

SENATE BILL 64

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

INTRODUCED BY

Mimi Stewart and Joy Garratt and Cindy Nava

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

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.

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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;

D. "department" means the public education department;

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

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

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department-approved gifted programs for those students who meet the established criteria;←SEC

SEC→E.←SEC SEC→G.←SEC "home school" means the operation by the parent of a school-age person of a home study program of instruction that provides a basic academic educational program, including reading, language arts, mathematics, social studies and science;

SEC→F.←SEC SEC→H.←SEC "instructional support provider" means a person who is employed to support the instructional program of a school district, including educational assistant, school counselor, social worker, school nurse, speech-language pathologist, psychologist, physical therapist, occupational therapist, recreational therapist, marriage and family therapist, interpreter for the deaf and diagnostician;

SEC→G.←SEC SEC→I.←SEC "licensed school employee" means teachers, school administrators and instructional support providers;

SEC→H.←SEC SEC→J.←SEC "local school board" means the policy-setting body of a school district;

SEC→I.←SEC SEC→K.←SEC "local superintendent" means the chief executive officer of a school district;

SEC→J.←SEC SEC→L.←SEC "multilayered system of supports" means a coordinated and comprehensive framework of evidence-based academic and behavioral supports that address a

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student's educational needs with graduated intensity based on data collected about the student;

[J.] SEC→K.←SEC SEC→M.←SEC "parent" includes a guardian or other person having custody and control of a school-age person;

[K.] SEC→L.←SEC SEC→N.←SEC "private school" means a school, other than a home school, that offers on-site programs of instruction and that is not under the control, supervision or management of a local school board;

[L.] SEC→M.←SEC SEC→O.←SEC "public school" means that part of a school district that is a single attendance center in which instruction is offered by one or more teachers and is discernible as a building or group of buildings generally recognized as either an elementary, middle, junior high or high school or any combination of those and includes a charter school;

[M.] SEC→N.←SEC SEC→P.←SEC "school" means a supervised program of instruction designed to educate a student in a particular place, manner and subject area;

[N.] SEC→O.←SEC SEC→Q.←SEC "school administrator" means a person licensed to administer in a school district and includes school principals, central district administrators and charter school head administrators;

[O.] SEC→P.←SEC SEC→R.←SEC "school-age person" means a person who is at least five years of age prior to 12:01

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a.m. on September 1 of the school year, who has not received a high school diploma or its equivalent and who has not reached the person's twenty-second birthday on the first day of the school year and meets other criteria provided in the Public School Finance Act;

[P-] SEC→Q.←SEC SEC→S.←SEC "school building" means a public school, an administration building and related school structures or facilities, including teacher housing, that is owned, acquired or constructed by the school district as necessary to carry out the functions of the school district;

[Q-] SEC→R.←SEC SEC→T.←SEC "school bus private owner" means a person, other than a school district, the department, the state or any other political subdivision of the state, that owns a school bus;

[R-] SEC→S.←SEC SEC→U.←SEC "school district" means an area of land established as a political subdivision of the state for the administration of public schools and segregated geographically for taxation and bonding purposes;

[S-] SEC→T.←SEC SEC→V.←SEC "school employee" includes licensed and nonlicensed employees of a school district;

[T-] SEC→U.←SEC SEC→W.←SEC "school principal" means the chief instructional leader and administrative head of a public school;

[U-] SEC→V.←SEC SEC→X.←SEC "school year" means

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the total number of contract days offered by public schools in a school district during a period of twelve consecutive months;

[V.] SEC→W.←SEC SEC→Y.←SEC "secretary" means the secretary of public education;

[W.] SEC→X.←SEC SEC→Z.←SEC "state agency" or "state institution" means the New Mexico military institute, New Mexico school for the blind and visually impaired, New Mexico school for the deaf, New Mexico boys' school, girls' welfare home, New Mexico youth diagnostic and development center, Sequoyah adolescent treatment center, Carrie Tingley crippled children's hospital, New Mexico behavioral health institute at Las Vegas and any other state agency responsible for educating resident children;

[X.] SEC→Y.←SEC SEC→AA.←SEC "state educational institution" means an institution enumerated in Article 12, Section 11 of the constitution of New Mexico;

SEC→Z.←SEC SEC→BB.←SEC "student" means a school-aged person who is enrolled in a public school;

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

[Y.] SEC→BB.←SEC SEC→DD.←SEC "substitute teacher" means a person who holds a certificate to substitute for a

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teacher in the classroom;

[Z.] SEC→GG.←SEC SEC→EE.←SEC "teacher" means a person who holds a level one, two or three-A license and whose primary duty is classroom instruction or the supervision, below the school principal level, of an instructional program or whose duties include curriculum development, peer intervention, peer coaching or mentoring or serving as a resource teacher for other teachers;

[AA.] SEC→DD.←SEC SEC→FF.←SEC "certified school instructor" means a licensed school employee; and

[BB.] SEC→EE.←SEC SEC→GG.←SEC "certified school employee" or "certified school personnel" means a licensed school employee."

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

"[NEW MATERIAL] SHORT TITLE.--Sections 2 through 6 of this act may be cited as the "Special Education Act"."

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

"[NEW MATERIAL] DEFINITIONS.--As used in the Special Education Act:

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

B. "dyslexia" means a specific learning disability that is neurobiological in origin and characterized by

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difficulty with accurate or fluent word recognition and poor spelling and decoding abilities, which characteristics typically result from a deficit in the phonological component of language that is often unexpected in relation to other cognitive abilities and the provision of effective classroom instruction and may result in problems in reading comprehension and reduced reading experience that may impede the growth of vocabulary and background knowledge;

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

D. "school district" includes charter schools;

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

F. "student with disabilities" means a student with physical or mental impairments or specific learning disabilities who, as a result of those impairments or specific learning disabilities, requires special education and related services in accordance with the federal Individuals with Disabilities Education Act."

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

"[NEW MATERIAL] OFFICE OF SPECIAL EDUCATION--CREATED--

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DUTIES.--

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

B. The office shall:

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

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

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

(4) develop and maintain a statewide uniform online system for the formulation of individualized education programs and require all school districts to use the system to document services, monitor progress and ensure consistency, fidelity and compliance with the federal Individuals with Disabilities Education Act time lines and safeguards;

SFC→and←SFC

(5) enforce laws regarding the education of students with disabilities, including the federal Individuals

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with Disabilities Education Act SEC→, ~~the Special Education Act and~~←SEC SEC→and the Special Education Act, and monitor compliance with←SEC laws that prohibit discrimination against students with disabilities SFC→."←SFC SFC→; and←SFC

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

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

"SPECIAL EDUCATION--RESPONSIBILITY.--

A. The [~~state board~~] office shall make, adopt and keep current a state plan for special education policy, programs and standards.

B. The department [~~of education with the approval of the state board~~] shall set standards for diagnosis and screening of and educational offerings for [~~exceptional children~~] students with disabilities in public schools, developmentally delayed three- and four-year-old children SEC→whose parents have requested special education services from school districts←SEC and eligible children in private, nonsectarian, nonprofit training centers and in state

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institutions under the authority of the secretary of health.

C. The [~~state board~~] department shall establish and maintain [~~a~~] an evaluation program [~~of evaluation~~] of the system that monitors the implementation and impact of all special education programs for [~~exceptional~~] three- and four-year-old developmentally delayed children and students with disabilities in the public schools. [~~This program~~] The system shall be operated with the cooperation of [~~local~~] school districts. Portions of the [~~program~~] system may be subcontracted, and periodic reports regarding the efficacy of special education programs for [~~exceptional~~] children and students with disabilities shall be made to the governor and the legislative education study committee.

D. The [~~department of education~~] office shall coordinate programming related to the transition of [~~persons~~] students with disabilities from secondary and post-secondary education programs to employment or vocational placement in accordance with the Special Education Act."

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

"[~~INTERVENTION~~] SUPPORTS FOR STUDENTS DISPLAYING CHARACTERISTICS OF DYSLEXIA.--

A. Within the course of the 2019-2020 and 2020-2021 school years and in each subsequent school year, all first

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grade students shall be screened for dyslexia.

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

C. In accordance with department [~~response to intervention~~] procedures for a multilayered system of supports, guidelines and policies, each school district [~~or charter school~~] shall provide timely, appropriate, systematic, scientific, evidence-based interventions prescribed by the student assistance team, with progress monitoring to determine the student's response or lack of response to interventions.

D. A parent of a student referred to a student assistance team shall be informed of the parent's right to request an initial special education evaluation at any time during the school district's [~~or charter school's~~] implementation of the interventions prescribed by the student assistance team. If the school district [~~or charter school~~] agrees that the student may have a disability, the student assistance team shall refer the child for an evaluation. The student shall be evaluated within sixty days of receiving the parental consent for an initial evaluation. If the school district [~~or charter school~~] refuses the parent's request for

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an initial evaluation, the school district [~~or charter school~~] shall provide written notice of the refusal to the parent, including notice of the parent's right to challenge the school district's [~~or charter school's~~] decision as provided in state and federal law and rules.

E. Within the course of the 2019-2020 and 2020-2021 school years, every school district [~~and charter school~~] shall develop and implement a literacy professional development plan that includes a detailed framework for structured literacy training by a licensed and accredited or credentialed teacher preparation provider for all elementary school teachers and for training in evidence-based reading intervention for reading interventionists and special education teachers working with students demonstrating characteristics of dyslexia or diagnosed with dyslexia. The plan shall continue to be implemented each school year and may be updated as necessary. The department shall provide lists of recommended teacher professional development materials and opportunities for teachers and school administrators regarding evidence-based reading instruction for students at risk for reading failure and displaying the characteristics of dyslexia.

F. School districts [~~and charter schools~~] shall train school administrators and teachers who teach reading to implement appropriate evidence-based reading interventions. School districts [~~and charter schools~~] shall train special

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education teachers to provide structured literacy training for students who are identified with dyslexia as a specific learning disability and who are eligible for special education services.

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

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

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

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

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