

1 SENATE BILL 367

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

3 INTRODUCED BY

4 Harold Pope

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10 AN ACT

11 RELATING TO SCHOOL ATTENDANCE; IMPROVING REPORTING REQUIREMENTS
12 FOR STUDENT ATTENDANCE; PROVIDING WHOLE-SCHOOL INTERVENTIONS;
13 PROVIDING FOR METHODS TO RE-ENGAGE DROPOUTS; CREATING A FUND;
14 MAKING GRANT AWARDS TO SCHOOL DISTRICTS AND STATE-CHARTERED
15 CHARTER SCHOOLS; PROVIDING FOR MINIMUM AWARDS.

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

18 SECTION 1. Section 22-8-30 NMSA 1978 (being Laws 1974,
19 Chapter 8, Section 17, as amended) is amended to read:

20 "22-8-30. SUPPLEMENTAL DISTRIBUTIONS.--

21 A. The department shall make supplemental
22 distributions only for the following purposes:

23 (1) to pay the out-of-state tuition of
24 students subject to the [~~Compulsory School Attendance Law~~]
25 Attendance for Success Act who are attending school out-of-

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1 state because school facilities are not reasonably available in
2 the school district of their residence;

3 (2) to make emergency distributions to school
4 districts or state-chartered charter schools in financial need,
5 but no money shall be distributed to any school district or
6 state-chartered charter school having cash and invested
7 reserves, or other resources or any combination thereof,
8 equaling five percent or more of the school district's or
9 state-chartered charter school's operational budget;

10 (3) to make program enrichment distributions
11 in the amount of actual program expense to school districts and
12 state-chartered charter schools for the purpose of providing
13 specific programs to meet particular educational requirements
14 that cannot otherwise be financed;

15 (4) a special vocational education
16 distribution to area vocational schools or state-supported
17 schools with department-approved vocational programs to
18 reimburse those schools for the cost of vocational education
19 programs for those students subject to the ~~[Compulsory School~~
20 ~~Attendance Law]~~ Attendance for Success Act who are enrolled in
21 such programs; and

22 (5) to make emergency capital outlay
23 distributions to school districts or state-chartered charter
24 schools that have experienced an unexpected capital outlay
25 emergency demanding immediate attention.

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1 B. The department shall account for all
2 supplemental distributions and shall make full reports to the
3 governor, legislative education study committee and legislative
4 finance committee of payments made as authorized in Subsection
5 A of this section.

6 C. The department may divert any unused or unneeded
7 balances in any of the distributions made under the
8 supplementary distribution authority to make any other
9 distribution made pursuant to the same authority."

10 SECTION 2. Section 22-12A-1 NMSA 1978 (being Laws 2019,
11 Chapter 223, Section 1) is amended to read:

12 "22-12A-1. SHORT TITLE.--~~[Sections 1 through 14 of this~~
13 ~~act]~~ Chapter 22, Article 12A NMSA 1978 may be cited as the
14 "Attendance for Success Act"."

15 SECTION 3. Section 22-12A-6 NMSA 1978 (being Laws 2019,
16 Chapter 223, Section 6) is amended to read:

17 "22-12A-6. PUBLIC SCHOOL ATTENDANCE POLICIES--
18 REPORTING.--

19 A. A public school shall maintain an attendance
20 policy that:

21 (1) establishes an early warning system that
22 includes evidence-based metrics to identify students at risk of
23 chronic absenteeism or excessive absenteeism;

24 (2) provides for early identification of
25 chronically absent and excessively absent students;

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1 (3) employs an attendance improvement plan
2 that focuses on:

3 (a) keeping students in an educational
4 setting;

5 (b) prohibiting out-of-school suspension
6 or expulsion as the punishment for absences;

7 (c) assisting a student's family to
8 remove barriers to the student's regular school attendance [~~or~~
9 ~~attendance in another educational setting~~]; and

10 (d) providing additional educational
11 opportunities to students who are struggling with attendance;

12 (4) limits the ability of a student to
13 withdraw to only after all intervention efforts by the public
14 school or the children, youth and families department to keep
15 the student in an educational setting have been exhausted;

16 (5) requires that accurate class attendance be
17 taken for every instructional class and school day in a public
18 school or school program;

19 (6) provides that a public school shall
20 differentiate between different types of absences;

21 (7) requires a public school to document and
22 annually report the following for each chronically or
23 excessively absent student:

24 (a) attempts by the public school to
25 notify a parent that the student was absent from class or the

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1 school day;

2 (b) attempts to improve attendance by
3 talking to a student or parent to identify barriers to school
4 attendance, identify solutions to improve the student's
5 attendance behavior, identify and offer school-based
6 opportunities for the student to catch up with coursework and
7 discuss necessary interventions for the student or the
8 student's family; and

9 (c) intervention strategies implemented
10 to support keeping the student in an educational setting,
11 including additional educational opportunities offered to the
12 student;

13 (8) requires a student or the parent of a
14 student who intends to claim excused absence because of medical
15 condition, pregnancy or parenting to communicate the student's
16 status to the appropriate school personnel and to provide
17 required documentation; ~~and~~

18 (9) encourages and supports compliant data
19 sharing, pursuant to the federal Family Educational Rights and
20 Privacy Act of 1974, between a public school and community-
21 based organizations that provide services to students for the
22 purpose of providing more personalized interventions and
23 specialized supports as part of the public school's attendance
24 improvement plan; and

25 (10) requires that a student be withdrawn from

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1 membership counts in accordance with the Public School Finance
2 Act when the student:

3 (a) has ten or more consecutive
4 unexcused absences; and

5 (b) has been provided all appropriate
6 progressive interventions in accordance with Section 22-12A-11
7 NMSA 1978.

8 B. Local school boards shall review and approve
9 their public school attendance policies.

10 C. School districts shall report absences, chronic
11 absences and excessive absences data to the department at each
12 reporting date and the end of the school year and shall
13 document intervention efforts made to keep students in an
14 educational setting. The department shall compile school
15 district reports as provided in Section ~~[13 of the Attendance~~
16 ~~for Success Act and require school districts to certify that~~
17 ~~the information is being reported consistently and correctly]~~
18 22-12A-13 NMSA 1978. The department shall share information
19 from state-chartered charter schools with the commission.

20 D. A public school shall provide a copy of the
21 public school's attendance policy to all parents of students in
22 that school and publish the policy on the public school's
23 website. The attendance policy shall include:

24 (1) the rights and obligations of parents and
25 students pursuant to the Attendance for Success Act;

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1 (2) the prevention strategies that will be
2 implemented to ensure that students attend classes; and

3 (3) details about consequences of failing to
4 adhere to the attendance policy.

5 E. A public school shall provide a parent, within
6 five days of the parent's written request, with access to the
7 attendance data of that parent's child, including information
8 about any intervention strategies that have been employed to
9 help the student improve the student's attendance.

10 ~~[F. Upon request, school districts shall provide~~
11 ~~the chronic absence rate from the most current reporting date~~
12 ~~or end-of-year report, in the aggregate and disaggregated by~~
13 ~~subgroups, for all its public schools.]"~~

14 SECTION 4. Section 22-12A-7 NMSA 1978 (being Laws 2019,
15 Chapter 223, Section 7) is amended to read:

16 "22-12A-7. ENFORCEMENT OF ATTENDANCE FOR SUCCESS ACT--
17 DISTRICT RESPONSIBILITIES--DIFFERENTIATION--DISTRICT PLAN--
18 ADDITIONAL SUPPORT.--

19 A. School districts shall differentiate public
20 schools based on their chronic absence rates into ~~[no fewer~~
21 ~~than]~~ the four [categories] tiers of the attendance improvement
22 plan.

23 B. School districts shall differentiate student
24 subgroups based on their chronic absence rates into ~~[no fewer~~
25 ~~than]~~ the four [categories] tiers of the attendance improvement

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1 plan.

2 C. Using the [~~differentiation scheme pursuant to~~
3 ~~Subsections A and B of this section~~] four tiers of the
4 attendance improvement plan, a school district shall develop an
5 attendance improvement [~~plans~~] plan that [~~include~~] includes the
6 following elements:

7 (1) specific school district supports and
8 resources available to public schools at each level to further
9 the implementation of their attendance improvement plans;

10 (2) attendance improvement targets for public
11 schools or subpopulations with prior school year chronic
12 absence rates of ten percent or greater at the end-of-school
13 reporting period, developed in collaboration with each public
14 school; and

15 (3) an attendance improvement target for
16 school districts with prior school year chronic absence rates
17 of ten percent or greater at the end-of-year reporting period.

18 D. Each school district shall report its attendance
19 improvement plan to the department no later than forty-five
20 days after the beginning of the school year. The department
21 may allow a school district to report its attendance
22 improvement plan as part of the educational plan for student
23 success.

24 E. At the end of each school year, each school
25 district shall report to the local school board and to the

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1 public on the school district's website, the progress made on
2 its attendance improvement plan, to include:

3 (1) a description of the supports and
4 resources provided to public schools at each tier of the
5 attendance improvement plan;

6 (2) the extent to which public schools with
7 chronic absence rates greater than ten percent achieved their
8 attendance improvement targets;

9 (3) the extent to which the school district
10 achieved its attendance improvement targets;

11 (4) barriers and challenges to reducing
12 chronic absence rates, as reported by the public school and
13 school district personnel;

14 (5) effective school-based practices, as
15 evidenced by decreased chronic absence rates; and

16 (6) recommendations for improvement during the
17 next school year at both the public school and school district
18 level.

19 F. Attendance teams may be formed in whole or in
20 part from preexisting groups or teams within a public school or
21 may be formed for the explicit purpose of improving school
22 attendance. School districts shall reserve time for school
23 personnel to collaborate as an attendance team.

24 G. School districts shall provide support and
25 guidance to attendance teams on transportation and school

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1 scheduling options when these are identified as barriers to
2 school attendance."

3 SECTION 5. Section 22-12A-8 NMSA 1978 (being Laws 2019,
4 Chapter 223, Section 8) is amended to read:

5 "22-12A-8. ENFORCEMENT OF ATTENDANCE FOR SUCCESS ACT--
6 ATTENDANCE IMPROVEMENT PLAN--PROCEDURES.--

7 A. A public school shall initiate the enforcement
8 of the provisions of the Attendance for Success Act for its
9 enrolled students. The enforcement policies of a public school
10 shall focus on prevention and intervention.

11 B. [~~Beginning in the 2020-2021 school year~~] A
12 public school with five percent or greater of students with a
13 chronic absence rate during the prior school year, or with five
14 percent or greater of one or more subgroups of students with a
15 chronic absence rate during the prior school year, shall
16 develop an attendance improvement plan to be submitted to the
17 department as part of the public school's educational plan for
18 student success.

19 C. A public school, regardless of its chronic
20 absence rate, shall develop and implement a whole-school
21 absence prevention strategy. [~~to be reported to the department~~
22 ~~as part of the public school's educational plan for student~~
23 ~~success~~] Whole-school absence prevention strategies for
24 secondary schools shall include:

25 (1) support for students transitioning from

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1 middle school to high school; and

2 (2) strategies to increase graduation rates
3 and reduce the number of students dropping out of school,
4 including positive behavior supports, early interventions to
5 address course failure, attendance supports and support for
6 teachers and families.

7 D. An attendance improvement plan shall include:

8 (1) attendance data for each of the preceding
9 two school years and the current school year, including:

10 (a) the public school's overall absence
11 rate;

12 (b) chronic absence rates disaggregated
13 by student subpopulation;

14 (c) chronic absence rates disaggregated
15 by grade level; ~~and~~

16 (d) student attendance for every day of
17 the school year; and

18 (e) the reasons for chronic absences;

19 (2) school-wide identification of potential
20 root causes of chronic and excessive absenteeism through
21 consideration of the data collected in Paragraph (1) of this
22 subsection and one or more of the following:

23 (a) national or local research;

24 (b) analysis of supportive factors and
25 barriers;

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- 1 (c) student surveys or focus groups;
2 (d) youth participatory research; or
3 (e) other appropriate school-based
4 research methods;

5 (3) identification of strategies for each tier
6 of the attendance improvement plan;

7 (4) identification of performance measures for
8 each strategy; and

9 (5) a data-collection plan for performance
10 measures.

11 E. A public school shall notify parents of students
12 who are in need of individualized prevention of their student's
13 attendance history, the impact of student absences on student
14 academic outcomes, the intervention services available to the
15 student or family, school resources available to address
16 obstacles to attendance, school-based opportunities for the
17 student to catch up with coursework and the consequences of
18 further absences.

19 [~~E.~~] F. A public school shall provide interventions
20 to students who are [absent] in need of individualized
21 prevention or chronically absent that are aligned to those
22 students' reasons for being absent as provided in Subparagraph
23 (e) of Paragraph (1) of Subsection D of this section, which may
24 include:

25 (1) assessing student and family needs and

1 matching those needs with appropriate public or private
2 providers, including civic and corporate sponsors;

3 (2) making referrals to health care and social
4 service providers;

5 (3) reviewing, identifying and addressing
6 school systems, including enforcement of anti-bullying
7 policies, availability of transportation and student discipline
8 policies;

9 [~~(3)~~] (4) collaborating and coordinating with
10 health and social service agencies and organizations through
11 school-based and off-site delivery systems;

12 [~~(4)~~] (5) recruiting service providers and
13 business, community and civic organizations to provide needed
14 services and goods that are not otherwise available to a
15 student or the student's family;

16 [~~(5)~~] (6) establishing partnerships between
17 the public school and community organizations, such as civic,
18 business and professional groups and organizations and
19 recreational, social and out-of-school programs;

20 [~~(6)~~] (7) identifying and coordinating age-
21 appropriate resources for students in need of:

22 (a) counseling, training and placement
23 for employment;

24 (b) drug and alcohol abuse counseling;

25 (c) family crisis counseling; and

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1 (d) mental health counseling;
2 [~~(7)~~] (8) promoting family support and parent
3 education programs; and

4 [~~(8)~~] (9) seeking out other services or goods
5 that a student or the student's family needs to assist the
6 student to stay in school and succeed.

7 [~~F.~~] G. Beginning on the first day of school, a
8 classroom teacher or that teacher's adult designee shall be
9 responsible for taking accurate attendance for every class and
10 reporting absences to the attendance team."

11 SECTION 6. Section 22-12A-11 NMSA 1978 (being Laws 2019,
12 Chapter 223, Section 11) is amended to read:

13 "22-12A-11. PROGRESSIVE INTERVENTIONS FOR ABSENT,
14 CHRONICALLY ABSENT AND EXCESSIVELY ABSENT STUDENTS.--

15 A. A public school shall provide interventions for
16 students who are missing school, depending on the number of
17 absences. The process for notification and interventions is:

18 (1) for a student who has been identified as
19 in need of [~~individualized prevention~~] early intervention, the
20 attendance team shall:

21 (a) for an elementary student, talk to
22 the parent and inform the parent of the student's attendance
23 history, the impact of student absences on student academic
24 outcomes, the interventions or services available to the
25 student or family, school resources available to address

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1 obstacles to attendance, school-based opportunities for the
2 student to catch up with coursework and the consequences of
3 further absences, which may include referral to the children,
4 youth and families department for excessive absenteeism; and

5 (b) for a middle or high school student,
6 talk to the parent and the student about the student's
7 attendance history and the impact of student absences on
8 student academic outcomes, interventions or services available
9 to the student or family, school resources available to address
10 obstacles to attendance, school-based opportunities for the
11 student to catch up with coursework and the consequences of
12 further absences, which may include referral to the children,
13 youth and families department for excessive absenteeism; and

14 (2) for a student who has been identified as
15 in need of ~~[early intervention]~~ intensive support, the
16 attendance team shall notify the parent in writing by mail or
17 personal service on the parent of the student's absenteeism.
18 The notice shall include a date, time and place for the parent
19 to meet with the public school to develop intervention
20 strategies that focus on keeping the student in an educational
21 setting. The attendance team shall be convened to establish a
22 specific intervention plan for the student that includes
23 establishing weekly progress monitoring and a contract for
24 attendance ~~[and~~

25 ~~(3) for a student who has been identified as~~

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1 ~~in need of intensive support, the attendance team shall:~~

2 ~~(a) give written notice to the parent,~~
3 ~~including a date, time and place for the parent to meet with~~
4 ~~the school principal and the attendance team;~~

5 ~~(b) establish nonpunitive consequences~~
6 ~~at the school level;~~

7 ~~(c) identify appropriate specialized~~
8 ~~supports that may be needed to help the student address the~~
9 ~~underlying causes of excessive absenteeism; and~~

10 ~~(d) apprise the student and the parent~~
11 ~~of the consequences of further absences], appropriate~~
12 ~~specialized support and nonexclusionary consequences at the~~
13 ~~school level.~~

14 B. The school principal shall consult with a
15 student's teacher and initiate meetings with the teacher, the
16 student and the parent if the alleged cause of absence from
17 class is teacher-student incompatibility."

18 SECTION 7. Section 22-12A-12 NMSA 1978 (being Laws 2019,
19 Chapter 223, Section 12) is amended to read:

20 "22-12A-12. EXCESSIVE ABSENTEEISM--ENFORCEMENT.--

21 A. Each local school board and each governing body
22 of a charter school or private school shall initiate the
23 enforcement of the provisions of the Attendance for Success Act
24 for excessively absent students.

25 B. If unexcused absences continue after written

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1 notice of excessive absenteeism as provided in Section ~~[11 of~~
2 ~~the Attendance for Success Act, the local school board or~~
3 ~~governing body of a charter school or private school, after~~
4 ~~consultation with the local superintendent or head~~
5 ~~administrator of a charter school or private school, shall~~
6 ~~report the excessively absent student]~~ 22-12A-11 NMSA 1978, the
7 school district shall report excessively absent students to the
8 probation services office of the judicial district in which the
9 student resides for an investigation as to whether the student
10 should be considered to be a neglected child or a child in a
11 family in need of family services because of excessive
12 absenteeism and, thus, subject to the provisions of the
13 Children's Code. The record of the public school's
14 interventions and the student's and parent's responses to the
15 interventions shall be provided to the juvenile probation
16 services office. The local superintendent or head
17 administrator of a charter school or private school shall
18 provide the documentation to the juvenile probation services
19 office within ten business days of the student being identified
20 as excessively absent.

21 C. If the juvenile probation services office
22 determines that the student is a child in a family in need of
23 family services, a caseworker from the child or family in need
24 of family services program shall meet with the family at the
25 public school in which the student is enrolled to determine if

.224142.5SA

1 there are other intervention services that may be provided.
2 The meeting shall involve the school principal or other school
3 personnel and, unless the parent objects in writing,
4 appropriate community partners that provide services to
5 children and families. The children, youth and families
6 department shall determine if additional interventions,
7 including monitoring, will positively affect the student's
8 behavior."

9 SECTION 8. Section 22-12A-13 NMSA 1978 (being Laws 2019,
10 Chapter 223, Section 13) is amended to read:

11 "22-12A-13. REPORTING REQUIREMENTS.--

12 A. For each reporting date and at the end of the
13 year, each school district shall report:

14 (1) the total number of days missed for
15 excused and unexcused absences for each student in each public
16 school, the total number of days each student was enrolled and
17 in which tier each student with absences fell during the
18 reporting period, along with the student's demographics; and

19 (2) the number of students at each public
20 school who were referred to the children, youth and families
21 department because of excessive absences, in the aggregate and
22 disaggregated by subgroups.

23 B. The department shall compile [æ] an annual
24 report by public school and school district that includes:

25 (1) the total number and percent of students

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1 who were in each tier of chronic absenteeism or were
2 excessively absent at each public school and school district in
3 the aggregate for each public school and school district and
4 disaggregated by subgroups;

5 (2) the average number of excused and
6 unexcused absences per student for all students and subgroups,
7 not including interscholastic extracurricular activities; and

8 (3) a calculated chronic absenteeism rate for
9 the school district for all students and for each subgroup."

10 SECTION 9. A new section of the Attendance for Success
11 Act, Section 22-12A-15 NMSA 1978, is enacted to read:

12 "22-12A-15. [NEW MATERIAL] ATTENDANCE FOR SUCCESS FUND
13 CREATED.--

14 A. The "attendance for success fund" is created as
15 a nonreverting fund in the state treasury. The fund consists
16 of appropriations, gifts, grants, donations and income from
17 investment of the fund. The fund is administered by the
18 department, and money in the fund is subject to appropriation
19 by the legislature to support a statewide attendance program
20 and to make grant awards to school districts and state-
21 chartered charter schools to provide intervention resources.
22 Disbursements from the fund shall be made by warrant of the
23 secretary of finance and administration pursuant to vouchers
24 signed by the secretary of public education or the secretary's
25 authorized representative.

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1 B. Intervention resources may include personnel and
2 contract support for public schools to help public schools
3 reduce unexcused absences, chronic absenteeism, excessive
4 absenteeism and dropouts and increase the number of students
5 who graduate from high school on time.

6 C. The department shall grant awards to school
7 districts and state-chartered charter schools with students in
8 kindergarten through twelfth grades based on the school
9 district's or state-chartered charter school's proportionate
10 share of students in kindergarten through twelfth grade
11 enrolled for the second reporting period of the previous year.
12 Each eligible school district or state-chartered charter school
13 shall receive a minimum award of twenty thousand dollars
14 (\$20,000), with larger awards ratably reduced to achieve award
15 minimums."

16 SECTION 10. APPLICABILITY.--The provisions of this act
17 apply to the 2023-2024 and subsequent school years.