 school year:

8 (1) kindergarten through eighth grade
9 intervention and remediation programs, as defined in the
10 educational plan for student success, and retention and
11 promotion policies shall be aligned with valid and reliable
12 assessment results and shall be aligned with state standards;

13 (2) within the first three weeks of the school
14 year, each student in kindergarten through eighth grade shall
15 be evaluated with a reading screening assessment and a
16 mathematics screening assessment;

17 (3) if the reading screening assessment or
18 mathematics screening assessment results indicate that a
19 student is not proficient in reading or mathematics, the school
20 immediately shall implement intervention and remediation
21 programs to help the student progress toward grade-level
22 proficiency; and

23 (4) if the student does not progress toward
24 grade-level proficiency following intervention and remediation
25 programs, as measured by continuous formative assessments, by

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1 the end of the first grading period of the school year, a
2 parent shall be notified in writing that the parent's student
3 has not achieved grade-level proficiency in reading or
4 mathematics, and a student assistance team shall meet to
5 discuss and adopt an academic improvement plan, which shall be
6 implemented immediately following the student assistance team
7 meeting. At the student assistance team meeting, the parent
8 shall be presented with and receive an explanation of:

- 9 (a) the student's specific reading or
10 mathematics deficiencies;
- 11 (b) academic expectations for the
12 student;
- 13 (c) academic measurements to be taken;
- 14 (d) an academic improvement plan;
- 15 (e) time lines for implementing the
16 academic improvement plan;
- 17 (f) whether intensive targeted
18 instruction or any other interventions may be used; and
- 19 (g) parent involvement expectations and
20 opportunities.

21 D. The cost of summer school and extended day
22 intervention and remediation programs offered in grades nine
23 through twelve shall be borne by the parent; however, in cases
24 in which parents are determined to be indigent according to
25 guidelines established by the department, the school district

1 shall bear those costs.

2 E. At the end of kindergarten and each grade
3 through eighth grade, promotion and retention decisions for
4 each student shall be based upon a determination that the
5 student:

6 (1) has achieved grade-level proficiency and
7 shall enter the next higher grade;

8 (2) has not achieved grade-level proficiency
9 and shall participate in the required level of remediation.

10 Upon certification by the school district that the student has
11 achieved grade-level proficiency, the student shall enter the
12 next higher grade; or

13 (3) has not achieved grade-level proficiency
14 after completion of the prescribed intervention and remediation
15 program and, after consultation with the parent upon the
16 recommendation of the teacher and school principal, shall
17 either be:

18 (a) retained in the same grade for no
19 more than one school year with an academic improvement plan
20 developed by the student assistance team to achieve grade-level
21 proficiency; or

22 (b) promoted to the next grade if the
23 parent refuses to allow the child to be retained pursuant to
24 Subparagraph (a) of this paragraph and signs a waiver
25 indicating the parent's desire that the student be promoted to

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1 the next higher grade with an academic improvement plan
2 designed to address specific reading and mathematics
3 deficiencies. The academic improvement plan shall be developed
4 by the student assistance team outlining time lines and
5 monitoring activities to ensure progress toward overcoming the
6 student's reading and mathematics deficiencies. Students who
7 have been evaluated to determine the nature of their reading
8 and mathematics deficiencies and who have received an
9 intervention and remediation program that is different from the
10 previous year's program but fail to achieve grade-level
11 proficiency at the end of that year as measured by grades,
12 performance on school-district-approved assessments and other
13 measures identified by the school district shall be retained in
14 the same grade for no more than one year in order to have
15 additional time to achieve grade-level proficiency unless
16 exempt from retention as prescribed in Subsection H of this
17 section. The academic improvement plan shall include an
18 alternate program and shall be implemented immediately.

19 F. A student who does not demonstrate grade-level
20 proficiency for two successive school years shall be referred
21 to the student assistance team for placement in an alternative
22 program designed by the school district. Alternative program
23 plans shall be filed with the department.

24 G. Promotion and retention decisions affecting a
25 student enrolled in special education shall be made in

1 accordance with the provisions of the individual educational
2 plan established for that student.

3 H. A student shall be exempt from the provisions of
4 Subsection E of this section if the student:

5 (1) scores at least at the fiftieth percentile
6 on a school-district-approved norm-referenced assessment or at
7 the proficient level on an alternative school-district-approved
8 criterion-referenced assessment;

9 (2) demonstrates mastery on a teacher-
10 developed portfolio that is equal to at least a proficient
11 performance on the statewide standards-based assessments;

12 (3) shows sufficient academic growth by
13 meeting acceptable levels of academic performance specified by
14 the school district;

15 (4) is an English language learner who is
16 proficient in a language other than English on a valid and
17 reliable reading assessment in that language or who has had
18 less than two years of instruction in English for speakers of
19 other languages; or

20 (5) is a student with a disability who shall
21 be assessed, promoted or retained in accordance with the
22 provisions of the student's individualized education program.

23 I. By the end of each school year, each school
24 shall report to the school district, by June 15 of each year,
25 each school district or state-chartered charter school shall

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1 report to the department and by July 31 of each year, the
2 department shall report to the legislative education study
3 committee:

4 (1) the number of students who received
5 interventions and remediation programs following a reading
6 screening assessment;

7 (2) the number of students who received
8 interventions and remediation programs following a mathematics
9 screening assessment;

10 (3) the number of students who received an
11 academic improvement plan for reading only;

12 (4) the number of students who received an
13 academic improvement plan for mathematics only;

14 (5) the number of students who received an
15 academic improvement plan for reading and mathematics;

16 (6) the number of students recommended for
17 retention in each grade;

18 (7) the number of students retained in each
19 grade; and

20 (8) any other information requested by the
21 legislative education study committee."