

1 HOUSE BILL 354

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

3 INTRODUCED BY

4 Christine Trujillo

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10 AN ACT

11 RELATING TO PUBLIC SCHOOLS; AMENDING THE PUBLIC SCHOOL CODE TO
12 EXPAND THE MEANING OF "SCHOOL-AGE PERSON" AND TO REQUIRE THE
13 PUBLIC EDUCATION DEPARTMENT TO ESTABLISH AND EXPAND
14 ACCELERATION OPPORTUNITIES FOR CERTAIN QUALIFYING STUDENTS.

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

17 SECTION 1. Section 22-1-2 NMSA 1978 (being Laws 2003,
18 Chapter 153, Section 3, as amended by Laws 2015, Chapter 58,
19 Section 2 and by Laws 2015, Chapter 108, Section 1) is amended
20 to read:

21 "22-1-2. DEFINITIONS.--As used in the Public School Code:

22 A. "academic proficiency" means mastery of the
23 subject-matter knowledge and skills specified in state academic
24 content and performance standards for a student's grade level;

25 B. "charter school" means a school authorized by a

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1 chartering authority to operate as a public school;

2 C. "commission" means the public education
3 commission;

4 D. "department" means the public education
5 department;

6 E. "home school" means the operation by the parent
7 of a school-age person of a home study program of instruction
8 that provides a basic academic educational program, including
9 reading, language arts, mathematics, social studies and
10 science;

11 F. "instructional support provider" means a person
12 who is employed to support the instructional program of a
13 school district, including educational assistant, school
14 counselor, social worker, school nurse, speech-language
15 pathologist, psychologist, physical therapist, occupational
16 therapist, recreational therapist, marriage and family
17 therapist, interpreter for the deaf and diagnostician;

18 G. "licensed school employee" means teachers,
19 school administrators and instructional support providers;

20 H. "local school board" means the policy-setting
21 body of a school district;

22 I. "local superintendent" means the chief executive
23 officer of a school district;

24 J. "parent" includes a guardian or other person
25 having custody and control of a school-age person;

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1 K. "private school" means a school, other than a
2 home school, that offers on-site programs of instruction and
3 that is not under the control, supervision or management of a
4 local school board;

5 L. "public school" means that part of a school
6 district that is a single attendance center in which
7 instruction is offered by one or more teachers and is
8 discernible as a building or group of buildings generally
9 recognized as either an elementary, middle, junior high or high
10 school or any combination of those and includes a charter
11 school;

12 M. "school" means a supervised program of
13 instruction designed to educate a student in a particular
14 place, manner and subject area;

15 N. "school administrator" means a person licensed
16 to administer in a school district and includes school
17 principals, central district administrators and charter school
18 head administrators;

19 O. "school-age person" means a person who is at
20 least five years of age prior to 12:01 a.m. on September 1 of
21 the school year and who has not received a high school diploma
22 or its equivalent; provided that a student who has been
23 identified as qualifying for gifted education services pursuant
24 to Section 22-13-6.1 NMSA 1978 may begin kindergarten early as
25 part of an academic acceleration program pursuant to Section

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1 22-13-6.1 NMSA 1978. A maximum age of twenty-one shall be used
2 for a person who is classified as special education membership
3 as defined in Section 22-8-21 NMSA 1978 or as a resident of a
4 state institution;

5 P. "school building" means a public school, an
6 administration building and related school structures or
7 facilities, including teacher housing, that is owned, acquired
8 or constructed by the school district as necessary to carry out
9 the functions of the school district;

10 Q. "school bus private owner" means a person, other
11 than a school district, the department, the state or any other
12 political subdivision of the state, that owns a school bus;

13 R. "school district" means an area of land
14 established as a political subdivision of the state for the
15 administration of public schools and segregated geographically
16 for taxation and bonding purposes;

17 S. "school employee" includes licensed and
18 nonlicensed employees of a school district;

19 T. "school principal" means the chief instructional
20 leader and administrative head of a public school;

21 U. "school year" means the total number of contract
22 days offered by public schools in a school district during a
23 period of twelve consecutive months;

24 V. "secretary" means the secretary of public
25 education;

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1 W. "state agency" or "state institution" means the
2 New Mexico military institute, New Mexico school for the blind
3 and visually impaired, New Mexico school for the deaf, New
4 Mexico boys' school, girls' welfare home, New Mexico youth
5 diagnostic and development center, Sequoyah adolescent
6 treatment center, Carrie Tingley crippled children's hospital,
7 New Mexico behavioral health institute at Las Vegas and any
8 other state agency responsible for educating resident children;

9 X. "state educational institution" means an
10 institution enumerated in Article 12, Section 11 of the
11 constitution of New Mexico;

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

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

20 AA. "certified school instructor" means a teacher
21 or instructional support provider; and

22 BB. "certified school employee" or "certified
23 school personnel" means a licensed school employee."

24 **SECTION 2.** Section 22-13-6.1 NMSA 1978 (being Laws 1994,
25 Chapter 25, Section 2, as amended) is amended to read:

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1 "22-13-6.1. GIFTED CHILDREN--DETERMINATION.--

2 A. The department shall adopt standards pertaining
3 to the determination of who is a gifted child and shall publish
4 those standards as part of the educational standards for New
5 Mexico schools.

6 B. In adopting standards to determine who is a
7 gifted child, the department shall provide for the evaluation
8 of selected school-age [~~children~~] persons by multidisciplinary
9 teams from each child's school district. That team shall be
10 vested with the authority to designate a child as gifted. The
11 team shall consider information regarding a child's cultural
12 and linguistic background and socioeconomic background in the
13 identification, referral and evaluation process. The team also
14 shall consider any disabling condition in the identification,
15 referral and evaluation process.

16 C. Each school district offering a gifted education
17 program shall create one or more advisory committees of
18 parents, community members, students and school staff members.
19 The school district may create as many advisory committees as
20 there are high schools in the district or may create a single
21 districtwide advisory committee. The membership of each
22 advisory committee shall reflect the cultural diversity of the
23 enrollment of the school district or the schools the committee
24 advises. The advisory committee shall regularly review the
25 goals and priorities of the gifted program, including the

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1 operational plans for student identification, evaluation,
2 placement and service delivery and shall demonstrate support
3 for the gifted program.

4 D. In determining whether a child is gifted, the
5 multidisciplinary team shall consider diagnostic or other
6 evidence of the child's:

7 (1) creativity or divergent-thinking ability;

8 (2) critical-thinking or problem-solving
9 ability;

10 (3) intelligence; and

11 (4) achievement.

12 E. School districts offering a gifted education
13 program shall:

14 (1) consider the potential need for social
15 work services, transportation costs and occupational therapy
16 for students identified as gifted pursuant to this section;

17 (2) adopt an academic acceleration policy
18 that allows all of the following:

19 (a) a range of options such as: 1)
20 early entry into kindergarten; 2) skipping grades; 3)
21 facilitated enrollment in concurrent high school and college
22 credit courses; 4) credit for demonstrated mastery of subject
23 matter; and 5) other research-based interventions for gifted
24 and high-ability learners as a priority for expending federal
25 Every Student Succeeds Act funding;

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1 (b) specified nondiscrimination and
2 inclusiveness of all students, including those with
3 disabilities, language differences and socioeconomic
4 differences;

5 (c) provisions that the individual
6 education plan team may make acceleration decisions for
7 students identified as gifted and that the student assistance
8 team may make acceleration decisions for other advanced
9 students not identified as gifted; and

10 (d) inclusion of procedures for: 1)
11 appeal and due process; and 2) safe reversion of placement
12 within a reasonable time frame if the acceleration is
13 ineffective;

14 (3) uphold the student's right to accelerate
15 through a dual-credit or concurrent credit course in the
16 event that the student's home school offers the course that
17 would allow the student to earn credit toward graduation;

18 (4) provide special supports for
19 disadvantaged and disabled students who are also identified
20 as gifted pursuant to this section to participate in
21 acceleration; and

22 (5) accept accelerated credit or college
23 credit earned at accredited schools toward graduation from
24 the student's home high school.

25 F. A twice-exceptional student shall continue to

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1 be eligible for special education and related services even
2 though the child achieves a high score on an intelligence
3 test. For purposes of this section, "twice exceptional"
4 means a student who qualifies as a gifted student and meets
5 the criteria for a disability under federal law."

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