

1 SENATE BILL 403

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO PUBLIC EDUCATION; AMENDING THE PUBLIC SCHOOL CODE
12 TO PROMOTE STUDENT LITERACY BY PROVIDING FOR INTERVENTIONS,
13 REMEDIATION AND TRANSITION PROGRAMS TO ADDRESS READING AND
14 ACADEMIC DEFICIENCIES.

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

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

19 "22-2C-6. REMEDIATION PROGRAMS--PROMOTION POLICIES--
20 RESTRICTIONS.--

21 A. Remediation programs, academic improvement
22 programs and promotion policies shall be aligned with [~~school-~~
23 ~~district-determined assessment results and~~] requirements of the
24 state assessment and accountability program. The department
25 shall establish a common standard screening assessment for

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1 student literacy to meet requirements of the state assessment
2 and accountability program. A school district shall receive
3 department approval to use an alternative assessment and
4 reading standard for measuring student literacy, under the
5 condition that it include phonetic awareness, letter knowledge,
6 alphabetic decoding, vocabulary, spelling, comprehension and
7 fluency. The school district shall assume all costs incurred
8 in the development of its department-approved, standards-based
9 assessment and shall administer the alternative assessment on
10 three occasions throughout the school year at the following
11 times:

12 (1) the first administration no later than the
13 end of the first nine weeks;

14 (2) the second administration during the month
15 before the end of the first semester; and

16 (3) the third administration during the last
17 nine weeks of the school year.

18 B. Local school boards shall approve school-
19 district-developed remediation programs and academic
20 improvement programs to provide special instructional
21 assistance to students in [~~grades one~~] kindergarten through
22 [~~eight~~] fourth grade who do not demonstrate academic
23 proficiency. The cost of remediation programs and academic
24 improvement programs shall be borne by the school district.
25 Remediation programs and academic improvement programs shall be

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1 incorporated into the school district's educational plan for
2 student success and filed with the department.

3 C. The cost of summer and extended-day remediation
4 programs and academic improvement programs offered in ninth
5 through twelfth grades [~~nine through twelve~~] shall be borne by
6 the parent; however, where parents are determined to be
7 indigent according to guidelines established by the department,
8 the school district shall bear those costs.

9 [~~D. Diagnosis of weaknesses identified by a~~
10 ~~student's academic achievement may serve as criteria in~~
11 ~~assessing the need for remedial programs or retention.~~

12 E.] D. In addition to ongoing parent-teacher
13 communication, a parent shall be notified formally, in writing,
14 no later than the [~~end~~] last day of the [~~second grading period~~]
15 month of January that the parent's child is not academically
16 proficient in reading, and a conference consisting of the
17 parent and the teacher shall be held to discuss possible
18 remediation programs available to assist the student in
19 becoming academically proficient in reading. Specific academic
20 deficiencies and remediation strategies shall be explained to
21 the student's parent and a written intervention plan developed
22 containing time lines, academic expectations and the
23 measurements to be used to verify that a student has overcome
24 academic deficiencies. Remediation programs and academic
25 improvement programs include tutoring, extended-day or -week

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1 programs, summer programs and other research-based
2 interventions and models for student improvement. The written
3 plan shall also include strategies for parents to use at home
4 to help their child succeed in reading.

5 [F.] E. At the end of [~~grades one~~] kindergarten
6 through [~~seven, three options~~] fourth grade, the following are
7 available, dependent on a student's academic proficiency in
8 reading:

9 (1) the student is academically proficient, as
10 determined by the statewide standards-based assessment or
11 alternative assessment, and shall enter the next [~~higher~~]
12 grade;

13 (2) the student is not academically proficient
14 in reading, as determined by the statewide standards-based
15 assessment or alternative assessment. In addition to ongoing
16 parent-teacher communication, the parent shall be notified in
17 writing of the parent's child's reading level and the student
18 shall continue to participate in the required level of
19 remediation [~~Upon certification by the school district that the~~
20 ~~student is academically proficient, the student shall enter the~~
21 ~~next higher grade~~]; or

22 (3) the student is [~~not academically~~
23 ~~proficient~~] at the lowest level of academic proficiency in
24 reading, as determined by the statewide standards-based
25 assessment or alternative assessment. In addition to ongoing

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1 parent-teacher communication, the parent shall be notified in
2 writing at least two weeks before the end of the school year
3 and shall respond with the parent's desired path forward for
4 the student, and after completion of the prescribed remediation
5 program, ~~[and upon the recommendation of the teacher and school~~
6 ~~principal]~~ the student shall ~~[either]~~ be:

7 (a) ~~[retained]~~ provided an additional
8 year of instruction in the same grade for no more than one
9 school year with an academic improvement plan developed by the
10 student assistance team in order to become academically
11 proficient, at which time the student shall enter the next
12 ~~[higher]~~ grade; or

13 (b) promoted to the next grade ~~[if the~~
14 ~~parent refuses to allow the child to be retained pursuant to~~
15 ~~Subparagraph (a) of this paragraph]~~. In this case, the parent
16 shall sign a waiver indicating the parent's desire that the
17 student be promoted to the next ~~[higher]~~ grade with an academic
18 improvement plan designed to address specific academic
19 deficiencies. The academic improvement plan shall be developed
20 by the student assistance team outlining time lines and
21 monitoring activities to ensure progress toward overcoming
22 those academic deficiencies. ~~[Students failing to become~~
23 ~~academically proficient at the end of that year as measured by~~
24 ~~grades, performance on school district assessments and other~~
25 ~~measures identified by the school district shall be retained in~~

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1 ~~the same grade for no more than one year in order to have~~
2 ~~additional time to achieve academic proficiency.~~

3 ~~G. At the end of the eighth grade, a student who is~~
4 ~~not academically proficient shall be retained in the eighth~~
5 ~~grade for no more than one school year to become academically~~
6 ~~proficient, or if the student assistance team determines that~~
7 ~~retention of the student in the eighth grade will not assist~~
8 ~~the student to become academically proficient, the team shall~~
9 ~~design a high school graduation plan to meet the student's~~
10 ~~needs for entry into the work force or a post-secondary~~
11 ~~educational institution. If a student is retained in the~~
12 ~~eighth grade, the student assistance team shall develop a~~
13 ~~specific academic improvement plan that clearly delineates the~~
14 ~~student's academic deficiencies and prescribes a specific~~
15 ~~remediation plan to address those academic deficiencies.]~~

16 F. Students in fourth through eighth grades shall
17 continue to participate in the required level of remediation.

18 G. A school district may establish transition
19 programs for students who need intensive reading remediation,
20 which programs are also an option for any parent who decides
21 the parent's child needs an additional year of instruction
22 before enrolling in second grade, such as a "high first"
23 program. Transition programs offered to students shall be
24 approved by the department.

25 H. Students in kindergarten and first grade who are

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1 at the lowest level of academic proficiency in reading as
2 determined by the end-of-year statewide, standards-based
3 assessment or alternative assessment shall receive an extra
4 year of first grade instruction, either through repeating the
5 first grade or by participating in a school-district-
6 established transition program; provided that after having been
7 notified of the child's need to have an extra year of first
8 grade instruction, a parent may request a meeting with the
9 student assistance team, which shall meet in person with the
10 parent to discuss the implications for a student to enter
11 second grade with a serious reading level deficiency. The
12 student assistance team members shall determine whether the
13 student, despite having a serious reading deficiency, is able
14 to make reading progress at an accelerated rate at the next
15 grade level. If the student assistance team members
16 unanimously recommend to promote a student who has been at the
17 lowest level of proficiency in both kindergarten and first
18 grade, the team shall submit to the local superintendent an
19 official recommendation to promote the student. The local
20 superintendent shall approve or deny the recommendation for
21 promotion and notify the parent in writing within two weeks of
22 the student assistance team's recommendation.

23 [H.] I. A student who does not demonstrate academic
24 proficiency for two successive school years ~~[shall]~~ may be
25 referred to the student assistance team for placement in an

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1 alternative program designed by the school district.
2 Alternative program plans shall be filed with the department.

3 J. A school district shall provide multiple
4 notifications and opportunities for parents to make
5 determinations about their student's promotion or retention
6 status. If a school district receives no response by July 1 of
7 the year of notification, the school district shall make and
8 properly document a determination based on a unanimous vote by
9 the remaining student assistance team members.

10 K. Upon certification by the school district that
11 the student is academically proficient in reading, the student
12 shall enter the next grade.

13 [~~F.~~] L. Promotion [~~and retention~~] decisions
14 affecting a student enrolled in special education shall be made
15 in accordance with the provisions of the individual educational
16 plan established for that student.

17 [~~J.~~] M. For the purposes of this section:

18 (1) "academic improvement plan" means a
19 written document developed by the student assistance team that
20 describes the specific content standards required for a certain
21 grade level that a student has not achieved and that prescribes
22 specific remediation programs such as summer school, extended-
23 day or -week school and tutoring;

24 (2) "school-district-determined assessment
25 results" means the results obtained from student assessments

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1 developed or adopted by a local school board and conducted at
2 an elementary grade level or middle school level;

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

9 (4) "school district" includes state-chartered
10 charter schools;

11 [~~(4)~~] (5) "student assistance team" means a
12 group consisting of a [~~student's~~]:

13 (a) student's teacher;

14 (b) student's school counselor;

15 (c) student's school administrator;

16 [~~and~~]

17 (d) teacher who is responsible for
18 reading instruction and assigned to teach in the student's next
19 grade level;

20 (e) certified reading specialist, if
21 one is available;

22 [~~(d)~~] (f) student's parent; and

23 (g) student advocate chosen by the
24 student or parent, if the student or parent wishes; and

25 (6) "in writing" shall include communication

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1 through electronic media.

2 N. A school district in its annual accountability
3 report required by Section 22-2C-11 NMSA 1978 and in other
4 reports required by the department shall include:

5 (1) the school district's percentage of
6 academically proficient students, including reading levels,
7 listed by school;

8 (2) the number of students scoring in the
9 lowest proficiency categories on either the statewide
10 standards-based assessment or department-approved alternative
11 assessment;

12 (3) the number of students whose parents
13 received and returned signed written notification of the
14 student's nonproficient status and who were retained; and

15 (4) the number of students who did not achieve
16 academic proficiency and were promoted because the student's
17 parents did not sign written notification allowing the student
18 to be retained.

19 O. The department shall include the data provided
20 by schools and school districts in annual school and school
21 district accountability reports.

22 P. Nothing in this section shall be construed to
23 allow a school district to circumvent the requirements of the
24 Assessment and Accountability Act."