

1 SENATE BILL 105

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026**

3 INTRODUCED BY

4 Harold Pope

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7 FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

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10 AN ACT

11 RELATING TO PUBLIC SCHOOLS; AMENDING THE ATTENDANCE FOR SUCCESS
12 ACT; CLARIFYING THAT ABSENCES ALLOWED IN ACCORDANCE WITH AN
13 INDIVIDUALIZED EDUCATION PROGRAM AND ABSENCES ALLOWED AS
14 ACCOMMODATIONS UNDER CERTAIN FEDERAL AND STATE LAWS ARE EXCUSED
15 ABSENCES; REQUIRING THE PUBLIC EDUCATION DEPARTMENT TO DEVELOP
16 AND PUBLISH WRITTEN GUIDANCE ON HOW TO IMPLEMENT THE ATTENDANCE
17 FOR SUCCESS ACT; MAKING CONFORMING AMENDMENTS.

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

20 SECTION 1. Section 22-12A-2 NMSA 1978 (being Laws 2019,
21 Chapter 223, Section 2) is amended to read:

22 "22-12A-2. DEFINITIONS.--As used in the Attendance for
23 Success Act:

24 A. "absent" or "absence" means not in attendance
25 for a class or school day for any reason, whether excused or

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1 not; provided that "absent" or "absence" does not apply to
2 participation in interscholastic extracurricular activities;

3 B. "attendance improvement plan" means a tiered
4 data-informed system for public schools and school districts to
5 identify students who are chronically or excessively absent and
6 to aid public schools in developing whole-school prevention
7 strategies and targeted interventions. Each of the tiers is
8 defined as follows:

9 (1) "whole school prevention" means universal,
10 whole-school prevention strategies for all students, including
11 students who have missed less than five percent of classes or
12 school days for any reason;

13 (2) "individualized prevention" means targeted
14 prevention strategies for individual students who are missing
15 five percent or more but less than ten percent of classes or
16 school days for any reason;

17 (3) "early intervention" means interventions
18 for students who are missing ten percent or more but less than
19 twenty percent of classes or school days for any reason; and

20 (4) "intensive support" means interventions
21 for students who are missing twenty percent or more of classes
22 or school days for any reason;

23 C. "attendance team" means a group of school-based
24 administrators, teachers, staff, other school personnel and
25 community members who collaborate to implement an attendance

1 improvement plan;

2 D. "chronic absence rate" means the percentage of
3 students, in the aggregate and disaggregated by the subgroups
4 required for reporting pursuant to the federal Every Student
5 Succeeds Act, in a public school and a school district who have
6 been enrolled for at least ten days and who have missed ten
7 percent or more of school days since the beginning of the
8 school year;

9 E. "chronically absent" or "chronic absenteeism"
10 means that a student has been absent for ten percent or more of
11 classes or school days for any reason, whether excused or not,
12 when enrolled for more than ten days;

13 F. "excessively absent" or "excessive absenteeism"
14 means a student who is identified as needing intensive support
15 and has not responded to intervention efforts implemented by
16 the public school;

17 G. "excused absence" means absence from a class or
18 school day that is allowable pursuant to the Attendance for
19 Success Act and includes an absence for a death in the family,
20 medical [absence] reasons, religious instruction or tribal
21 obligations [or any other allowable excuse pursuant to the
22 policies of the local school board];

23 H. "interscholastic extracurricular activities"
24 means [~~these~~] activities sponsored by a public school or an
25 organization whose principal purpose is the regulation,

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1 direction, administration and supervision of interscholastic
2 extracurricular activities in public schools;

3 I. "local school board" includes the governing body
4 of a charter school;

5 [J.] "medical absence" or "medically absent" means
6 that a student is not in attendance for a class or a school day
7 for a parent- or doctor-authorized medical reason or the
8 student is a pregnant or parenting student;

9 K.] J. "school day" means a portion of the school
10 day that is at least one-half of a student's approved program;

11 [L.] K. "school district" includes a charter
12 school;

13 [M.] L. "school principal" includes the head
14 administrator of a charter school; and

15 [N.] M. "unexcused absence" means an absence from a
16 class or school day for which the student does not have an
17 allowable excuse pursuant to the Attendance for Success Act [or
18 policies of the local school board]."

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

21 "22-12A-4. SCHOOL ATTENDANCE--RESPONSIBILITY--PRIVATE
22 SCHOOL ATTENDANCE POLICIES.--

23 A. Except as otherwise provided in the Public
24 School Code, a school-age person shall attend public school,
25 private school, home school or a state institution until the

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1 school-age person is at least eighteen years of age unless that
2 school-age person has graduated from high school, received a
3 high school equivalency credential or withdrawn from school on
4 a hardship waiver. A parent may give written, signed
5 permission for the school-age person to leave school between
6 the ages of sixteen and eighteen in case of hardship approved
7 by the local superintendent or private school.

8 B. A school-age person subject to the provisions of
9 the Attendance for Success Act shall attend school for at least
10 the length of time of the school year that is established in
11 that school-age person's school district, charter school or
12 private school. The school district or private school shall
13 not excuse a school-age person from attending school except as
14 provided in that act.

15 C. The parent of a school-age person subject to the
16 provisions of the Attendance for Success Act is responsible for
17 the school attendance of that school-age person.

18 D. Local school boards and private schools shall
19 enforce the provisions of the Attendance for Success Act for
20 students enrolled in their respective schools.

21 E. The department shall develop and publish written
22 guidance for school districts on how to implement the
23 Attendance for Success Act, including guidance on allowable
24 absences provided for in Section 22-12A-9 NMSA 1978.

25 [E.] F. A private school in this state shall have

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1 an attendance policy that as closely as practicable follows the
2 law for public schools. A school-age person attending a
3 private school and the school-age person's parent shall be
4 given a copy of the private school's attendance policy each
5 year."

6 SECTION 3. Section 22-12A-9 NMSA 1978 (being Laws 2019,
7 Chapter 223, Section 9) is amended to read:

8 "22-12A-9. ALLOWABLE ABSENCES--MEDICAL [APPOINTMENTS]
9 REASONS--ILLNESS--DISABILITY--SPECIAL SITUATIONS--MAKE-UP
10 WORK.--

11 A. A student may be ~~excused for parent or doctor-
12 authorized] absent from school for medical reasons, including
13 medical appointments or illness; provided that the student's
14 absence is authorized by a medical provider or the student's
15 parent. [A public school shall provide time for the student to
16 make up the school work missed during the absence.~~

17 B. A school district shall maintain an attendance
18 policy that:

19 (1) ~~provides at least ten days of medical
20 absences during the school year for a student who provides
21 documentation of the birth of the student's child and the
22 public school shall provide time for the student to make up the
23 school work missed during the absence; and~~

24 (2) ~~provides four days of excused absences for
25 a student who provides appropriate documentation of pregnancy~~

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1 ~~or that the student is the parent of a child under the age of~~
2 ~~thirteen needing care, and the public school shall provide time~~
3 ~~for the student to make up the school work missed during the~~
4 ~~absence.]~~

5 B. A school district shall allow a student to be
6 absent from school for four consecutive or nonconsecutive days
7 if the student is pregnant or parenting a child under the age
8 of thirteen and provides appropriate documentation of pregnancy
9 or parenting. In addition to the four consecutive or
10 nonconsecutive days, a school district shall allow a student to
11 be absent from school for at least ten consecutive days upon
12 the birth of the student's child if the student provides
13 appropriate documentation of the birth.

14 C. A school district that has an alternative public
15 school for, among others, pregnant and parenting students and
16 that allows for off-site attendance through online education
17 shall not count students as absent as long as the students are
18 online with the public school or other appropriate virtual
19 course and complete their class assignments.

20 D. A student may, subject to the approval of the
21 school principal, be absent from school to participate in
22 religious instruction for not more than one class period per
23 school day [with] if the principal receives the written consent
24 of the student's parent [at a time that is not in] and the
25 religious instruction does not conflict with the academic

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1 program of the school. [The public school shall provide time
2 for the student to make up the school work missed during the
3 absence.] The school district or the public school shall not
4 assume responsibility for the religious instruction of any
5 student or permit religious instruction to be conducted on
6 school property.

7 E. A [public school student, with the written
8 consent of the student's parent and] student may, subject to
9 the approval of the school principal, [may] be absent from
10 school to participate in tribal obligations [The public school
11 shall provide time for the student to make up the school work
12 missed during the absence] if the principal receives the
13 written consent of the student's parent.

14 F. A student who is a child with a disability,
15 pursuant to the federal Individuals with Disabilities Education
16 Act, may be absent from school as provided in the student's
17 individualized education program. A student may otherwise be
18 absent from school if the absence is supported by an
19 accommodation made pursuant to Section 504 of the federal
20 Rehabilitation Act of 1973, the federal Americans with
21 Disabilities Act of 1990 or the Human Rights Act.

22 G. A student who is absent from school as allowed
23 pursuant to this section shall be provided time to make up the
24 school work the student missed during the absence. An absence
25 allowed pursuant to this section shall not be considered in

1 determining whether a student is excessively absent for the
2 purposes of enforcement, as provided in Section 22-12A-12 NMSA
3 1978."

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