

1 SENATE BILL 474

2 **51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

3 INTRODUCED BY

4 Linda M. Lopez and Mimi Stewart

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10 AN ACT

11 RELATING TO PUBLIC SCHOOLS; PROVIDING FOR IMPROVED INTERVENTION
12 AND REMEDIATION PRACTICES FOR KINDERGARTEN THROUGH GRADE EIGHT
13 AND TOP TO BOTTOM ACCOUNTABILITY; MAKING AN APPROPRIATION.

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

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17 Chapter 33, Section 7, as amended) is repealed and a new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

19 "22-2C-6. [NEW MATERIAL] GRADE PROMOTIONS--INTERVENTION
20 AND REMEDIATION--RETENTION POLICIES--ACCOUNTABILITY.--

21 A. As used in this section:

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

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1 specific intervention or remediation that have demonstrated
2 effectiveness and, for students whose home language is not
3 English, incorporates appropriate instructional practices;

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

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

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

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

21 (6) "intervention" means targeted
22 instructional practice with an intervention teacher for
23 individual students or a small group of students, including
24 students whose home language is not English, aligned with the
25 results of a valid and reliable assessment and, if applicable,

1 response to intervention as defined in Section 22-13-6 NMSA
2 1978 and department rule;

3 (7) "intervention teacher" means a licensed or
4 certified teacher who:

5 (a) has the expertise to determine a
6 student's instructional level in reading or mathematics;

7 (b) has the expertise to help a student
8 work toward a higher level of proficiency in reading or
9 mathematics; and

10 (c) is not the student's classroom
11 teacher;

12 (8) "mathematics screening assessment" means a
13 school-district-adopted, department-approved formative
14 assessment that measures content, operations, applications,
15 problem-solving and consumer skills, as appropriate for the
16 grade level;

17 (9) "parent" includes a guardian or other
18 person having custody or control of a school-age person;

19 (10) "parent involvement" means a parent
20 helping to implement an academic improvement plan by:

21 (a) attending and participating in
22 student assistance team meetings;

23 (b) using specific strategies explained
24 by the student assistance team to help the parent's student
25 reach grade-level proficiency;

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1 (c) attending a school presentation that
2 delivers details about or training on the specific strategies
3 or observing an intensive targeted instruction of the parent's
4 student; or

5 (d) contributing to the student's
6 progress toward grade-level proficiency in a manner in which
7 the parent is capable and as determined by the school or school
8 district;

9 (11) "reading screening assessment" means a
10 school-district-adopted, department-approved formative
11 assessment that measures the acquisition of reading skills,
12 including phonological awareness, phonics, reading fluency,
13 vocabulary, comprehension and oral language, as appropriate for
14 the grade level;

15 (12) "remediation" includes summer school,
16 extended day or week programs, tutoring, progress-based
17 monitoring or other research-based methods for improvement of
18 student proficiency, as provided by trained personnel;

19 (13) "school" includes a charter school;

20 (14) "school district" includes a school
21 district and a charter school;

22 (15) "small group" consists of no more than
23 eight students;

24 (16) "student assistance team" means a group
25 consisting of a student's:

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- 1 (a) teacher;
- 2 (b) school counselor;
- 3 (c) school administrator;
- 4 (d) parent; and
- 5 (e) if the student or parent wishes, a
- 6 representative of the student chosen by the student or parent;
- 7 and

8 (17) "valid and reliable assessments" means

9 assessments that:

- 10 (a) are appropriate to targeted
- 11 populations, including students whose home language is not
- 12 English;
- 13 (b) provide predictive values; and
- 14 (c) are thoroughly tested, peer-reviewed
- 15 and accepted by authorities and practitioners in the field.

16 B. School districts shall approve, and the

17 department shall bear the cost, of intervention and remediation

18 that have demonstrated effectiveness to provide assistance to

19 students in kindergarten through eighth grade who do not

20 demonstrate grade-level proficiency in reading or mathematics

21 as provided in this section.

22 C. Beginning in the 2013-2014 school year:

- 23 (1) kindergarten through eighth grade
- 24 intervention and remediation, as defined in the educational
- 25 plan for student success, and retention and promotion policies

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1 shall be aligned with valid and reliable assessment results and
2 shall be aligned with state standards;

3 (2) within the first three weeks of the
4 school year, each student in kindergarten through eighth grade
5 shall be evaluated with a reading screening assessment and a
6 mathematics screening assessment;

7 (3) if the reading screening assessment
8 or mathematics screening assessment results indicate that a
9 student is not proficient in reading or mathematics, the school
10 shall immediately implement intervention or remediation to help
11 the student progress toward grade-level proficiency; and

12 (4) if the student does not progress
13 toward grade-level proficiency after intervention or
14 remediation, as measured by continuous formative assessments,
15 by the end of the first grading period of the school year, a
16 parent shall be notified in writing that the parent's student
17 has not achieved grade-level proficiency in reading or
18 mathematics, and a student assistance team shall meet to
19 discuss and adopt an academic improvement plan, which shall be
20 implemented immediately following the student assistance team
21 meeting. At the student assistance team meeting, the parent
22 shall be presented with and receive an explanation of:

23 (a) the student's specific reading or
24 mathematics deficiencies;

25 (b) academic expectations for the

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1 student;

2 (c) academic measurements to be taken;

3 (d) an academic improvement plan;

4 (e) time lines for implementing the
5 academic improvement plan;

6 (f) whether intensive targeted
7 instruction or any other intervention may be used; and

8 (g) parent involvement expectations and
9 opportunities.

10 D. At the end of kindergarten and each grade
11 through eighth grade, promotion and retention decisions for
12 each student shall be based upon a determination that the
13 student:

14 (1) has achieved grade-level proficiency in
15 reading or mathematics and shall be promoted to the next higher
16 grade;

17 (2) has not achieved grade-level proficiency
18 in reading or mathematics and shall participate in intervention
19 or remediation, as recommended by a student assistance team;
20 upon certification by the school district that the student has
21 achieved grade-level proficiency, the student shall enter the
22 next higher grade;

23 (3) has not achieved grade-level proficiency
24 in reading or mathematics after intervention or remediation and
25 shall be:

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1 (a) retained in the same grade for no
2 more than one school year with the agreement of a parent and an
3 academic improvement plan developed by the student assistance
4 team to achieve grade-level proficiency; or

5 (b) promoted to the next grade if a
6 parent signs a refusal of retention notice; a student promoted
7 pursuant to this subparagraph shall begin the next higher grade
8 with an academic improvement plan developed by the student
9 assistance team to achieve grade-level proficiency; or

10 (4) has a disability and a corresponding
11 individual education plan, in which case retention and
12 promotion decisions shall be made by a student assistance team
13 in accordance with the provisions of an individual educational
14 plan and not pursuant to this subsection or Subsection E of
15 this section.

16 E. For students who do not demonstrate grade-level
17 proficiency in reading or mathematics for two successive school
18 years:

19 (1) a student who has been retained for one
20 school year shall be promoted to and begin the next higher
21 grade with an academic improvement plan developed by the
22 student assistance team to achieve grade-level proficiency; and

23 (2) a student who has not been retained for
24 one school year shall be retained for no more than one school
25 year with an academic improvement plan developed by the student

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1 assistance team to achieve grade-level proficiency.

2 F. A student shall not be retained in the same
3 grade pursuant to this section if the student:

4 (1) demonstrates grade-level proficiency with
5 a portfolio of the student's work compiled by the student's
6 teacher or student assistance team;

7 (2) shows sufficient progress toward grade-
8 level proficiency as determined by the student assistance team;

9 (3) scores at least at the fiftieth percentile
10 on a school district-approved norm-referenced assessment or at
11 a proficient level on an alternative school district-approved
12 criterion-referenced assessment; or

13 (4) is an English language learner who is
14 proficient in a language other than English on a valid and
15 reliable reading assessment in that language or who has had
16 less than two years of instruction in English.

17 G. The cost of summer school and extended day
18 intervention and remediation offered in grades nine through
19 twelve shall be borne by the parents; however, in cases in
20 which parents are determined to be indigent according to
21 guidelines established by the department, the school district
22 shall bear those costs.

23 H. 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 participated in
5 intervention or remediation following a reading screening
6 assessment;

7 (2) the number of students who participated in
8 intervention or remediation following a mathematics screening
9 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."

22 **SECTION 2. APPROPRIATION.**--Sixty-seven million eight
23 hundred thousand dollars (\$67,800,000) is appropriated from the
24 general fund to the state equalization guarantee distribution
25 for expenditure in fiscal year 2014 to fund reading and

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1 mathematics intervention teachers for students in kindergarten
2 through grade eight who are in need of intervention. Any
3 unexpended or unencumbered balance remaining at the end of
4 fiscal year 2014 shall revert to the general fund.

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