

1 SENATE BILL 115

2 **55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

3 INTRODUCED BY

4 Cliff R. Pirtle

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10 AN ACT

11 RELATING TO CHILDREN; REQUIRING NOTICE TO PARENTS OR GUARDIANS  
12 IF A CHILD DOES NOT ARRIVE AT A DAYCARE CENTER, PUBLIC SCHOOL  
13 OR CHARTER SCHOOL.

14  
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. [NEW MATERIAL] DAYCARE ATTENDANCE--NOTICE TO  
17 PARENT OR GUARDIAN.--A daycare center shall provide notice to  
18 the parent or guardian of a child if that child does not arrive  
19 at the daycare center within one hour after the child's  
20 scheduled arrival time. The daycare center shall contact the  
21 parent or guardian one hour after the child has not arrived at  
22 the daycare center to inform the parent or guardian of the  
23 child's non-arrival. A daycare center shall not provide notice  
24 to a parent or guardian if the parent or guardian has already  
25 provided an excuse for the child not attending daycare that

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1 day. The parent or guardian of a child receiving daycare  
2 services shall provide the daycare center with their preferred  
3 method of contact for these notices.

4 SECTION 2. Section 22-12A-4 NMSA 1978 (being Laws 2019,  
5 Chapter 223, Section 4) is amended to read:

6 "22-12A-4. SCHOOL ATTENDANCE--RESPONSIBILITY--PRIVATE  
7 SCHOOL ATTENDANCE POLICIES.--

8 A. Except as otherwise provided in the Public  
9 School Code, a school-age person shall attend public school,  
10 private school, home school or a state institution until the  
11 school-age person is at least eighteen years of age unless that  
12 school-age person has graduated from high school, received a  
13 high school equivalency credential or withdrawn from school on  
14 a hardship waiver. A parent may give written, signed  
15 permission for the school-age person to leave school between  
16 the ages of sixteen and eighteen in case of hardship approved  
17 by the local superintendent or private school.

18 B. A school-age person subject to the provisions of  
19 the Attendance for Success Act shall attend school for at least  
20 the length of time of the school year that is established in  
21 that school-age person's school district, charter school or  
22 private school. The school district or private school shall  
23 not excuse a school-age person from attending school except as  
24 provided in that act.

25 C. The parent of a school-age person subject to the

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1 provisions of the Attendance for Success Act is responsible for  
2 the school attendance of that school-age person. If a school-  
3 age person does not arrive at school within one hour after the  
4 school-age person's scheduled arrival time, the school shall  
5 notify the parent of that school-age person of the school-age  
6 person's non-arrival. A school shall not provide notice to a  
7 parent if the parent has already provided an excuse for the  
8 school-age person not attending school that day. The parent of  
9 a school-age person shall provide the school with their  
10 preferred method of contact for these notices.

11 D. Local school boards and private schools shall  
12 enforce the provisions of the Attendance for Success Act for  
13 students enrolled in their respective schools.

14 E. A private school in this state shall have an  
15 attendance policy that as closely as practicable follows the  
16 law for public schools. A school-age person attending a  
17 private school and the school-age person's parent shall be  
18 given a copy of the private school's attendance policy each  
19 year."

20 SECTION 3. Section 22-12A-6 NMSA 1978 (being Laws 2019,  
21 Chapter 223, Section 6) is amended to read:

22 "22-12A-6. PUBLIC SCHOOL ATTENDANCE POLICIES--  
23 REPORTING.--

24 A. A public school shall maintain an attendance  
25 policy that:

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1 (1) establishes an early warning system that  
2 includes evidence-based metrics to identify students at risk of  
3 chronic absenteeism or excessive absenteeism;

4 (2) provides for early identification of  
5 chronically absent and excessively absent students;

6 (3) employs an attendance improvement plan  
7 that focuses on:

8 (a) keeping students in an educational  
9 setting;

10 (b) prohibiting out-of-school suspension  
11 or expulsion as the punishment for absences;

12 (c) assisting a student's family to  
13 remove barriers to the student's regular school attendance or  
14 attendance in another educational setting; and

15 (d) providing additional educational  
16 opportunities to students who are struggling with attendance;

17 (4) limits the ability of a student to  
18 withdraw to only after all intervention efforts by the public  
19 school or the children, youth and families department to keep  
20 the student in an educational setting have been exhausted;

21 (5) requires that accurate class attendance be  
22 taken for every instructional class and school day in a public  
23 school or school program;

24 (6) provides that a public school shall  
25 differentiate between different types of absences;

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1 (7) requires a public school to document the  
2 following for each chronically or excessively absent student:

3 (a) attempts by the public school to  
4 notify a parent that the student was absent from class or the  
5 school day;

6 (b) attempts to improve attendance by  
7 talking to a student or parent to identify barriers to school  
8 attendance, identify solutions to improve the student's  
9 attendance behavior and discuss necessary interventions for the  
10 student or the student's family; and

11 (c) intervention strategies implemented  
12 to support keeping the student in an educational setting,  
13 including additional educational opportunities offered to the  
14 student;

15 (8) requires a student or the parent of a  
16 student who intends to claim excused absence because of medical  
17 condition, pregnancy or parenting to communicate the student's  
18 status to the appropriate school personnel and to provide  
19 required documentation; ~~and~~

20 (9) encourages and supports compliant data  
21 sharing, pursuant to the federal Family Educational Rights and  
22 Privacy Act of 1974, between a public school and community-  
23 based organizations that provide services to students for the  
24 purpose of providing more personalized interventions and  
25 specialized supports as part of the public school's attendance

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1 improvement plan; and

2 (10) requires notice to the parents of a  
3 student if that student has not arrived at the school within  
4 one hour after the student's scheduled arrival time for that  
5 day unless the parent has provided an excuse for the student  
6 not attending school that day.

7 B. Local school boards shall review and approve  
8 their public school attendance policies.

9 C. School districts shall report absences, chronic  
10 absences and excessive absences data to the department at each  
11 reporting date and the end of the school year and shall  
12 document intervention efforts made to keep students in an  
13 educational setting. The department shall compile school  
14 district reports as provided in Section [~~13 of the Attendance~~  
15 ~~for Success Act~~] 22-12A-13 NMSA 1978 and require school  
16 districts to certify that the information is being reported  
17 consistently and correctly. The department shall share  
18 information from state-chartered charter schools with the  
19 commission.

20 D. A public school shall provide a copy of the  
21 public school's attendance policy to all parents of students in  
22 that school and publish the policy on the public school's  
23 website. The attendance policy shall include:

24 (1) the rights and obligations of parents and  
25 students pursuant to the Attendance for Success Act;

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(2) the prevention strategies that will be implemented to ensure that students attend classes; and

(3) details about consequences of failing to adhere to the attendance policy.

E. A public school shall provide a parent, within five days of the parent's written request, with access to the attendance data of that parent's child, including information about any intervention strategies that have been employed to help the student improve the student's attendance.

F. Upon request, school districts shall provide the chronic absence rate from the most current reporting date or end-of-year report, in the aggregate and disaggregated by subgroups, for all its public schools."