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HOUSE BILL 41

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

Monica Youngblood

AN ACT

RELATING TO PUBLIC SCHOOLS; LIMITING GRADE PROMOTIONS BY
PROVIDING THAT A STUDENT WHO IS NOT PROFICIENT IN READING AT
THE END OF KINDERGARTEN OR FIRST OR SECOND GRADE MAY BE
RETAINED AND SHALL BE PROVIDED WITH INTENSIVE REMEDIATION;
PROVIDING THAT A STUDENT WHO IS NOT PROFICIENT IN READING AT
THE END OF THIRD GRADE SHALL BE RETAINED AND PROVIDED WITH
INTENSIVE REMEDIATION; PROVIDING THAT A STUDENT WHO IS NOT
ACADEMICALLY PROFICIENT AT THE END OF GRADES FOUR THROUGH EIGHT
SHALL NOT BE RETAINED BUT SHALL BE PROVIDED WITH INTENSIVE
REMEDiation; PROVIDING FOR ASSESSMENT, INTERVENTION AND
REMEDiation PROGRAMS TO ADDRESS DEFICIENCIES IDENTIFIED BETWEEN
KINDERGARTEN AND THE EIGHTH GRADE; PROVIDING EXCEPTIONS;
REPEALING AND ENACTING A SECTION OF THE NMSA 1978.

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

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2 Chapter 33, Section 7, as amended) is repealed and a new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

4 "22-2C-6. [NEW MATERIAL] GRADE PROMOTIONS--INTERVENTION--
5 REMEDIATION PROGRAMS--RETENTION POLICIES--RESTRICTIONS.--

6 A. As used in this section:

7 ~~(1) "district reading plan" means a student~~
8 ~~centered tool developed to define the role of the reading~~
9 ~~improvement plan within the public school that addresses~~
10 ~~methods to improve student learning and success in school and~~
11 ~~that identifies specific measures of a student's progress in~~
12 ~~reading as outlined in the school district's educational plan~~
13 ~~for student success;~~

14 (2) "intensive targeted instruction" means
15 extra instruction that is provided for small groups of students
16 or individual students and that shall be no less than twenty
17 minutes per day and five days per week or the equivalent;

18 (3) "intervention" means targeted
19 instructional practice for small groups of students or
20 individual students that is aligned with the results of a valid
21 and reliable assessment and, if applicable, with response to
22 intervention as defined in Section 22-13-6 NMSA 1978 and
23 department rule;

24 (4) "reading improvement plan" means a written
25 document developed by the student assistance team that

1 describes the specific reading standards required for a certain
2 grade level that a student has not achieved and that prescribes
3 specific remediation programs that have demonstrated
4 effectiveness and can be implemented during the intensive
5 targeted instruction within the school day or extended day or
6 week programs and with tutoring as determined by the student
7 assistance team;

8 (54) "reading proficiency" means a score on the
9 statewide standards-based assessment or screening assessment that
10 is higher than the lowest level established by the department;

11 (65) "remediation programs" includes summer
12 school, extended day or week programs, tutoring, progress-based
13 monitoring and other research-based models for student
14 improvement;

15 (76) "school district" includes both a public
16 school district and a locally chartered or state-chartered
17 charter school;

18 (87) "screening assessment" means the
19 assessment that measures the acquisition of reading skills,
20 including but not limited to phonological awareness, phonics,
21 spelling, reading fluency, vocabulary and comprehension
22 approved and provided by the department;

23 (98) "student assistance team" means a group
24 consisting of a student's:

25 (a) teacher;

- 1 (b) school counselor;
- 2 (c) school administrator;
- 3 (d) parent; and
- 4 (e) if the student or parent wishes, a
- 5 student advocate chosen by the student or parent; and

6 (409) "valid and reliable assessments" means

7 assessments that:

- 8 (a) are appropriate to targeted
- 9 populations;
- 10 (b) provide predictive values; and
- 11 (c) are thoroughly tested, peer-reviewed
- 12 and accepted by authorities and practitioners in the field.

13 B. Using data from the 2013-2014 school year, each

14 public school shall establish baseline assessment data on

15 reading proficiency for students in kindergarten and grades one

16 through three. The baseline assessment data shall include

17 levels of performance in reading based on the screening

18 assessment below which a student must be provided with an

19 intervention and remediation program.

20 C. Effective with the beginning of the 2015-2016

21 school year, school districts shall provide intervention and

22 remediation programs and reading improvement programs that have

23 demonstrated effectiveness to provide special instructional

24 assistance to students in kindergarten through third grade who

25 do not demonstrate reading proficiency. Beginning in

1 kindergarten and through third grade, intervention and
2 remediation programs, reading improvement programs and
3 promotion policies shall be aligned with the screening
4 assessment results and be aligned with state standards. The
5 screening assessment, including, if appropriate, assessments in
6 the student's first and second languages for English language
7 learners, shall be given and, if students do not demonstrate
8 reading proficiency, reading improvement plans shall be
9 implemented for students in kindergarten through third grade as
10 follows:

11 (1) at the end of the first nine weeks of the
12 school year, school districts shall administer the screening
13 assessment to students enrolled in kindergarten. The
14 assessment shall screen students for reading skills as defined
15 in this section;

16 (2) at the beginning of the school year,
17 school districts shall administer the screening assessment to
18 students enrolled in first through third grade. The assessment
19 shall screen students for reading skills as defined in this
20 section; and

21 (3) if the screening assessment results for
22 students in ~~grades~~ kindergarten through grade three indicate
23 that a student is deficient in reading, the student assistance
24 team shall develop a reading improvement plan for the student
25 that clearly delineates the student's reading deficiencies and

1 that clearly delineates intervention and remediation programs
2 that shall be included in the plan, including the specific
3 strategies for a parent to use in helping the student achieve
4 reading proficiency. If a parent refuses to allow the student
5 to participate in any prescribed intervention, the school
6 district shall provide an appropriate form that must be signed
7 by the parent that clearly indicates the parent's refusal to
8 allow the student to participate in the prescribed
9 intervention.

10 D. Beginning with the 2015-2016 school year, the
11 parent of a student who is in kindergarten or first, second or
12 third grade and who is not proficient in reading at the end of
13 the first grading period shall be given notice that the student
14 shall be provided with intensive targeted instruction.

15 E. Beginning with the 2016-2017 school year, at the
16 end of grade three, grade promotion and retention decisions for
17 each student shall be based upon the determination that the
18 student is:

19 (1) proficient in reading and shall enter the
20 next highest grade;

21 (2) not proficient in reading and shall
22 participate in the required level of remediation. Upon
23 certification by the school district that the student is
24 proficient in reading, the student shall enter the next highest
25 grade; or

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1 (3) not proficient in reading after completion
2 of the prescribed intervention and remediation program and
3 shall be retained in the same grade with a reading improvement
4 plan that is different from the prior year's reading
5 improvement plan developed by the student assistance team so
6 that the student may become proficient in reading. No student
7 shall be retained for a total of more than one school year
8 between kindergarten and ~~grades one through~~ grade three as a
9 result of not having attained proficiency in reading.

10 F. In grades four through eight, intervention and
11 remediation programs, reading improvement programs and
12 promotion policies shall be aligned with school-district-
13 approved, valid and reliable assessment results and be aligned
14 with state standards.

15 G. A parent shall be notified in writing no later
16 than the end of the second grading period of each school year
17 in grades four through eight that the parent's student is not
18 academically proficient, and a conference with the student
19 assessment team shall be held to discuss strategies, including
20 intervention and remediation programs available to assist the
21 student in becoming academically proficient. The student's
22 specific academic deficiencies and the available strategies and
23 intervention and remediation programs shall be explained to the
24 student's parent and a written intervention plan shall be
25 developed that contains time lines, academic expectations and

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1 the measurements to be used to verify that a student has
2 overcome academic deficiencies. The parent shall be provided
3 with specific strategies to use in helping the student achieve
4 reading proficiency. The intervention and remediation programs
5 and reading improvement plan shall be implemented immediately.

6 H. At the end of grades four through eight, grade
7 promotion decisions for each student shall be based upon the
8 determination that the student is:

9 (1) academically proficient and shall enter
10 the next highest grade; or

11 (2) not academically proficient and shall
12 participate in the required level of remediation. An academic
13 proficiency plan shall be developed by the student assistance
14 team outlining time lines and monitoring activities to ensure
15 progress toward overcoming the student's academic deficiencies.

16 Students who have been evaluated to determine the nature of
17 their academic deficiencies and who have received an
18 intervention and remediation program that is different from the
19 previous year's program but fail to become academically
20 proficient at the end of that year as measured by grades,
21 performance on the screening assessment and other measures
22 identified by the school district shall be provided with an
23 alternate program that shall be implemented immediately. The
24 school district shall include percentages of academically
25 proficient students listed by school and charter school in its

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1 annual accountability report required in Section 22-2C-11 NMSA
2 1978.

3 I. To assess each student's growth in reading and
4 other academic subjects in kindergarten through second grade,
5 school districts shall use the screening assessment, and in
6 grades three through eight, school districts shall use the
7 statewide standards-based assessment.

8 J. The cost of summer school and extended day
9 intervention and remediation programs offered in grades nine
10 through twelve shall be borne by the parent; however, in cases
11 in which parents are determined to be indigent according to
12 guidelines established by the department, the school district
13 shall bear those costs.

14 K. A student who does not demonstrate reading
15 proficiency for two successive school years shall be referred
16 to the student assistance team for placement in an alternative
17 program designed by the school district. Alternative program
18 plans shall be filed with the department.

19 L. Promotion and retention decisions affecting a
20 student enrolled in special education shall be made in
21 accordance with the provisions of the individual educational
22 plan established for that student.

23 M. A student shall be exempt from the provisions of
24 Subsection ~~6E~~ of this section if the student:

25 (1) scores at least at the fiftieth percentile

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1 on a department-approved, norm-referenced assessment;

2 (2) is an English language learner who is
3 proficient in a language other than English on a valid and
4 reliable reading assessment or who has had less than two years
5 of instruction in English for speakers of other languages;

6 (3) is a student with a disability who shall
7 be assessed, promoted or retained in accordance with the
8 provisions of the student's individualized education program;
9 or

10 (4) is a student who has already been retained
11 once in kindergarten or first or second grade."