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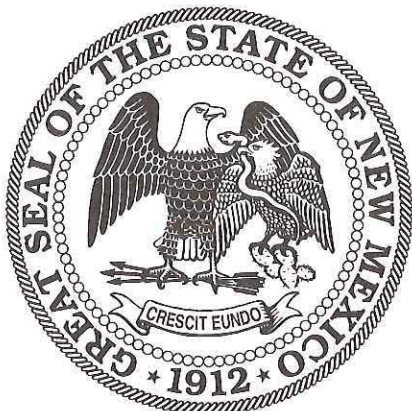
LAWS 2019

CHAPTER 223

HOUSE BILL 236, as amended

Introduced by

REPRESENTATIVE PATRICIO R. RUILOBA



CHAPTER 223

AN ACT

1
2 RELATING TO PUBLIC SCHOOL ATTENDANCE; ENACTING THE ATTENDANCE
3 FOR SUCCESS ACT; PROVIDING FOR PREVENTION OF ABSENCES AND
4 EARLIER INTERVENTION FOR STUDENTS WHO ARE ABSENT OR
5 CHRONICALLY ABSENT; PROVIDING A PROCESS FOR PREVENTION OF
6 ABSENCES, FOR EARLY INTERVENTION, FOR SPECIALIZED SUPPORTS
7 AND FOR REFERRALS TO THE CHILDREN, YOUTH AND FAMILIES
8 DEPARTMENT; REQUIRING DATA COLLECTION AND USE; REPEALING THE
9 COMPULSORY SCHOOL ATTENDANCE LAW.

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

12 SECTION 1. A new section of the Public School Code is
13 enacted to read:

14 "SHORT TITLE.--Sections 1 through 14 of this act may be
15 cited as the "Attendance for Success Act"."

16 SECTION 2. A new section of the Public School Code is
17 enacted to read:

18 "DEFINITIONS.--As used in the Attendance for Success
19 Act:

20 A. "absent" means not in attendance for a class or
21 school day for any reason, whether excused or not; provided
22 that "absent" does not apply to participation in
23 interscholastic extracurricular activities;

24 B. "attendance improvement plan" means a tiered
25 data-informed system for public schools and school districts

1 to identify students who are chronically or excessively
2 absent and to aid public schools in developing whole-school
3 prevention strategies and targeted interventions. Each of
4 the tiers is defined as follows:

5 (1) "whole school prevention" means
6 universal, whole-school prevention strategies for all
7 students, including students who have missed less than five
8 percent of classes or school days for any reason;

9 (2) "individualized prevention" means
10 targeted prevention strategies for individual students who
11 are missing five percent or more but less than ten percent of
12 classes or school days for any reason;

13 (3) "early intervention" means interventions
14 for students who are missing ten percent or more but less
15 than twenty percent of classes or school days for any reason;
16 and

17 (4) "intensive support" means interventions
18 for students who are missing twenty percent or more of
19 classes or school days for any reason;

20 C. "attendance team" means a group of school-based
21 administrators, teachers, staff, other school personnel and
22 community members who collaborate to implement an attendance
23 improvement plan;

24 D. "chronic absence rate" means the percentage of
25 students, in the aggregate and disaggregated by the subgroups

1 required for reporting pursuant to the federal Every Student
2 Succeeds Act, in a public school and a school district who
3 have been enrolled for at least ten days and who have missed
4 ten percent or more of school days since the beginning of the
5 school year;

6 E. "chronically absent" or "chronic absenteeism"
7 means that a student has been absent for ten percent or more
8 of classes or school days for any reason, whether excused or
9 not, when enrolled for more than ten days;

10 F. "excessively absent" or "excessive absenteeism"
11 means a student who is identified as needing intensive
12 support and has not responded to intervention efforts
13 implemented by the public school;

14 G. "excused absence" means absence from a class or
15 school day for a death in the family, medical absence,
16 religious instruction or tribal obligations or any other
17 allowable excuse pursuant to the policies of the local school
18 board;

19 H. "interscholastic extracurricular activities"
20 means those activities sponsored by a public school or an
21 organization whose principal purpose is the regulation,
22 direction, administration and supervision of interscholastic
23 extracurricular activities in public schools;

24 I. "local school board" includes the governing
25 body of a charter school;

1 J. "medical absence" or "medically absent" means
2 that a student is not in attendance for a class or a school
3 day for a parent- or doctor-authorized medical reason or the
4 student is a pregnant or parenting student;

5 K. "school day" means a portion of the school day
6 that is at least one-half of a student's approved program;

7 L. "school district" includes a charter school;

8 M. "school principal" includes the head
9 administrator of a charter school; and

10 N. "unexcused absence" means an absence from a
11 class or school day for which the student does not have an
12 allowable excuse pursuant to the Attendance for Success Act
13 or policies of the local school board."

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

16 "RIGHT TO EDUCATION.--A school-age person in the state
17 shall have a right to a free public education as follows:

18 A. except for a school-age person who is detained
19 in a state or local detention center or enrolled or residing
20 in a state institution, other than a school-age person
21 provided for in Subsection C of this section, a school-age
22 person has a right to attend public school within the school
23 district in which the school-age person resides;

24 B. except as provided in Subsection C of this
25 section, a state or local detention center or state

1 institution in which a school-age person is detained,
2 enrolled or residing shall be responsible for providing
3 educational services for the school-age person; and

4 C. a school-age person who is a client as defined
5 in Section 43-1-3 NMSA 1978 in a state institution under the
6 authority of the secretary of human services shall have a
7 right to attend public school in the school district in which
8 the institution in which the school-age person is a client is
9 located if the school-age person has been recommended for
10 placement in a public school:

11 (1) by the educational appraisal and review
12 committee of the school district in which the institution is
13 located; or

14 (2) as a result of the appeal process as
15 provided in the special education rules of the department."

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

18 "SCHOOL ATTENDANCE--RESPONSIBILITY--PRIVATE SCHOOL
19 ATTENDANCE POLICIES.--

20 A. Except as otherwise provided in the Public
21 School Code, a school-age person shall attend public school,
22 private school, home school or a state institution until the
23 school-age person is at least eighteen years of age unless
24 that school-age person has graduated from high school,
25 received a high school equivalency credential or withdrawn

1 from school on a hardship waiver. A parent may give written,
2 signed permission for the school-age person to leave school
3 between the ages of sixteen and eighteen in case of hardship
4 approved by the local superintendent or private school.

5 B. A school-age person subject to the provisions
6 of the Attendance for Success Act shall attend school for at
7 least the length of time of the school year that is
8 established in that school-age person's school district,
9 charter school or private school. The school district or
10 private school shall not excuse a school-age person from
11 attending school except as provided in that act.

12 C. The parent of a school-age person subject to
13 the provisions of the Attendance for Success Act is
14 responsible for the school attendance of that school-age
15 person.

16 D. Local school boards and private schools shall
17 enforce the provisions of the Attendance for Success Act for
18 students enrolled in their respective schools.

19 E. A private school in this state shall have an
20 attendance policy that as closely as practicable follows the
21 law for public schools. A school-age person attending a
22 private school and the school-age person's parent shall be
23 given a copy of the private school's attendance policy each
24 year."

25 SECTION 5. A new section of the Public School Code is

1 enacted to read:

2 "PUBLIC SCHOOL ATTENDANCE.--

3 A. Local school boards may admit as students
4 school-age persons who do not live within the school district
5 to the public schools within the school district when there
6 are sufficient school accommodations to provide for them.

7 B. Local school boards may allow students to
8 transfer to a public school outside the student's attendance
9 zone but within the school district when there are sufficient
10 school accommodations to provide for them.

11 C. Local school boards shall charge a tuition fee
12 for the right to attend public school within the school
13 district to those school-age persons who do not live within
14 the state. The tuition fee shall not exceed the amount
15 generated by the public school fund for a student similarly
16 situated within the school district for the current school
17 year.

18 D. When the parent of a student not living in the
19 state pays an ad valorem property tax for school purposes
20 within a school district, the amount of the tuition payable
21 for the school year shall be reduced by the district average
22 ad valorem tax per student as determined by the ad valorem
23 tax credit used in calculating the state equalization
24 guarantee distribution."

25 SECTION 6. A new section of the Public School Code is

1 enacted to read:

2 "PUBLIC SCHOOL ATTENDANCE POLICIES--REPORTING.--

3 A. A public school shall maintain an attendance
4 policy that:

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

8 (2) provides for early identification of
9 chronically absent and excessively absent students;

10 (3) employs an attendance improvement plan
11 that focuses on:

12 (a) keeping students in an educational
13 setting;

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

16 (c) assisting a student's family to
17 remove barriers to the student's regular school attendance or
18 attendance in another educational setting; and

19 (d) providing additional educational
20 opportunities to students who are struggling with attendance;

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

25 (5) requires that accurate class attendance

1 be taken for every instructional class and school day in a
2 public school or school program;

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

5 (7) requires a public school to document the
6 following for each chronically or excessively absent student:

7 (a) attempts by the public school to
8 notify a parent that the student was absent from class or the
9 school day;

10 (b) attempts to improve attendance by
11 talking to a student or parent to identify barriers to school
12 attendance, identify solutions to improve the student's
13 attendance behavior and discuss necessary interventions for
14 the student or the student's family; and

15 (c) intervention strategies implemented
16 to support keeping the student in an educational setting,
17 including additional educational opportunities offered to the
18 student;

19 (8) requires a student or the parent of a
20 student who intends to claim excused absence because of
21 medical condition, pregnancy or parenting to communicate the
22 student's status to the appropriate school personnel and to
23 provide required documentation; and

24 (9) encourages and supports compliant data
25 sharing, pursuant to the federal Family Educational Rights

1 and Privacy Act of 1974, between a public school and
2 community-based organizations that provide services to
3 students for the purpose of providing more personalized
4 interventions and specialized supports as part of the public
5 school's attendance improvement plan.

6 B. Local school boards shall review and approve
7 their public school attendance policies.

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

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

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

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

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

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

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

12 **SECTION 7.** A new section of the Public School Code is
13 enacted to read:

14 "ENFORCEMENT OF ATTENDANCE FOR SUCCESS ACT--DISTRICT
15 RESPONSIBILITIES--DIFFERENTIATION--DISTRICT PLAN--ADDITIONAL
16 SUPPORT.--

17 A. School districts shall differentiate public
18 schools based on their chronic absence rates into no fewer
19 than four categories.

20 B. School districts shall differentiate student
21 subgroups based on their chronic absence rates into no fewer
22 than four categories.

23 C. Using the differentiation scheme pursuant to
24 Subsections A and B of this section, a school district shall
25 develop attendance improvement plans that include the

1 following elements:

2 (1) specific school district supports and
3 resources available to public schools at each level to
4 further the implementation of their attendance improvement
5 plans;

6 (2) attendance improvement targets for
7 public schools or subpopulations with chronic absence rates
8 of ten percent or greater, developed in collaboration with
9 each public school; and

10 (3) an attendance improvement target for
11 school districts with chronic absence rates of ten percent or
12 greater.

13 D. Each school district shall report its
14 attendance improvement plan to the department no later than
15 forty-five days after the beginning of the school year. The
16 department may allow a school district to report its
17 attendance improvement plan as part of the educational plan
18 for student success.

19 E. At the end of each school year, each school
20 district shall report to the local school board and to the
21 public on the school district's website, the progress made on
22 its attendance improvement plan, to include:

23 (1) a description of the supports and
24 resources provided to public schools at each tier of the
25 attendance improvement plan;

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

4 (3) the extent to which the school district
5 achieved its attendance improvement targets;

6 (4) barriers and challenges to reducing
7 chronic absence rates, as reported by the public school and
8 school district personnel;

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

11 (6) recommendations for improvement during
12 the next school year at both the public school and school
13 district level.

14 F. Attendance teams may be formed in whole or in
15 part from preexisting groups or teams within a public school
16 or may be formed for the explicit purpose of improving school
17 attendance. School districts shall reserve time for school
18 personnel to collaborate as an attendance team.

19 G. School districts shall provide support and
20 guidance to attendance teams on transportation and school
21 scheduling options when these are identified as barriers to
22 school attendance."

23 **SECTION 8.** A new section of the Public School Code is
24 enacted to read:

25 "ENFORCEMENT OF ATTENDANCE FOR SUCCESS ACT--ATTENDANCE

1 IMPROVEMENT PLAN--PROCEDURES.--

2 A. A public school shall initiate the enforcement
3 of the provisions of the Attendance for Success Act for its
4 enrolled students. The enforcement policies of a public
5 school shall focus on prevention and intervention.

6 B. Beginning in the 2020-2021 school year, a
7 public school with five percent or greater of students with a
8 chronic absence rate during the prior school year, or with
9 five percent or greater of one or more subgroups of students
10 with a chronic absence rate during the prior school year,
11 shall develop an attendance improvement plan to be submitted
12 to the department as part of the public school's educational
13 plan for student success.

14 C. A public school, regardless of its chronic
15 absence rate, shall develop and implement a whole-school
16 absence prevention strategy to be reported to the department
17 as part of the public school's educational plan for student
18 success.

19 D. An attendance improvement plan shall include:

20 (1) attendance data for each of the
21 preceding two school years and the current school year,
22 including:

23 (a) the public school's overall absence
24 rate;

25 (b) chronic absence rates disaggregated

1 by student subpopulation;

2 (c) chronic absence rates disaggregated
3 by grade level; and

4 (d) student attendance for every day of
5 the school year;

6 (2) school-wide identification of potential
7 root causes of chronic and excessive absenteeism through one
8 or more of the following:

9 (a) national or local research;
10 (b) analysis of supportive factors and
11 barriers;

12 (c) student surveys or focus groups;
13 (d) youth participatory research; or
14 (e) other appropriate school-based
15 research methods;

16 (3) identification of strategies for each
17 tier of the attendance improvement plan;

18 (4) identification of performance measures
19 for each strategy; and

20 (5) a data-collection plan for performance
21 measures.

22 E. A public school shall provide interventions to
23 students who are absent or chronically absent, 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
4 social service providers;

5 (3) collaborating and coordinating with
6 health and social service agencies and organizations through
7 school-based and off-site delivery systems;

8 (4) recruiting service providers and
9 business, community and civic organizations to provide needed
10 services and goods that are not otherwise available to a
11 student or the student's family;

12 (5) establishing partnerships between the
13 public school and community organizations, such as civic,
14 business and professional groups and organizations and
15 recreational, social and out-of-school programs;

16 (6) identifying and coordinating age-
17 appropriate resources for students in need of:

18 (a) counseling, training and placement
19 for employment;

20 (b) drug and alcohol abuse counseling;

21 (c) family crisis counseling; and

22 (d) mental health counseling;

23 (7) promoting family support and parent
24 education programs; and

25 (8) seeking out other services or goods that

1 a student or the student's family needs to assist the student
2 to stay in school and succeed.

3 F. Beginning on the first day of school, a
4 classroom teacher or that teacher's adult designee shall be
5 responsible for taking accurate attendance for every class
6 and reporting absences to the attendance team."

7 SECTION 9. A new section of the Public School Code is
8 enacted to read:

9 "MEDICAL APPOINTMENTS--ILLNESS--SPECIAL
10 SITUATIONS--MAKE-UP WORK.--

11 A. A student may be excused for parent- or doctor-
12 authorized medical reasons. A public school shall provide
13 time for the student to make up the school work missed during
14 the absence.

15 B. A school district shall maintain an attendance
16 policy that:

17 (1) provides at least ten days of medical
18 absences during the school year for a student who provides
19 documentation of the birth of the student's child, and the
20 public school shall provide time for the student to make up
21 the school work missed during the absence; and

22 (2) provides four days of excused absences
23 for a student who provides appropriate documentation of
24 pregnancy or that the student is the parent of a child under
25 the age of thirteen needing care, and the public school shall

1 provide time for the student to make up the school work
2 missed during the absence.

3 C. A school district that has an alternative
4 public school for, among others, pregnant and parenting
5 students and that allows for off-site attendance through
6 online education shall not count students as absent as long
7 as the students are online with the public school or other
8 appropriate virtual course and complete their class
9 assignments.

10 D. A student may, subject to the approval of the
11 school principal, be absent from school to participate in
12 religious instruction for not more than one class period per
13 school day with the written consent of the student's parent
14 at a time that is not in conflict with the academic program
15 of the school. The public school shall provide time for the
16 student to make up the school work missed during the absence.
17 The school district or the public school shall not assume
18 responsibility for the religious instruction of any student
19 or permit religious instruction to be conducted on school
20 property.

21 E. A public school student, with the written
22 consent of the student's parent and subject to the approval
23 of the school principal, may be absent from school to
24 participate in tribal obligations. The public school shall
25 provide time for the student to make up the school work

1 missed during the absence."

2 SECTION 10. A new section of the Public School Code is
3 enacted to read:

4 "INTERSCHOLASTIC EXTRACURRICULAR ACTIVITIES--STUDENT
5 PARTICIPATION.--

6 A. A public school student shall have at least a
7 2.0 grade point average on a 4.0 scale, or its equivalent,
8 either cumulatively or for the grading period immediately
9 preceding participation, to be eligible to participate in any
10 interscholastic extracurricular activity. For purposes of
11 this section, "grading period" is a period of time not less
12 than six weeks. The provisions of this subsection shall not
13 apply to students receiving C or D level special education
14 services.

15 B. A student shall not be absent from school for
16 interscholastic extracurricular activities in excess of
17 fifteen days per semester, and no class shall be missed in
18 excess of fifteen times per semester for interscholastic
19 extracurricular activities.

20 C. The secretary may issue a waiver relating to
21 the number of absences for participation in any state or
22 national competition that is not an interscholastic
23 extracurricular activity. The secretary shall develop a
24 procedure for petitioning cumulative provision eligibility
25 cases, similar to other eligibility situations.

1 D. Student standards for participation in
2 interscholastic extracurricular activities shall be applied
3 beginning with a student's academic record in ninth grade."

4 SECTION 11. A new section of the Public School Code is
5 enacted to read:

6 "PROGRESSIVE INTERVENTIONS FOR ABSENT, CHRONICALLY
7 ABSENT AND EXCESSIVELY ABSENT STUDENTS.--

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

11 (1) for a student who has been identified as
12 in need of individualized prevention, the attendance team
13 shall:

14 (a) for an elementary student, talk to
15 the parent and inform the parent of the student's attendance
16 history, the impact of student absences on student academic
17 outcomes, the interventions or services available to the
18 student or family and the consequences of further absences,
19 which may include referral to the children, youth and
20 families department for excessive absenteeism; and

21 (b) for a middle or high school
22 student, talk to the parent and the student about the
23 student's attendance history and the impact of student
24 absences on student academic outcomes, interventions or
25 services available to the student or family and the

1 consequences of further absences, which may include referral
2 to the children, youth and families department for excessive
3 absenteeism;

4 (2) for a student who has been identified as
5 in need of early intervention, the attendance team shall
6 notify the parent in writing by mail or personal service on
7 the parent of the student's absenteeism. The notice shall
8 include a date, time and place for the parent to meet with
9 the public school to develop intervention strategies that
10 focus on keeping the student in an educational setting. The
11 attendance team shall be convened to establish a specific
12 intervention plan for the student that includes establishing
13 weekly progress monitoring and a contract for attendance; and

14 (3) for a student who has been identified as
15 in need of intensive support, the attendance team shall:

16 (a) give written notice to the parent,
17 including a date, time and place for the parent to meet with
18 the school principal and the attendance team;

19 (b) establish nonpunitive consequences
20 at the school level;

21 (c) identify appropriate specialized
22 supports that may be needed to help the student address the
23 underlying causes of excessive absenteeism; and

24 (d) apprise the student and the parent
25 of the consequences of further absences.

1 B. The school principal shall consult with a
2 student's teacher and initiate meetings with the teacher, the
3 student and the parent if the alleged cause of absence from
4 class is teacher-student incompatibility."

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

7 "EXCESSIVE ABSENTEEISM--ENFORCEMENT.--

8 A. Each local school board and each governing body
9 of a charter school or private school shall initiate the
10 enforcement of the provisions of the Attendance for Success
11 Act for excessively absent students.

12 B. If unexcused absences continue after written
13 notice of excessive absenteeism as provided in Section 11 of
14 the Attendance for Success Act, the local school board or
15 governing body of a charter school or private school, after
16 consultation with the local superintendent or head
17 administrator of a charter school or private school, shall
18 report the excessively absent student to the probation
19 services office of the judicial district in which the student
20 resides for an investigation as to whether the student should
21 be considered to be a neglected child or a child in a family
22 in need of family services because of excessive absenteeism
23 and, thus, subject to the provisions of the Children's Code.
24 The record of the public school's interventions and the
25 student's and parent's responses to the interventions shall

1 be provided to the juvenile probation services office. The
2 local superintendent or head administrator of a charter
3 school or private school shall provide the documentation to
4 the juvenile probation services office within ten business
5 days of the student being identified as excessively absent.

6 C. If the juvenile probation services office
7 determines that the student is a child in a family in need of
8 family services, a caseworker from the child or family in
9 need of family services program shall meet with the family at
10 the public school in which the student is enrolled to
11 determine if there are other intervention services that may
12 be provided. The meeting shall involve the school principal
13 or other school personnel and, unless the parent objects in
14 writing, appropriate community partners that provide services
15 to children and families. The children, youth and families
16 department shall determine if additional interventions,
17 including monitoring, will positively affect the student's
18 behavior."

19 SECTION 13. A new section of the Public School Code is
20 enacted to read:

21 "REPORTING REQUIREMENTS.--

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

24 (1) the total number of days missed for
25 excused and unexcused absences for each student in each

1 public school, the total number of days each student was
2 enrolled and in which tier each student with absences fell
3 during the reporting period, along with the student's
4 demographics; and

5 (2) the number of students at each public
6 school who were referred to the children, youth and families
7 department because of excessive absences, in the aggregate
8 and disaggregated by subgroups.

9 B. The department shall compile a report by public
10 school and school district that includes:

11 (1) the total number and percent of students
12 who were in each tier of chronic absenteeism or were
13 excessively absent at each public school and school district
14 in the aggregate for each public school and school district
15 and disaggregated by subgroups;

16 (2) the average number of excused and
17 unexcused absences per student for all students and
18 subgroups, not including interscholastic extracurricular
19 activities; and

20 (3) a calculated chronic absenteeism rate
21 for the school district for all students and for each
22 subgroup."

23 SECTION 14. A new section of the Public School Code is
24 enacted to read:

25 "TIMELY GRADUATION AND SUPPORT FOR STUDENTS WHO

1 EXPERIENCE DISRUPTION IN THE STUDENT'S EDUCATION.--

2 A. For purposes of this section, "a student who
3 has experienced a disruption in the student's education"
4 means a student who experiences one or more changes in public
5 school or school district enrollment during a single school
6 year as the result of:

7 (1) homelessness as defined in the federal
8 McKinney-Vento Homeless Assistance Act and as determined by
9 the public school or school district;

10 (2) adjudication:

11 (a) as an abused or neglected child as
12 determined by the children, youth and families department
13 pursuant to the Abuse and Neglect Act;

14 (b) as part of a family in need of
15 court-ordered services voluntary placement pursuant to the
16 Family Services Act; or

17 (c) as a delinquent if the parent
18 wishes to disclose the adjudication of delinquency; or

19 (3) placement in a mental health treatment
20 facility or habilitation program for developmental
21 disabilities pursuant to the Children's Mental Health and
22 Developmental Disabilities Act or placement in treatment
23 foster care.

24 B. When a student who has experienced a disruption
25 in the student's education transfers to a new public school

1 or school district, the receiving public school or school
2 district shall communicate with the sending public school or
3 school district within two days of the student's enrollment.
4 The sending public school or school district shall provide
5 the receiving public school or school district with any
6 requested records within two days of having received the
7 receiving public school's or school district's communication.

8 C. A student who has experienced a disruption in
9 the student's education because of transferring to a new
10 public school as the result of circumstances set forth in
11 this section shall have:

12 (1) priority placement in classes that meet
13 state graduation requirements; and

14 (2) timely placement in elective classes
15 that are comparable to those in which the student was
16 enrolled at the student's previous public school or schools
17 as soon as the public school or school district receives
18 verification from the student's records.

19 D. For a student who has experienced a disruption
20 in the student's education at any time during the student's
21 high school enrollment, a school district and public schools
22 shall ensure:

23 (1) acceptance of the student's state
24 graduation requirements for a diploma of excellence pursuant
25 to the Public School Code;

1 (2) equal access to participation in sports
2 and other extracurricular activities, career and technical
3 programs or other special programs for which the student
4 qualifies;

5 (3) timely assistance and advice from
6 counselors to improve the student's college or career
7 readiness; and

8 (4) that the student receives all special
9 education services to which the student is entitled."

10 SECTION 15. Section 32A-3A-2 NMSA 1978 (being Laws
11 1993, Chapter 77, Section 64, as amended) is amended to read:

12 "32A-3A-2. DEFINITIONS.--As used in the Family Services
13 Act:

14 A. "child or family in need of family services"
15 means a family:

16 (1) whose child's behavior endangers the
17 child's health, safety, education or well-being;

18 (2) whose child is excessively absent from
19 public school as defined in the Attendance for Success Act;

20 (3) whose child is absent from the child's
21 place of residence for twenty-four hours or more without the
22 consent of the parent, guardian or custodian;

23 (4) in which the parent, guardian or
24 custodian of a child refuses to permit the child to live with
25 the parent, guardian or custodian; or

1 (5) in which the child refuses to live with
2 the child's parent, guardian or custodian; and

3 B. "family services" means services that address
4 specific needs of the child or family."

5 SECTION 16. Section 32A-3A-3 NMSA 1978 (being Laws
6 1993, Chapter 77, Section 65, as amended) is amended to read:

7 "32A-3A-3. REQUEST FOR FAMILY SERVICES--WITHDRAWAL OF
8 REQUEST--PRESUMPTION OF GOOD FAITH.--

9 A. Any child or family member who has a reasonable
10 belief that the child or family is in need of family services
11 may request family services from the department.

12 B. Any person, including a public or private
13 school principal, who has a reasonable belief that a child or
14 family is in need of family services may submit a referral to
15 the department.

16 C. A family that requests or accepts family
17 services may withdraw its request for or acceptance of family
18 services at any time.


19 D. A person who refers a child or family for
20 family services is presumed to be acting in good faith and
21 shall be immune from civil or criminal liability, unless the
22 person acted in bad faith or with malicious purpose."


23 SECTION 17. REPEAL.--Sections 22-12-1 through 22-12-10
24 NMSA 1978 (being Laws 1967, Chapter 16, Sections 169 and 170;
25 Laws 1986, Chapter 33, Section 27; Laws 1971, Chapter 238,

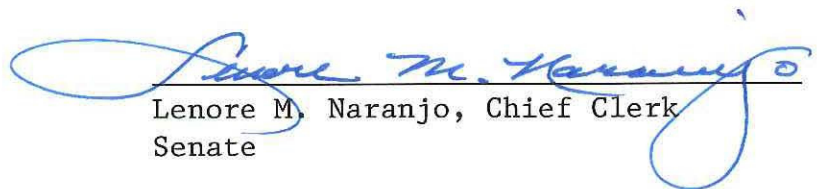
1 Section 1; Laws 2013, Chapter 198, Section 1; Laws 1978,
2 Chapter 211, Section 10; Laws 1967, Chapter 16, Sections 172
3 and 175; Laws 1985, Chapter 104, Section 1; Laws 2004, Chapter
4 28, Section 1; and Laws 2017, Chapter 53, Section 1 and Laws
5 2017, Chapter 85, Section 1, as amended) are repealed. _____

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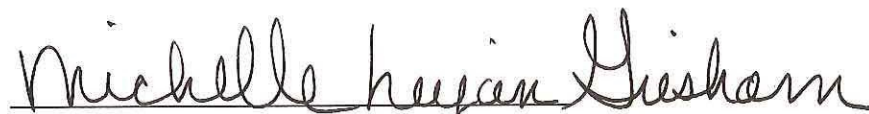

Brian Egolf, Speaker
House of Representatives


Lisa M. Ortiz McCutcheon, Chief Clerk
House of Representatives


Howie C. Morales, President
Senate


Lenore M. Naranjo, Chief Clerk
Senate

Approved by me this 3rd day of April, 2019


Michelle Lujan Grisham, Governor
State of New Mexico