

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

SENATE BILL 314

**50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

INTRODUCED BY

Clinton D. Harden

AN ACT

RELATING TO SPECIAL EDUCATION; REQUIRING THE USE OF CERTAIN  
INFORMATION WHEN DEVELOPING AN EDUCATION PLAN FOR OR EVALUATING  
A STUDENT WITH AUTISM SPECTRUM DISORDER.

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

**SECTION 1.** Section 22-13-6 NMSA 1978 (being Laws 1972,  
Chapter 95, Section 2, as amended) is amended to read:

"22-13-6. SPECIAL EDUCATION--DEFINITIONS.--As used in the  
Public School Code:

A. "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 exceptional  
children;

.183786.1

underscoring material = new  
~~[bracketed material] = delete~~

underscored material = new  
~~[bracketed material] = delete~~

1           B. "exceptional children" means school-age persons  
2 whose abilities render regular services of the public school to  
3 be inconsistent with their educational needs;

4           C. "children with disabilities" means those  
5 children who are classified as developmentally disabled  
6 according to the Developmental Disabilities Act;

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

16           E. "dyslexia" means a condition of neurological  
17 origin that is characterized by difficulty with accurate or  
18 fluent word recognition and by poor spelling and decoding  
19 abilities, which characteristics typically result from a  
20 deficit in the phonological component of language that is often  
21 unexpected in relation to other cognitive abilities and the  
22 provision of effective classroom instruction and may result in  
23 problems in reading comprehension and reduced reading  
24 experience that may impede the growth of vocabulary and  
25 background knowledge;

.183786.1

underscored material = new  
[bracketed material] = delete

1 F. "response to intervention" means a multitiered  
2 intervention model that uses a set of increasingly intensive  
3 academic or behavioral supports, matched to student need, as a  
4 framework for making educational programming and eligibility  
5 decisions; ~~and~~

6 G. "student assistance team" means a school-based  
7 group whose purpose, based on procedures and guidelines  
8 established by the department, is to provide additional  
9 educational support to students who are experiencing  
10 difficulties that are preventing them from benefitting from  
11 general instruction; and

12 H. "autism spectrum disorder" means a condition  
13 that meets the diagnostic criteria for the pervasive  
14 developmental disorders published in the Diagnostic and  
15 Statistical Manual of Mental Disorders, fourth edition, text  
16 revision, also known as DSM-IV-TR, published by the American  
17 psychiatric association, including autistic disorder;  
18 Asperger's disorder; pervasive development disorder not  
19 otherwise specified; Rett's disorder; and childhood  
20 disintegrative disorder."

21 SECTION 2. A new section of Chapter 22, Article 13 NMSA  
22 1978 is enacted to read:

23 "[NEW MATERIAL] AUTISM SPECTRUM DISORDER--SPECIAL  
24 EDUCATION EVALUATION--DEVELOPMENT OF SPECIAL EDUCATION  
25 PROGRAM.--A school district or charter school that is

.183786.1

underscoring material = new  
~~[bracketed material] = delete~~

1 evaluating a student with autism spectrum disorder for special  
2 education services or developing a special education program  
3 for a student with autism spectrum disorder, including the  
4 individual education plan required under the Individuals with  
5 Disabilities Education Act of 2004, shall consider the  
6 following in conducting the evaluation or developing the  
7 program:

8 A. extended educational programming, including  
9 extended day or extended school year services, that considers  
10 the duration of the program based on assessment of the  
11 student's behavior, social skills, communication, academics and  
12 self-help skills;

13 B. the inclusion of active engagement in learning  
14 activities and minimal unstructured time, including lunch,  
15 snack time and recess, in the student's daily schedule and  
16 providing flexibility within school routines that are adaptable  
17 to individual skill levels, including assisting with schedule  
18 changes for changes in school scheduled activities, such as  
19 field trips, substitute teachers and other in-school  
20 extracurricular activities;

21 C. in-home and community-based training, or viable  
22 alternatives to such training, that assist the student with the  
23 acquisition of social or behavioral skills, including  
24 strategies that facilitate maintenance and generalization of  
25 such skills from home to school, school to home, home to

.183786.1

1 community and school to community;

2 D. positive behavior support strategies based on  
3 behavioral information, including:

4 (1) antecedent manipulation, replacement  
5 behaviors, reinforcement strategies and data-based decisions;  
6 and

7 (2) a behavioral intervention plan developed  
8 from a functional behavioral assessment that uses current data  
9 related to target behaviors and addresses behavioral  
10 programming across home, school and community settings;

11 E. futures planning for integrated living, work,  
12 community and educational environments that considers the  
13 skills necessary to function in current and post-secondary  
14 environments;

15 F. parent or family training and support, provided  
16 by qualified personnel with experience with students with  
17 autism spectrum disorder, that includes:

18 (1) training in providing a family with the  
19 skills necessary for a student with autism spectrum disorder to  
20 succeed in the home and community setting;

21 (2) information regarding parent and family  
22 resources, such as support groups, workshops, videos,  
23 conferences and materials designed to increase parent and  
24 family knowledge of specific teaching and management techniques  
25 related to the student's curriculum; and

.183786.1

1 (3) training on the facilitation of parental  
2 and family involvement in working with the student at home and  
3 includes strategies for behavior management and developing  
4 structured home environments or communication training so that  
5 parents and family are active participants in promoting the  
6 continuity of interventions across all settings;

7 G. a suitable staff-to-student ratio appropriate to  
8 identified activities and necessary for achievement of social  
9 or behavioral progress based on the student's developmental and  
10 learning level and that encourages work toward the student's  
11 individual independence as determined by:

12 (1) adaptive behavior evaluation results;

13 (2) behavioral accommodation needs across all  
14 settings; and

15 (3) transitions within the school day;

16 H. communication interventions, including language  
17 forms and functions that enhance effective communication across  
18 all settings, such as augmentative, incidental and naturalistic  
19 teaching;

20 I. developing the student's social skills based on  
21 social skills assessment curriculum and provided across all  
22 educational settings, such as trained peer facilitators, video  
23 modeling, social stories and role playing;

24 J. professional educator and staff support, such as  
25 training provided to personnel who work with the student to

underscored material = new  
~~[bracketed material]~~ = delete

1 assure the correct implementation of techniques and strategies  
2 described in the special education program; and

3 K. teaching strategies based on peer-reviewed or  
4 research-based practices for students with autism spectrum  
5 disorder, such as those associated with discrete trial  
6 training, visual support, applied behavior analysis, structured  
7 learning, augmentative communication or social skills  
8 training."

9 - 7 -

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25