

1 SENATE BILL 64

2 57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

3 INTRODUCED BY

4 Mimi Stewart and Joy Garratt and Cindy Nava

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7
8 FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

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10 AN ACT

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

18
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

20 SECTION 1. Section 22-1-2 NMSA 1978 (being Laws 2003,
21 Chapter 153, Section 3, as amended by Laws 2019, Chapter 206,
22 Section 1 and by Laws 2019, Chapter 207, Section 1) is amended
23 to read:

24 "22-1-2. DEFINITIONS.--As used in the Public School Code:

25 A. "academic proficiency" means mastery of the

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1 subject-matter knowledge and skills specified in state academic
2 content and performance standards for a student's grade level;

3 B. "charter school" means a school authorized by a
4 chartering authority to operate as a public school;

5 C. "commission" means the public education
6 commission;

7 D. "department" means the public education
8 department;

9 E. "home school" means the operation by the parent
10 of a school-age person of a home study program of instruction
11 that provides a basic academic educational program, including
12 reading, language arts, mathematics, social studies and
13 science;

14 F. "instructional support provider" means a person
15 who is employed to support the instructional program of a
16 school district, including educational assistant, school
17 counselor, social worker, school nurse, speech-language
18 pathologist, psychologist, physical therapist, occupational
19 therapist, recreational therapist, marriage and family
20 therapist, interpreter for the deaf and diagnostician;

21 G. "licensed school employee" means teachers,
22 school administrators and instructional support providers;

23 H. "local school board" means the policy-setting
24 body of a school district;

25 I. "local superintendent" means the chief executive

1 officer of a school district;

2 J. "multilayered system of supports" means a
3 coordinated and comprehensive framework of evidence-based
4 academic and behavioral supports that address a student's
5 educational needs with graduated intensity based on data
6 collected about the student;

7 [~~J.~~] K. "parent" includes a guardian or other
8 person having custody and control of a school-age person;

9 [~~K.~~] L. "private school" means a school, other than
10 a home school, that offers on-site programs of instruction and
11 that is not under the control, supervision or management of a
12 local school board;

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

20 [~~M.~~] N. "school" means a supervised program of
21 instruction designed to educate a student in a particular
22 place, manner and subject area;

23 [~~N.~~] O. "school administrator" means a person
24 licensed to administer in a school district and includes school
25 principals, central district administrators and charter school

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1 head administrators;

2 [Q-] P. "school-age person" means a person who is
3 at least five years of age prior to 12:01 a.m. on September 1
4 of the school year, who has not received a high school diploma
5 or its equivalent and who has not reached the person's twenty-
6 second birthday on the first day of the school year and meets
7 other criteria provided in the Public School Finance Act;

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

13 [Q-] R. "school bus private owner" means a person,
14 other than a school district, the department, the state or any
15 other political subdivision of the state, that owns a school
16 bus;

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

21 [S-] T. "school employee" includes licensed and
22 nonlicensed employees of a school district;

23 [T-] U. "school principal" means the chief
24 instructional leader and administrative head of a public
25 school;

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1 [~~U.~~] V. "school year" means the total number of
2 contract days offered by public schools in a school district
3 during a period of twelve consecutive months;

4 [~~V.~~] W. "secretary" means the secretary of public
5 education;

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

14 [~~X.~~] Y. "state educational institution" means an
15 institution enumerated in Article 12, Section 11 of the
16 constitution of New Mexico;

17 Z. "student" means a school-aged person who is
18 enrolled in a public school;

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

23 [~~Y.~~] BB. "substitute teacher" means a person who
24 holds a certificate to substitute for a teacher in the
25 classroom;

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1 ~~[Z-]~~ CC. "teacher" means a person who holds a level
2 one, two or three-A license and whose primary duty is classroom
3 instruction or the supervision, below the school principal
4 level, of an instructional program or whose duties include
5 curriculum development, peer intervention, peer coaching or
6 mentoring or serving as a resource teacher for other teachers;

7 ~~[AA-]~~ DD. "certified school instructor" means a
8 licensed school employee; and

9 ~~[BB-]~~ EE. "certified school employee" or "certified
10 school personnel" means a licensed school employee."

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

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

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

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

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

21 B. "dyslexia" means a specific learning disability
22 that is neurobiological in origin and characterized by
23 difficulty with accurate or fluent word recognition and poor
24 spelling and decoding abilities, which characteristics
25 typically result from a deficit in the phonological component

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1 of language that is often unexpected in relation to other
2 cognitive abilities and the provision of effective classroom
3 instruction and may result in problems in reading comprehension
4 and reduced reading experience that may impede the growth of
5 vocabulary and background knowledge;

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

7 D. "school district" includes charter schools;

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

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

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

22 "[NEW MATERIAL] OFFICE OF SPECIAL EDUCATION--CREATED--
23 DUTIES.--

24 A. The "office of special education" is created in
25 the department. The "deputy secretary for special education"

1 shall be appointed by the secretary on the basis of education
2 and experience in special education. The deputy secretary
3 shall direct the activities of the office and shall directly
4 report to the secretary.

5 B. The office shall:

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

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

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

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

20 (5) enforce laws regarding the education of
21 students with disabilities, including the federal Individuals
22 with Disabilities Education Act, the Special Education Act and
23 laws that prohibit discrimination against students with
24 disabilities."

25 SECTION 5. Section 22-13-7 NMSA 1978 (being Laws 1972,

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1 Chapter 95, Section 3, as amended) is recompiled in the Special
2 Education Act and is amended to read:

3 "SPECIAL EDUCATION--RESPONSIBILITY.--

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

7 B. The department [~~of education with the approval~~
8 ~~of the state board~~] shall set standards for diagnosis and
9 screening of and educational offerings for [~~exceptional~~
10 ~~children~~] students with disabilities in public schools,
11 developmentally delayed three- and four-year-old children whose
12 parents have requested special education services from school
13 districts and eligible children in private, nonsectarian,
14 nonprofit training centers and in state institutions under the
15 authority of the secretary of health.

16 C. The [~~state board~~] department shall establish and
17 maintain [~~a~~] an evaluation program [~~of evaluation~~] of the
18 system that monitors the implementation and impact of all
19 special education programs for [~~exceptional~~] three- and four-
20 year-old developmentally delayed children and students with
21 disabilities in the public schools. [~~This program~~] The system
22 shall be operated with the cooperation of [~~local~~] school
23 districts. Portions of the [~~program~~] system may be
24 subcontracted, and periodic reports regarding the efficacy of
25 special education programs for [~~exceptional~~] children and

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1 students with disabilities shall be made to the governor and
2 the legislative education study committee.

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

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

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

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

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

22 C. In accordance with department [~~response to~~
23 ~~intervention~~] procedures for a multilayered system of supports,
24 guidelines and policies, each school district [~~or charter~~
25 ~~school~~] shall provide timely, appropriate, systematic,

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1 scientific, evidence-based interventions prescribed by the
2 student assistance team, with progress monitoring to determine
3 the student's response or lack of response to interventions.

4 D. A parent of a student referred to a student
5 assistance team shall be informed of the parent's right to
6 request an initial special education evaluation at any time
7 during the school district's ~~[or charter school's]~~
8 implementation of the interventions prescribed by the student
9 assistance team. If the school district ~~[or charter school]~~
10 agrees that the student may have a disability, the student
11 assistance team shall refer the child for an evaluation. The
12 student shall be evaluated within sixty days of receiving the
13 parental consent for an initial evaluation. If the school
14 district ~~[or charter school]~~ refuses the parent's request for
15 an initial evaluation, the school district ~~[or charter school]~~
16 shall provide written notice of the refusal to the parent,
17 including notice of the parent's right to challenge the school
18 district's ~~[or charter school's]~~ decision as provided in state
19 and federal law and rules.

20 E. Within the course of the 2019-2020 and 2020-2021
21 school years, every school district ~~[and charter school]~~ shall
22 develop and implement a literacy professional development plan
23 that includes a detailed framework for structured literacy
24 training by a licensed and accredited or credentialed teacher
25 preparation provider for all elementary school teachers and for

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1 training in evidence-based reading intervention for reading
2 interventionists and special education teachers working with
3 students demonstrating characteristics of dyslexia or diagnosed
4 with dyslexia. The plan shall continue to be implemented each
5 school year and may be updated as necessary. The department
6 shall provide lists of recommended teacher professional
7 development materials and opportunities for teachers and school
8 administrators regarding evidence-based reading instruction for
9 students at risk for reading failure and displaying the
10 characteristics of dyslexia.

11 F. School districts [~~and charter schools~~] shall
12 train school administrators and teachers who teach reading to
13 implement appropriate evidence-based reading interventions.
14 School districts [~~and charter schools~~] shall train special
15 education teachers to provide structured literacy training for
16 students who are identified with dyslexia as a specific
17 learning disability and who are eligible for special education
18 services.

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

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

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