

1 HOUSE BILL 199

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

4 Brian G. Baca and G. Andrés Romero and Joy Garratt
5 and Tanya Mirabal Moya and Jason C. Harper
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7
8 FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE
9

10 AN ACT

11 RELATING TO PUBLIC EDUCATION; INCREASING THE AT-RISK INDEX;
12 INCREASING THE FINE ARTS FACTOR; INCREASING THE RESPONSIBILITY
13 FACTORS FOR ELEMENTARY, MIDDLE AND HIGH SCHOOL PRINCIPALS AND
14 ASSISTANT PRINCIPALS.
15

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

17 SECTION 1. Section 22-8-23.3 NMSA 1978 (being Laws 1997,
18 Chapter 40, Section 7, as amended) is amended to read:

19 "22-8-23.3. AT-RISK PROGRAM UNITS.--

20 A. A school district is eligible for additional
21 program units if it establishes within its department-approved
22 educational plan identified services to assist students to
23 reach their full academic potential. A school district
24 receiving additional at-risk program units shall include a
25 report of specified services implemented to improve the

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1 academic success of at-risk students. The report shall
2 identify the ways in which the school district and individual
3 public schools use funding generated through the at-risk index
4 and the intended outcomes. For purposes of this section, "at-
5 risk student" means a student who meets the criteria to be
6 included in the calculation of the three-year average total
7 rate in Subsection B of this section. The number of additional
8 units to which a school district is entitled under this section
9 is computed in the following manner:

$$\text{At-Risk Index} \times \text{MEM} = \text{Units}$$

11 where MEM is equal to the total district membership, including
12 early childhood education, full-time-equivalent membership and
13 special education membership and where the at-risk index is
14 calculated in the following manner:

$$\text{Three-Year Average Total Rate} \times [\text{0.30}] \text{ 0.35} = \text{At-Risk Index.}$$

17 B. To calculate the three-year average total rate,
18 the department shall compute a three-year average of the school
19 district's percentage of membership used to determine its Title
20 1 allocation, a three-year average of the percentage of
21 membership classified as English language learners using
22 criteria established by the office for civil rights of the
23 United States department of education and a three-year average
24 of the percentage of student mobility. The department shall
25 then add the three-year average rates. The number obtained

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1 from this calculation is the three-year average total rate.

2 C. The department shall recalculate the at-risk
3 index for each school district every year.

4 D. For purposes of this section, "services" means
5 research-based or evidence-based social, emotional or academic
6 interventions, such as:

7 (1) case management, tutoring, reading
8 interventions and after-school programs that are delivered by
9 social workers, counselors, teachers or other professional
10 staff;

11 (2) culturally relevant professional and
12 curriculum development, including those necessary to support
13 language acquisition, bilingual and multicultural education;

14 (3) additional compensation strategies for
15 high-need schools;

16 (4) whole school interventions, including
17 school-based health centers and community schools;

18 (5) educational programming intended to
19 improve career and college readiness of at-risk students,
20 including dual or concurrent enrollment, career and technical
21 education, guidance counseling services and coordination with
22 post-secondary institutions; and

23 (6) services to engage and support parents and
24 families in the education of students."

25 SECTION 2. Section 22-8-23.5 NMSA 1978 (being Laws 2003,

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1 Chapter 144, Section 3 and Laws 2003, Chapter 152, Section 8)
2 is amended to read:

3 "22-8-23.5. FINE ARTS EDUCATION PROGRAM UNITS.--The
4 number of fine arts education program units is determined by
5 multiplying the full-time-equivalent MEM in programs
6 implemented in accordance with the provisions of the Fine Arts
7 Education Act by the cost differential factor of [~~0.0166 for~~
8 ~~fiscal year 2004, 0.0332 for fiscal year 2005 and 0.05~~] 0.055
9 for fiscal year [~~2006~~] 2024 and succeeding fiscal years."

10 SECTION 3. Section 22-10A-2 NMSA 1978 (being Laws 2019,
11 Chapter 238, Section 1, as amended by Laws 2021, Chapter 92,
12 Section 1 and by Laws 2021, Chapter 94, Section 4) is amended
13 to read:

14 "22-10A-2. DEFINITIONS.--As used in the School Personnel
15 Act:

16 A. "child abuse" means a child:

17 (1) who has suffered or who is at risk of
18 suffering serious harm because of the action or inaction of the
19 child's parent, guardian, custodian or other adult;

20 (2) who has suffered physical abuse, emotional
21 abuse or psychological abuse inflicted or caused by the child's
22 parent, guardian, custodian or other adult;

23 (3) who has suffered sexual abuse or sexual
24 exploitation inflicted by the child's parent, guardian,
25 custodian or other adult;

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1 (4) whose parent, guardian, custodian or other
2 adult has knowingly, intentionally or negligently placed the
3 child in a situation that may endanger the child's life or
4 health; or

5 (5) whose parent, guardian, custodian or other
6 adult has knowingly or intentionally tortured, cruelly confined
7 or cruelly punished the child;

8 B. "constitutional special school" means the New
9 Mexico military institute, New Mexico school for the deaf and
10 New Mexico school for the blind and visually impaired;

11 C. "contractor" means an individual who is under
12 contract with a public school and is hired to provide services
13 to the public school, but does not include a general contractor
14 or a building or maintenance contractor who is supervised and
15 has no access to students at the public school;

16 D. "discharge" means the act of severing the
17 employment relationship with a licensed school employee prior
18 to the expiration of the current employment contract;

19 E. "employed for three consecutive school years"
20 means a licensed school employee has been offered and accepted
21 in writing a notice of reemployment for the third consecutive
22 school year;

23 F. "ethical misconduct" means the following
24 behavior or conduct by school district personnel, school
25 employees, school volunteers, contractors or contractors'

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1 employees:

2 (1) discriminatory practice based on race,
3 age, color, national origin, ethnicity, sex, pregnancy, sexual
4 orientation, gender identity, mental or physical disability,
5 marital status, religion, citizenship, domestic abuse reporting
6 status or serious medical condition;

7 (2) sexual misconduct or any sexual offense
8 prohibited by Chapter 30, Article 6A or 9 NMSA 1978 involving
9 an adult or child, regardless of a child's enrollment status;

10 (3) fondling a child or student, including
11 touching private body parts, such as breasts, buttocks,
12 genitals, inner thighs, groin or anus; or

13 (4) any other behavior, including licentious,
14 enticing or solicitous behavior, that is reasonably apparent to
15 result in inappropriate sexual contact with a child or student
16 or to induce a child or student into engaging in illegal,
17 immoral or other prohibited behavior;

18 G. "governing authority" means the policy-setting
19 body of a school district, charter school, constitutional
20 special school or regional education cooperative, or the final
21 decision maker of another state agency;

22 H. "instructional support provider" means a person
23 who is employed to support the instructional program of a
24 public school, including educational assistant, school
25 counselor, social worker, school nurse, speech-language

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1 pathologist, psychologist, physical therapist, occupational
2 therapist, recreational therapist, marriage and family
3 therapist, interpreter for the deaf and diagnostician;

4 I. "just cause" means a reason that is rationally
5 related to a school employee's competence or turpitude or the
6 proper performance of the school employee's duties and that is
7 not in violation of the school employee's civil or
8 constitutional rights;

9 J. "military service member" means a person who is:

10 (1) serving in the armed forces of the United
11 States as an active duty member or in an active reserve
12 component of the armed forces of the United States, including
13 the national guard;

14 (2) the spouse of a person who is serving in
15 the armed forces of the United States as an active duty member
16 or in an active reserve component of the armed forces of the
17 United States, including the national guard; or a surviving
18 spouse of a member who at the time of death was serving on
19 active duty; or

20 (3) the child of a person who is serving in
21 the armed forces of the United States as an active duty member
22 or in an active reserve component of the armed forces of the
23 United States, including the national guard; provided that
24 child is also a dependent of that person for federal income tax
25 purposes;

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1 K. "moral turpitude" means an act or behavior that
2 gravely violates the accepted standards of moral conduct,
3 justice or honesty and may include ethical misconduct;

4 L. "public school" means a school district, charter
5 school, constitutional special school, regional education
6 cooperative or the educational program of another state agency;

7 M. "responsibility factor" means a value of [~~1.20~~]
8 1.25 for an elementary school principal, [~~1.40~~] 1.45 for a
9 middle school or junior high school principal, [~~1.60~~] 1.65 for
10 a high school principal, [~~1.10~~] 1.15 for an assistant
11 elementary school principal, [~~1.15~~] 1.20 for an assistant
12 middle school or assistant junior high school principal and
13 [~~1.25~~] 1.30 for an assistant high school principal;

14 N. "sabbatical leave" means leave of absence with
15 pay as approved by the governing authority during all or part
16 of a regular school term for purposes of study or travel
17 related to a licensed school employee's duties and of direct
18 benefit to the instructional program;

19 O. "school administrator" means a person licensed
20 to administer in a school district, charter school,
21 constitutional special school or regional education cooperative
22 or a person employed with another state agency who administers
23 an educational program and includes local superintendents,
24 school principals, central district administrators, business
25 managers, charter school head administrators and state agency

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1 education supervisors;

2 P. "school employee" includes licensed and
3 unlicensed employees of a public school;

4 Q. "school premises" means:

5 (1) the buildings and grounds, including
6 playgrounds, playing fields and parking areas and a school bus
7 of a public school, in or on which school or school-related
8 activities are being operated under the supervision of a local
9 school board, charter school or state agency; or

10 (2) any other public buildings or grounds,
11 including playing fields and parking areas that are not public
12 school property, in or on which public school-related and
13 -sanctioned activities are being performed;

14 R. "school volunteer" means a person, including a
15 relative of a student, who commits to serve on a regular basis
16 at a school district, charter school or other educational
17 entity without compensation;

18 S. "state agency" means a regional education
19 cooperative or state institution;

20 T. "state institution" means the New Mexico boys'
21 school, girls' welfare home, New Mexico youth diagnostic and
22 development center, Sequoyah adolescent treatment center,
23 Carrie Tingley crippled children's hospital, New Mexico
24 behavioral health institute at Las Vegas and any other state
25 agency responsible for educating resident children;

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1 U. "substitute teacher" means a person who holds a
2 certificate to substitute for a teacher in the classroom;

3 V. "superintendent" means a local superintendent,
4 head administrator of a charter school or regional education
5 cooperative, superintendent or commandant of a special school
6 or head administrator of the educational program of a state
7 agency;

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

15 X. "terminate" means the act of severing the
16 employment relationship with a school employee;

17 Y. "unsupervised contact with children or students"
18 means access to or contact with, or the opportunity to have
19 access to or contact with, a child or student for any length of
20 time in the absence of:

21 (1) a licensed staff person from the same
22 school or institution;

23 (2) a school volunteer who has undergone a
24 background check pursuant to Section 22-10A-5 NMSA 1978; or

25 (3) any adult relative or guardian of the

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1 child or student; ~~and~~

2 Z. "veteran" means a person who has received an
3 honorable discharge or separation from military service in the
4 armed forces of the United States or in an active reserve
5 component of the armed forces of the United States, including
6 the national guard; and

7 AA. "working day" means every school calendar day,
8 excluding Saturdays, Sundays and legal holidays."

9 SECTION 4. APPLICABILITY.--The provisions of this act
10 apply to the 2023-2024 school year and subsequent school years.