

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

AN ACT

RELATING TO PUBLIC EDUCATION; ENACTING THE SPECIAL EDUCATION ACT; CREATING THE OFFICE OF SPECIAL EDUCATION IN THE PUBLIC EDUCATION DEPARTMENT; PROVIDING FOR A DEPUTY SECRETARY OF SPECIAL EDUCATION; PROVIDING POWERS AND DUTIES; REMOVING GIFTED STUDENTS FROM SPECIAL EDUCATION; RECOMPILING CURRENT SPECIAL EDUCATION STATUTES INTO THE SPECIAL EDUCATION ACT; AMENDING, REPEALING, ENACTING AND RECOMPILING SECTIONS OF THE NMSA 1978.

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 by Laws 2019, Chapter 206, Section 1 and by Laws 2019, Chapter 207, Section 1) 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. "charter school" means a school authorized by a chartering authority to operate as a public school;

C. "commission" means the public education commission;

1 D. "department" means the public education
2 department;

3 E. "exceptional child" means a school-age person
4 whose abilities render regular services of a public school
5 inconsistent with the student's educational needs;

6 F. "gifted child" means a school-age person
7 determined to be gifted pursuant to Section 22-13-6.1 NMSA
8 1978 and standards adopted by the department in accordance
9 with that section. Nothing in this subsection precludes a
10 school district or charter school from offering additional
11 gifted programs for students who fail to meet the eligibility
12 criteria; however, the state shall only provide state funds
13 for department-approved gifted programs for those students
14 who meet the established criteria;

15 G. "home school" means the operation by the parent
16 of a school-age person of a home study program of instruction
17 that provides a basic academic educational program, including
18 reading, language arts, mathematics, social studies and
19 science;

20 H. "instructional support provider" means a person
21 who is employed to support the instructional program of a
22 school district, including educational assistant, school
23 counselor, social worker, school nurse, speech-language
24 pathologist, psychologist, physical therapist, occupational
25 therapist, recreational therapist, marriage and family

1 therapist, interpreter for the deaf and diagnostician;

2 I. "licensed school employee" means teachers,
3 school administrators and instructional support providers;

4 J. "local school board" means the policy-setting
5 body of a school district;

6 K. "local superintendent" means the chief
7 executive officer of a school district;

8 L. "multilayered system of supports" means a
9 coordinated and comprehensive framework of evidence-based
10 academic and behavioral supports that address a student's
11 educational needs with graduated intensity based on data
12 collected about the student;

13 M. "parent" includes a guardian or other person
14 having custody and control of a school-age person;

15 N. "private school" means a school, other than a
16 home school, that offers on-site programs of instruction and
17 that is not under the control, supervision or management of a
18 local school board;

19 O. "public school" means that part of a school
20 district that is a single attendance center in which
21 instruction is offered by one or more teachers and is
22 discernible as a building or group of buildings generally
23 recognized as either an elementary, middle, junior high or
24 high school or any combination of those and includes a
25 charter school;

1 P. "school" means a supervised program of
2 instruction designed to educate a student in a particular
3 place, manner and subject area;

4 Q. "school administrator" means a person licensed
5 to administer in a school district and includes school
6 principals, central district administrators and charter
7 school head administrators;

8 R. "school-age person" means a person who is at
9 least five years of age prior to 12:01 a.m. on September 1 of
10 the school year, who has not received a high school diploma
11 or its equivalent and who has not reached the person's
12 twenty-second birthday on the first day of the school year
13 and meets other criteria provided in the Public School
14 Finance Act;

15 S. "school building" means a public school, an
16 administration building and related school structures or
17 facilities, including teacher housing, that is owned,
18 acquired or constructed by the school district as necessary
19 to carry out the functions of the school district;

20 T. "school bus private owner" means a person,
21 other than a school district, the department, the state or
22 any other political subdivision of the state, that owns a
23 school bus;

24 U. "school district" means an area of land
25 established as a political subdivision of the state for the

1 administration of public schools and segregated
2 geographically for taxation and bonding purposes;

3 V. "school employee" includes licensed and
4 nonlicensed employees of a school district;

5 W. "school principal" means the chief
6 instructional leader and administrative head of a public
7 school;

8 X. "school year" means the total number of
9 contract days offered by public schools in a school district
10 during a period of twelve consecutive months;

11 Y. "secretary" means the secretary of public
12 education;

13 Z. "state agency" or "state institution" means the
14 New Mexico military institute, New Mexico school for the
15 blind and visually impaired, New Mexico school for the deaf,
16 New Mexico boys' school, girls' welfare home, New Mexico
17 youth diagnostic and development center, Sequoyah adolescent
18 treatment center, Carrie Tingley crippled children's
19 hospital, New Mexico behavioral health institute at Las Vegas
20 and any other state agency responsible for educating resident
21 children;

22 AA. "state educational institution" means an
23 institution enumerated in Article 12, Section 11 of the
24 constitution of New Mexico;

25 BB. "student" means a school-aged person who is

1 enrolled in a public school;

2 CC. "student assistance team" means a school-based
3 group whose purpose is to provide additional educational
4 support to students who are experiencing difficulties that
5 are preventing them from benefiting from general instruction;

6 DD. "substitute teacher" means a person who holds
7 a certificate to substitute for a teacher in the classroom;

8 EE. "teacher" means a person who holds a level
9 one, two or three-A license and whose primary duty 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 FF. "certified school instructor" means a licensed
16 school employee; and

17 GG. "certified school employee" or "certified
18 school personnel" means a licensed school employee."

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

21 "SHORT TITLE.--Sections 2 through 6 of this act may be
22 cited as the "Special Education Act"."

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

25 "DEFINITIONS.--As used in the Special Education Act:

1 A. "deputy secretary" means the deputy secretary
2 for special education;

3 B. "dyslexia" means a specific learning disability
4 that is neurobiological in origin and characterized by
5 difficulty with accurate or fluent word recognition and poor
6 spelling and decoding abilities, which characteristics
7 typically result from a deficit in the phonological component
8 of language that is often unexpected in relation to other
9 cognitive abilities and the provision of effective classroom
10 instruction and may result in problems in reading
11 comprehension and reduced reading experience that may impede
12 the growth of vocabulary and background knowledge;

13 C. "office" means the office of special education;

14 D. "school district" includes charter schools;

15 E. "special education" means the provision of
16 services additional to, supplementary to or different from
17 those provided in the regular school program by a systematic
18 modification and adaptation of instructional techniques,
19 materials and equipment to meet the needs of three- and
20 four-year-old children and students with disabilities; and

21 F. "student with disabilities" means a student
22 with physical or mental impairments or specific learning
23 disabilities who, as a result of those impairments or
24 specific learning disabilities, requires special education
25 and related services in accordance with the federal

1 Individuals with Disabilities Education Act."

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

4 "OFFICE OF SPECIAL EDUCATION--CREATED--DUTIES.--

5 A. The "office of special education" is created in
6 the department. The "deputy secretary for special education"
7 shall be appointed by the secretary on the basis of education
8 and experience in special education. The deputy secretary
9 shall direct the activities of the office and shall directly
10 report to the secretary.

11 B. The office shall:

12 (1) ensure that students with disabilities
13 are provided with the same opportunity for education as
14 students without disabilities;

15 (2) verify that all students with
16 disabilities receive a free appropriate public education,
17 regardless of the nature or severity of the disabilities;

18 (3) ensure stability and consistency of
19 services for students with disabilities;

20 (4) develop and maintain a statewide uniform
21 online system for the formulation of individualized education
22 programs and require all school districts to use the system
23 to document services, monitor progress and ensure
24 consistency, fidelity and compliance with the federal

25 Individuals with Disabilities Education Act time lines and

1 safeguards;

2 (5) enforce laws regarding the education of
3 students with disabilities, including the federal Individuals
4 with Disabilities Education Act and the Special Education
5 Act, and monitor compliance with laws that prohibit
6 discrimination against students with disabilities; and

7 (6) consult with a committee of school
8 district superintendents and charter school head
9 administrators selected by their peers on a quarterly basis
10 to plan and implement continuous improvement measures related
11 to the systems and services provided to students with
12 disabilities throughout the state."

13 SECTION 5. Section 22-13-7 NMSA 1978 (being Laws 1972,
14 Chapter 95, Section 3, as amended) is recompiled in the
15 Special Education Act and is amended to read:

16 "SPECIAL EDUCATION--RESPONSIBILITY.--

17 A. The office shall make, adopt and keep current a
18 state plan for special education policy, programs and
19 standards.

20 B. The department shall set standards for
21 diagnosis and screening of and educational offerings for
22 students with disabilities in public schools, developmentally
23 delayed three- and four-year-old children and eligible
24 children in private, nonsectarian, nonprofit training centers
25 and in state institutions under the authority of the

1 secretary of health.

2 C. The department shall establish and maintain an
3 evaluation program of the system that monitors the
4 implementation and impact of all special education programs
5 for three- and four-year-old developmentally delayed children
6 and students with disabilities in the public schools. The
7 system shall be operated with the cooperation of school
8 districts. Portions of the system may be subcontracted, and
9 periodic reports regarding the efficacy of special education
10 programs for children and students with disabilities shall be
11 made to the governor and the legislative education study
12 committee.

13 D. The office shall coordinate programming related
14 to the transition of students with disabilities from
15 secondary and post-secondary education programs to employment
16 or vocational placement in accordance with the Special
17 Education Act."

18 SECTION 6. Section 22-13-32 NMSA 1978 (being Laws 2010,
19 Chapter 59, Section 2, as amended) is recompiled in the
20 Special Education Act and is amended to read:

21 "SUPPORTS FOR STUDENTS DISPLAYING CHARACTERISTICS OF
22 DYSLEXIA.--

23 A. Within the course of the 2019-2020 and
24 2020-2021 school years and in each subsequent school year,
25 all first grade students shall be screened for dyslexia.

1 B. A student whose dyslexia screening demonstrates
2 characteristics of dyslexia and who is having difficulty
3 learning to read, write, spell, understand spoken language or
4 express thoughts clearly shall receive appropriate classroom
5 interventions through a multilayered system of supports or be
6 referred to a student assistance team.

7 C. In accordance with department procedures for a
8 multilayered system of supports, guidelines and policies,
9 each school district shall provide timely, appropriate,
10 systematic, scientific, evidence-based interventions
11 prescribed by the student assistance team, with progress
12 monitoring to determine the student's response or lack of
13 response to interventions.

14 D. A parent of a student referred to a student
15 assistance team shall be informed of the parent's right to
16 request an initial special education evaluation at any time
17 during the school district's implementation of the
18 interventions prescribed by the student assistance team. If
19 the school district agrees that the student may have a
20 disability, the student assistance team shall refer the child
21 for an evaluation. The student shall be evaluated within
22 sixty days of receiving the parental consent for an initial
23 evaluation. If the school district refuses the parent's
24 request for an initial evaluation, the school district shall
25 provide written notice of the refusal to the parent,

1 including notice of the parent's right to challenge the
2 school district's decision as provided in state and federal
3 law and rules.

4 E. Within the course of the 2019-2020 and
5 2020-2021 school years, every school district shall develop
6 and implement a literacy professional development plan that
7 includes a detailed framework for structured literacy
8 training by a licensed and accredited or credentialed teacher
9 preparation provider for all elementary school teachers and
10 for training in evidence-based reading intervention for
11 reading interventionists and special education teachers
12 working with students demonstrating characteristics of
13 dyslexia or diagnosed with dyslexia. The plan shall continue
14 to be implemented each school year and may be updated as
15 necessary. The department shall provide lists of recommended
16 teacher professional development materials and opportunities
17 for teachers and school administrators regarding
18 evidence-based reading instruction for students at risk for
19 reading failure and displaying the characteristics of
20 dyslexia.

21 F. School districts shall train school
22 administrators and teachers who teach reading to implement
23 appropriate evidence-based reading interventions. School
24 districts shall train special education teachers to provide
25 structured literacy training for students who are identified

1 with dyslexia as a specific learning disability and who are
2 eligible for special education services.

3 G. The department shall provide technical
4 assistance for special education diagnosticians and other
5 special education professionals regarding the formal special
6 education evaluation of students suspected of having a
7 specific learning disability, such as dyslexia.

8 H. The department shall adopt rules, standards and
9 guidelines necessary to implement this section."

10 SECTION 7. TEMPORARY PROVISION--RECOMPILATION.--Section
11 22-13-8 NMSA 1978 (being Laws 2009, Chapter 162, Section 1)
12 is recompiled in the Special Education Act.

13 SECTION 8. REPEAL.--Section 22-13-6 NMSA 1978 (being
14 Laws 1972, Chapter 95, Section 2, as amended) is repealed.

15 SECTION 9. EFFECTIVE DATE.--The effective date of the
16 provisions of this act is July 1, 2026. _____