

HOUSE CONSUMER AND PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
HOUSE BILL 193

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

AN ACT

RELATING TO PUBLIC EDUCATION; CLARIFYING THAT A KINDERGARTEN
STUDENT BORN AT ANY TIME ON SEPTEMBER 1 SHALL BE ACCEPTED FOR
KINDERGARTEN ENROLLMENT; CLARIFYING THAT A PRE-KINDERGARTEN
STUDENT BORN AT ANY TIME ON SEPTEMBER 1 IS ELIGIBLE FOR PRE-
KINDERGARTEN.

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

SECTION 1. Section 22-1-2 NMSA 1978 (being Laws 2003,
Chapter 153, Section 3, as amended) is amended to read:

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

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

B. "adequate yearly progress" means the measure
adopted by the department based on federal requirements to

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1 assess the progress that a public school or school district or
2 the state makes toward improving student achievement;

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

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

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

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

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

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

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

25 J. "parent" includes a guardian or other person

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1 having custody and control of a school-age person;

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

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

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

16 N. "school administrator" means a person licensed
17 to administer in a school district and includes school
18 principals and central district 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. A maximum age of twenty-one shall be used
23 for a person who is classified as special education membership
24 as defined in Section 22-8-21 NMSA 1978 or as a resident of a
25 state institution;

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

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

9 R. "school district" means an area of land
10 established as a political subdivision of the state for the
11 administration of public schools and segregated geographically
12 for taxation and bonding purposes;

13 S. "school employee" includes licensed and
14 nonlicensed employees of a school district;

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

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

20 V. "secretary" means the secretary of public
21 education;

22 W. "state agency" or "state institution" means the
23 New Mexico military institute, New Mexico school for the blind
24 and visually impaired, New Mexico school for the deaf, New
25 Mexico boys' school, girls' welfare home, New Mexico youth

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1 diagnostic and development center, Sequoyah adolescent
 2 treatment center, Carrie Tingley crippled children's hospital,
 3 New Mexico behavioral health institute at Las Vegas and any
 4 other state agency responsible for educating resident children;

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

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

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

16 AA. "certified school instructor" means a teacher
 17 or instructional support provider; and

18 BB. "certified school employee" or "certified
 19 school personnel" means a licensed school employee."

20 SECTION 2. Section 22-8-2 NMSA 1978 (being Laws 1978,
 21 Chapter 128, Section 3, as amended) is amended to read:

22 "22-8-2. DEFINITIONS.--As used in the Public School
 23 Finance Act:

24 A. "ADM" or "MEM" means membership;

25 B. "membership" means the total enrollment of

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1 qualified students on the current roll of a class or school on
2 a specified day. The current roll is established by the
3 addition of original entries and reentries minus withdrawals.
4 Withdrawals of students, in addition to students formally
5 withdrawn from the public school, include students absent from
6 the public school for as many as ten consecutive school days;
7 provided that withdrawals do not include students in need of
8 early intervention and habitual truants the school district is
9 required to intervene with and keep in an educational setting
10 as provided in Section 22-12-9 NMSA 1978;

11 C. "basic program ADM" or "basic program MEM" means
12 the MEM of qualified students but excludes the full-time-
13 equivalent MEM in early childhood education and three- and
14 four-year-old students receiving special education services;

15 D. "cost differential factor" is the numerical
16 expression of the ratio of the cost of a particular segment of
17 the school program to the cost of the basic program in grades
18 four through six;

19 E. "department" or "division" means the public
20 education department;

21 F. "early childhood education ADM" or "early
22 childhood education MEM" means the full-time-equivalent MEM of
23 students attending approved early childhood education programs;

24 G. "full-time-equivalent ADM" or "full-time-
25 equivalent MEM" is that membership calculated by applying to

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1 the MEM in an approved public school program the ratio of the
2 number of hours per school day devoted to the program to six
3 hours or the number of hours per school week devoted to the
4 program to thirty hours;

5 H. "operating budget" means the annual financial
6 plan required to be submitted by a local school board or
7 governing body of a state-chartered charter school;

8 I. "program cost" is the product of the total
9 number of program units to which a school district is entitled
10 multiplied by the dollar value per program unit established by
11 the legislature;

12 J. "program element" is that component of a public
13 school system to which a cost differential factor is applied to
14 determine the number of program units to which a school
15 district is entitled, including but not limited to MEM,
16 full-time-equivalent MEM, teacher, classroom or public school;

17 K. "program unit" is the product of the program
18 element multiplied by the applicable cost differential factor;

19 L. "public money" or "public funds" means all money
20 from public or private sources received by a school district or
21 state-chartered charter school or officer or employee of a
22 school district or state-chartered charter school for public
23 use;

24 M. "qualified student" means a public school
25 student who:

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- 1 (1) has not graduated from high school;
- 2 (2) is regularly enrolled in one-half or more
- 3 of the minimum course requirements approved by the department
- 4 for public school students; and
- 5 (3) in terms of age:
 - 6 (a) is at least five years of age [~~prior~~
 - 7 ~~to 12:01 a.m.~~] on September 1 of the school year;
 - 8 (b) is at least three years of age at
 - 9 any time during the school year and is receiving special
 - 10 education services pursuant to rules of the department; or
 - 11 (c) has not reached the student's
 - 12 twenty-second birthday on the first day of the school year and
 - 13 is receiving special education services pursuant to rules of
 - 14 the department; and

15 N. "state superintendent" means the secretary of
16 public education or the secretary's designee."

17 **SECTION 3.** Section 32A-23-3 NMSA 1978 (being Laws 2005,
18 Chapter 170, Section 3) is amended to read:

19 "32A-23-3. DEFINITIONS.--As used in the Pre-Kindergarten
20 Act:

21 A. "community" means an area defined by school
22 district boundaries, tribal boundaries or joint boundaries of a
23 school district and tribe or any combination of school
24 districts and tribes;

25 B. "departments" means the children, youth and

1 families department and the public education department acting
2 jointly;

3 C. "early childhood development specialist" means
4 the adult responsible for working directly with four-year-old
5 children in implementing pre-kindergarten services;

6 D. "eligible provider" means a person licensed by
7 the children, youth and families department that provides early
8 childhood developmental readiness services or preschool special
9 education, or is a public school, tribal program or head start
10 program;

11 E. "pre-kindergarten" means a voluntary
12 developmental readiness program for children who have attained
13 their fourth birthday prior to or on September 1; and

14 F. "tribe" means an Indian nation, tribe or pueblo
15 located in New Mexico."

underscoring material = new
~~[bracketed material]~~ = delete