

SENATE FINANCE COMMITTEE SUBSTITUTE FOR
SENATE EDUCATION COMMITTEE SUBSTITUTE FOR
SENATE BILL 50

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

AN ACT

RELATING TO PUBLIC SCHOOLS; PROVIDING FOR IMPROVED INTERVENTION
AND RETENTION PRACTICES FOR KINDERGARTEN THROUGH GRADE EIGHT
AND TOP TO BOTTOM ACCOUNTABILITY.

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

SECTION 1. Section 22-2C-6 NMSA 1978 (being Laws 1986,
Chapter 33, Section 7, as amended) is repealed and a new
Section 22-2C-6 NMSA 1978 is enacted to read:

"22-2C-6. [NEW MATERIAL] GRADE PROMOTIONS--INTERVENTION
AND REMEDIATION--RETENTION POLICIES--ACCOUNTABILITY.--

A. As used in this section:

(1) "academic improvement plan" means a
written document developed by the student assistance team that
describes the specific content standards required for a certain
grade level that a student has not achieved, prescribes

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underscored material = new
[bracketed material] = delete

1 specific intervention or remediation that have demonstrated
2 effectiveness and, for students whose home language is not
3 English, incorporates appropriate instructional practices;

4 (2) "educational plan for student success"
5 means a student-centered tool developed to define the role of
6 the academic improvement plan within the public school and the
7 school district that addresses methods to improve student
8 learning and success in school and that identifies specific
9 measures of a student's progress;

10 (3) "formative assessments" means assessments
11 that provide information to be used as feedback to adapt
12 teaching to the student's learning needs;

13 (4) "grade-level proficiency" means a score on
14 a school-district-approved standards-based assessment that is
15 comparable among school districts statewide;

16 (5) "intensive targeted instruction" means
17 extra instruction in either small groups or as individuals that
18 shall be no less than thirty minutes per day and three days per
19 week and taught by a teacher or tutor who is not the student's
20 classroom teacher;

21 (6) "intervention" means targeted
22 instructional practice for individual students or small groups
23 of students, including students whose home language is not
24 English, aligned with the results of a valid and reliable
25 assessment and, if applicable, response to intervention as

1 defined in Section 22-13-6 NMSA 1978 and department rule;

2 (7) "mathematics screening assessment" means a
3 school-district-adopted, department-approved formative
4 assessment that measures content, operations, applications,
5 problem-solving and consumer skills, as appropriate for the
6 grade level;

7 (8) "parent" includes a guardian or other
8 person having custody or control of a school-age person;

9 (9) "parent involvement" means a parent
10 helping to implement an academic improvement plan by:

11 (a) attending and participating in
12 student assistance team meetings;

13 (b) using specific strategies explained
14 by the student assistance team to help the parent's student
15 reach grade-level proficiency;

16 (c) attending a school presentation that
17 delivers details about or training on the specific strategies
18 or observing an intensive targeted instruction of the parent's
19 student; and

20 (d) contributing to the student's
21 progress toward grade-level proficiency in a manner in which
22 the parent is capable and as determined by the school or school
23 district;

24 (10) "reading screening assessment" means a
25 school-district-adopted, department-approved formative

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1 assessment that measures the acquisition of reading skills,
2 including phonological awareness, phonics, reading fluency,
3 vocabulary, comprehension and oral language, as appropriate for
4 the grade level;

5 (11) "remediation" includes summer school,
6 extended day or week programs, tutoring, progress-based
7 monitoring or other research-based methods for improvement of
8 student proficiency, as provided by trained personnel;

9 (12) "school" includes a charter school;

10 (13) "school district" includes a school
11 district and a charter school;

12 (14) "small group" consists of no fewer than
13 five students and no more than ten students;

14 (15) "student assistance team" means a group
15 consisting of a student's:

16 (a) teacher;

17 (b) school counselor;

18 (c) school administrator;

19 (d) parent; and

20 (e) if the student or parent wishes, a
21 representative of the student chosen by the student or parent;
22 and

23 (16) "valid and reliable assessments" means
24 assessments that:

25 (a) are appropriate to targeted

1 populations including students whose home language is not
2 English;

3 (b) provide predictive values; and

4 (c) are thoroughly tested, peer-reviewed
5 and accepted by authorities and practitioners in the field.

6 B. School districts shall approve, and the
7 department shall bear the cost, of intervention and remediation
8 that have demonstrated effectiveness to provide assistance to
9 students in kindergarten through eighth grade who do not
10 demonstrate grade-level proficiency in reading or math as
11 provided in this section.

12 C. Beginning in the 2012-2013 school year:

13 (1) kindergarten through eighth grade
14 intervention and remediation, as defined in the educational
15 plan for student success, and retention and promotion policies
16 shall be aligned with valid and reliable assessment results and
17 shall be aligned with state standards;

18 (2) within the first three weeks of the school
19 year, each student in kindergarten through eighth grade shall
20 be evaluated with a reading screening assessment and each
21 student in fourth grade through eighth grade shall be evaluated
22 with a mathematics screening assessment;

23 (3) if the reading screening assessment or
24 mathematics screening assessment results indicate that a
25 student is not proficient in reading or mathematics, the school

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1 immediately shall implement intervention or remediation to help
2 the student progress toward grade-level proficiency; and

3 (4) if the student does not progress toward
4 grade-level proficiency after intervention or remediation, as
5 measured by continuous formative assessments, by the end of the
6 first grading period of the school year, a parent shall be
7 notified in writing that the parent's student has not achieved
8 grade-level proficiency in reading or mathematics, and a
9 student assistance team shall meet to discuss and adopt an
10 academic improvement plan, which shall be implemented
11 immediately following the student assistance team meeting. At
12 the student assistance team meeting, the parent shall be
13 presented with and receive an explanation of:

14 (a) the student's specific reading or
15 mathematics deficiencies;

16 (b) academic expectations for the
17 student;

18 (c) academic measurements to be taken;

19 (d) an academic improvement plan;

20 (e) time lines for implementing the
21 academic improvement plan;

22 (f) whether intensive targeted
23 instruction or any other intervention may be used; and

24 (g) parent involvement expectations and
25 opportunities.

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1 D. At the end of kindergarten and each grade
2 through eighth grade, promotion and retention decisions for
3 each student shall be based upon a determination that the
4 student:

5 (1) has achieved grade-level proficiency and
6 shall be promoted to the next higher grade;

7 (2) has not achieved grade-level proficiency
8 and shall participate in intervention or remediation, as
9 recommended by a student assistance team; upon certification by
10 the school district that the student has achieved grade-level
11 proficiency, the student shall enter the next higher grade;

12 (3) has not achieved grade-level proficiency
13 after intervention or remediation and shall be:

14 (a) retained in the same grade for no
15 more than one school year with the agreement of a parent and an
16 academic improvement plan developed by the student assistance
17 team to achieve grade-level proficiency; or

18 (b) promoted to the next grade if a
19 parent signs a refusal of retention notice; a student promoted
20 pursuant to this subparagraph shall begin the next higher grade
21 with an academic improvement plan developed by the student
22 assistance team to achieve grade-level proficiency; or

23 (4) has a disability and a corresponding
24 individual education plan, in which case retention and
25 promotion decisions shall be made by a student assistance team

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1 in accordance with the provisions of an individual educational
2 plan and not pursuant to this subsection or Subsection E of
3 this section.

4 E. For students who do not demonstrate grade-level
5 proficiency for two successive school years:

6 (1) a student who has been retained for one
7 school year shall be promoted to and begin the next higher
8 grade with an academic improvement plan developed by the
9 student assistance team to achieve grade-level proficiency; and

10 (2) a student who has not been retained for
11 one school year shall be retained for no more than one school
12 year with an academic improvement plan developed by the student
13 assistance team to achieve grade-level proficiency.

14 F. A student shall be exempt from the provisions of
15 Subsection D of this section if the student:

16 (1) demonstrates grade-level proficiency with
17 a portfolio of the student's work compiled by the student's
18 teacher or student assistance team;

19 (2) shows sufficient progress toward grade-
20 level proficiency as determined by the student assistance team;

21 (3) scores at least at the fiftieth percentile
22 on a school district-approved norm-referenced assessment or at
23 a proficient level on an alternative school district-approved
24 criterion-referenced assessment; or

25 (4) is an English language learner who is

1 proficient in a language other than English on a valid and
2 reliable reading assessment in that language or who has had
3 less than two years of instruction in English.

4 G. The cost of summer school and extended day
5 intervention and remediation offered in grades nine through
6 twelve shall be borne by the parents; however, in cases in
7 which parents are determined to be indigent according to
8 guidelines established by the department, the school district
9 shall bear those costs.

10 H. By the end of each school year, each school
11 shall report to the school district, by June 15 of each year,
12 each school district or state-chartered charter school shall
13 report to the department and by July 31 of each year, the
14 department shall report to the legislative education study
15 committee:

16 (1) the number of students who participated in
17 intervention or remediation following a reading screening
18 assessment;

19 (2) the number of students who participated in
20 intervention or remediation following a mathematics screening
21 assessment;

22 (3) the number of students who received an
23 academic improvement plan for reading only;

24 (4) the number of students who received an
25 academic improvement plan for mathematics only;

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1 (5) the number of students who received an
2 academic improvement plan for reading and mathematics;

3 (6) the number of students recommended for
4 retention in each grade;

5 (7) the number of students retained in each
6 grade; and

7 (8) any other information requested by the
8 legislative education study committee."