

HOUSE EDUCATION COMMITTEE SUBSTITUTE FOR
HOUSE BILL 93

51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014

AN ACT

RELATING TO PUBLIC SCHOOLS; ENACTING THE ACADEMIC SUCCESS THROUGH REMEDIATION ACT; PROVIDING THAT A STUDENT WHO IS NOT PROFICIENT IN READING AT THE END OF KINDERGARTEN OR FIRST OR SECOND GRADE MAY BE PROVIDED WITH INTENSIVE REMEDIATION; PROVIDING THAT A STUDENT WHO IS NOT PROFICIENT IN READING AT THE END OF THIRD GRADE, WITH CERTAIN EXCEPTIONS, MAY BE RETAINED AND PROVIDED WITH INTENSIVE REMEDIATION; PROVIDING THAT A STUDENT WHO IS NOT ACADEMICALLY PROFICIENT AT THE END OF GRADES FOUR THROUGH EIGHT SHALL NOT BE RETAINED BUT SHALL BE PROVIDED WITH INTENSIVE REMEDIATION; PROVIDING FOR ASSESSMENT, INTERVENTION AND REMEDIATION PROGRAMS TO ADDRESS DEFICIENCIES IDENTIFIED BETWEEN KINDERGARTEN AND THE EIGHTH GRADE; MAKING EXCEPTIONS; REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

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underscored material = new
[bracketed material] = delete

1 SECTION 1. A new section of the Public School Code is
2 enacted to read:

3 "[NEW MATERIAL] SHORT TITLE.--This act may be cited as the
4 "Academic Success Through Remediation Act"."

5 SECTION 2. A new section of the Public School Code is
6 enacted to read:

7 "[NEW MATERIAL] PURPOSE OF ACT.--The purpose of the
8 Academic Success Through Remediation Act is to ensure that
9 students who experience difficulties learning to read are
10 provided multiple opportunities for early intervention and
11 remediation from kindergarten through third grade and beyond."

12 SECTION 3. A new section of the Public School Code is
13 enacted to read:

14 "[NEW MATERIAL] DEFINITIONS.--As used in the Academic
15 Success Through Remediation Act:

16 A. "academic proficiency" means a student's
17 academic performance on grade level as measured by grades,
18 standardized assessment results, emotional and social
19 development and other measures identified by the school
20 district;

21 B. "deficient in reading" means a score range on
22 the screening assessment determined by the department;

23 C. "educational plan for student success" means a
24 student-centered tool developed to define the role of an
25 academic plan within the public school and school district that

1 includes a specific focus on early literacy and reading
2 intervention in elementary schools that addresses methods to
3 improve student learning and success in school and that
4 identifies specific measures of a student's progress in
5 academics;

6 D. "intensive targeted instruction" means extra
7 instruction either in small groups or for individuals;

8 E. "intervention" means targeted instructional
9 practice for individual students or small groups of students
10 aligned with the results of a valid and reliable assessment
11 and, if applicable, response to intervention as defined in
12 Section 22-13-6 NMSA 1978 and department rule;

13 F. "reading improvement plan" means a written
14 document developed by the student assistance team that
15 describes the specific reading standards required for a certain
16 grade level that a student has not achieved and that prescribes
17 specific remediation programs, which may include, if
18 appropriate, retention in grades kindergarten, one and two,
19 that have demonstrated effectiveness and can be implemented
20 during the intensive targeted instruction within the school day
21 or during summer school or extended day or week programs and
22 with tutoring;

23 G. "remediation programs" includes summer school,
24 extended day or week programs, tutoring, progress-based
25 monitoring and other research-based models for student

.196828.4

1 improvement;

2 H. "school district" includes both a public school
3 district and a locally chartered or state-chartered charter
4 school;

5 I. "screening assessment" means the assessment that
6 measures the acquisition of reading skills, including but not
7 limited to phonological awareness, phonics, reading fluency,
8 vocabulary and comprehension, and that is approved by the
9 department;

10 J. "student assistance team" means a collaborative
11 group consisting of a student's:

- 12 (1) teacher;
- 13 (2) school counselor;
- 14 (3) school administrator;
- 15 (4) parent; and
- 16 (5) if the student or parent wishes, a student

17 advocate chosen by the parent; and

18 K. "valid and reliable assessments" means
19 assessments that:

- 20 (1) are appropriate to targeted populations;
- 21 (2) provide predictive values; and
- 22 (3) are thoroughly tested, peer-reviewed and

23 accepted by authorities and practitioners in the field."

24 SECTION 4. A new section of the Public School Code is
25 enacted to read:

.196828.4

1 "[NEW MATERIAL] GRADE PROMOTIONS--INTERVENTION--
2 REMEDICATION PROGRAMS--RETENTION POLICIES--RESTRICTIONS.--

3 A. Using data from the 2014-2015 school year, each
4 public school shall establish baseline assessment data on
5 reading proficiency for students in kindergarten and grades one
6 through three. The baseline assessment data shall include
7 levels of performance in reading based on the screening
8 assessment to determine when a student must be provided with an
9 intervention and remediation program.

10 B. Effective with the beginning of the 2015-2016
11 school year, school boards shall approve the program, and the
12 department shall bear the cost of intervention and remediation
13 programs and reading improvement plans that have demonstrated
14 effectiveness to provide special instructional assistance to
15 students in kindergarten through third grade who are deficient
16 in reading. Beginning in kindergarten and through third grade,
17 intervention and remediation programs, reading improvement
18 plans and promotion policies shall be adopted and aligned with
19 the screening assessment results and be aligned with common
20 core state standards. The screening assessment shall be given,
21 including, if appropriate, assessments in the student's first
22 and second languages for English language learners and, if
23 students are deficient in reading, reading improvement plans
24 shall be implemented for students in kindergarten through third
25 grade as follows:

.196828.4

1 (1) no later than the end of the first nine
2 weeks of the school year, school districts shall administer the
3 screening assessment to students enrolled in kindergarten
4 through third grade. The assessment shall screen students for
5 reading skills as defined in this section; and

6 (2) if the screening assessment results for
7 students in grades kindergarten through grade three indicate
8 that a student is deficient in reading, the student assistance
9 team shall develop a reading improvement plan in the
10 appropriate home language for the student that clearly
11 delineates the student's reading deficiencies and that clearly
12 delineates intervention and remediation programs that shall be
13 included in the plan, including the specific strategies for a
14 parent to use in helping the student achieve reading
15 proficiency. If a parent refuses to allow the student to
16 participate in any prescribed intervention, the school district
17 shall provide an appropriate form to be signed by the parent
18 that clearly indicates the parent's refusal to allow the
19 student to participate in the prescribed intervention.

20 C. Beginning with the 2014-2015 school year, the
21 parent of a student who is in kindergarten or first, second or
22 third grade and who is deficient in reading at the end of the
23 first grading period shall be given notice that the student
24 shall be provided with intensive targeted instruction.

25 D. Beginning with the 2014-2015 school year, a

1 student who is deficient in reading at the end of kindergarten
2 or first or second grade may be retained pursuant to an
3 established reading improvement plan.

4 E. Beginning with the 2015-2016 school year, at the
5 end of grade three, grade promotion and retention decisions for
6 each student shall be based upon the determination that the
7 student is:

8 (1) academically proficient and shall enter
9 the next highest grade;

10 (2) deficient in reading and shall participate
11 in the required level of remediation before the beginning of
12 the student's next school year. Upon certification by the
13 school district that the student is not deficient in reading,
14 the student shall enter the next highest grade; or

15 (3) deficient in reading after completion of
16 the prescribed intervention and remediation program and, upon
17 the recommendation of the student assistance team, may be
18 retained in the same grade so that the student may become
19 academically proficient.

20 F. In order to determine whether a student should
21 be retained, the student assistance team shall, at minimum,
22 consider:

23 (1) if the student is deficient in reading;

24 (2) the student's participation in all
25 required intervention and remediation as prescribed by the

.196828.4

1 school district in the reading improvement plan;

2 (3) the student's parental engagement in the
3 reading improvement plan throughout the academic year;

4 (4) whether the student was habitually truant
5 during the academic year;

6 (5) the student's social and emotional
7 developmental levels; and

8 (6) the parent's agreement to sign a contract
9 that outlines a reading intervention program for the next
10 grade.

11 If the student is not retained, the student assistance
12 team shall develop a reading improvement plan for immediate
13 implementation at the beginning of the student's next school
14 year.

15 G. No student shall be retained for a total of more
16 than one school year in grade three as a result of being
17 deficient in reading.

18 H. In grades four through eight, intervention and
19 remediation programs, reading improvement plans and promotion
20 policies shall be aligned with school-district-approved, valid
21 and reliable assessment results and be aligned with state
22 standards.

23 I. A parent shall be notified in writing no later
24 than the end of the second grading period of each school year
25 in grades four through eight that the parent's student is not

1 academically proficient, and a conference with the student
2 assessment team shall be held to discuss strategies, including
3 intervention and remediation programs available to assist the
4 student in becoming academically proficient. The student's
5 specific academic deficiencies and the available strategies,
6 intervention and remediation programs shall be presented orally
7 and in writing in the appropriate home language to the
8 student's parent if the student is deficient in reading, and a
9 reading improvement plan in the appropriate home language shall
10 be developed that contains time lines, academic expectations
11 and the measurements to be used to verify that a student has
12 overcome academic deficiencies. The parent shall be provided
13 with specific strategies to use in helping the student achieve
14 academic proficiency. The intervention and remediation
15 programs and reading improvement plan shall be implemented
16 immediately.

17 J. At the end of grades four through eight, grade
18 promotion decisions for each student shall be based upon the
19 determination that the student is:

20 (1) academically proficient and shall enter
21 the next grade; or

22 (2) not academically proficient and shall
23 participate in the required level of remediation. An academic
24 proficiency plan shall be developed by the student assistance
25 team outlining time lines and monitoring activities to ensure

.196828.4

1 progress toward overcoming the student's academic deficiencies.
2 Students who have been evaluated to determine the nature of
3 their academic deficiencies and who have received an
4 intervention and remediation program that is different from the
5 previous year's program but fail to become academically
6 proficient at the end of that year shall be provided with an
7 alternate program that shall be implemented immediately. The
8 school district shall include percentages of academically
9 proficient students listed by school and charter school in its
10 annual accountability report required in Section 22-2C-11 NMSA
11 1978.

12 K. To assess each student's growth in reading and
13 other academic subjects, in kindergarten through second grade,
14 school districts shall use the screening assessment, and in
15 grades three through eight, school districts shall use the
16 screening assessment and the statewide standards-based
17 assessment.

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

24 M. A student in grades one through eight who does
25 not demonstrate reading proficiency for two successive school

1 years shall be referred to the student assistance team for
2 placement in an alternative program designed by the school
3 district. Alternative program plans shall be filed with the
4 department.

5 N. Promotion and retention decisions affecting a
6 student enrolled in special education shall be made in
7 accordance with the provisions of the individualized education
8 program established for that student.

9 O. A student shall be exempt from the provisions of
10 Subsection E of this section if the student:

11 (1) scores at least at the fiftieth percentile
12 on a department-approved, norm-referenced assessment or at the
13 proficient level on an alternative school-district-approved,
14 criterion-referenced assessment;

15 (2) demonstrates mastery on a teacher-
16 developed portfolio that is equal to at least a proficient
17 performance on the statewide standards-based assessments;

18 (3) shows sufficient academic growth by
19 meeting acceptable levels of academic performance specified by
20 the department;

21 (4) is an English language learner who is
22 proficient in a language other than English on a valid and
23 reliable reading assessment or who has had less than two years
24 of instruction in English for speakers of other languages;

25 (5) is a student with a disability who shall

.196828.4

1 be assessed, promoted or retained in accordance with the
2 provisions of the student's individualized education program;
3 or

4 (6) is a student who has already been retained
5 once in kindergarten or first or second grade."

6 SECTION 5. REPEAL.--Section 22-2C-6 NMSA 1978 (being Laws
7 1986, Chapter 33, Section 7, as amended) is repealed.

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