

Section 15. Section 22-2-8.6 NMSA 1978 (being Laws 1986, Chapter 33, Section 7, as amended) is recompiled as Section 22-2A-6 NMSA 1978 and is amended to read:

"22-2A-6. REMEDIATION PROGRAMS--PROMOTION POLICIES--RESTRICTIONS.--

A. Remediation programs, academic improvement programs and promotion policies shall be aligned with alternative school-district-determined assessment results and requirements of the assessment and accountability program.

B. Local school boards shall approve school district-developed remediation programs and academic improvement programs to provide special instructional assistance to students in grades one through eight who fail to attain adequate yearly progress. The cost of remediation programs and academic improvement programs shall be borne by the school district. Remediation programs and academic improvement programs shall be incorporated into the school district's educational plan for student success and filed with the department.

C. The cost of summer and extended day remediation programs and academic improvement programs offered in grades nine through twelve shall be borne by the parent; however, where parents are determined to be indigent according to guidelines established by the state board, the school district shall bear those costs.

D. Diagnosis of weaknesses identified by a student's academic achievement may serve as criteria in assessing the need for remedial programs or retention.

E. A parent shall be notified no later than the end of the second grading period that his child is failing to make adequate yearly progress, and a conference consisting of the parent and the teacher shall be held to discuss possible remediation programs available to assist the student in attaining adequate yearly progress. Specific academic deficiencies and remediation strategies shall be explained to the student's parent and a written plan developed containing timelines, academic expectations and the measurements to be used to verify that a student has overcome his academic deficiencies. Remediation programs and academic improvement programs include tutoring, extended day or week programs, summer programs and other research-based models for student improvement.

F. At the end of grades one through seven, three options are available, dependent on a student's adequate yearly progress:

(1) the student has made adequate yearly progress and shall enter the next higher grade;

(2) the student has not made adequate yearly progress and shall participate in the required level of remediation. Upon certification by the school district that the student has made adequate yearly progress, he shall enter the next higher grade; or

(3) the student has not made adequate yearly progress upon completion of the prescribed remediation program and upon the recommendation of the teacher and school principal shall either be:

(a) retained in the same grade for no more than one school year with an academic improvement plan developed by the student assistance team in order to meet adequate yearly progress, at which time the student shall enter the next higher grade; or

(b) promoted to the next grade if the parent refuses to allow his child to be retained pursuant to Subparagraph (a) of this paragraph. In this case, the parent shall sign a waiver indicating his desire that the student be promoted to the next higher grade with an academic improvement plan designed to address specific academic deficiencies. The academic improvement plan shall be developed by the student assistance team outlining timelines and monitoring activities to ensure progress toward overcoming those academic deficiencies. Students failing to make adequate yearly progress at the end of that year shall then be retained in the same grade for no more than one year in order to have additional time to master the required content standards.

G. At the end of the eighth grade, a student who fails to make adequate yearly progress shall be retained in the eighth grade for no more than one school year to make adequate yearly progress or if the student assistance team determines that retention of the student in the eighth grade will not assist the student make adequate yearly progress, the team shall design a high school graduation plan to meet the student's needs for entry into the work force or a post-secondary educational institution. If a student is retained in the eighth grade, the student assistance team shall develop a specific academic improvement plan that clearly delineates the student's academic deficiencies and prescribes a specific remediation plan to address those academic deficiencies.

H. A student who fails to make adequate yearly progress for two successive school years shall be referred to the student assistance team for placement in an alternative program designed by the school district. Alternative program plans shall be filed with the department.

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

J. For the purposes of 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 and that prescribes specific remediation programs such as summer school, extended day or week school and tutoring;

(2) "alternative school-district-determined assessment results" means the results obtained from student assessments developed by a local school board and conducted at an elementary grade level or middle school level;

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

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

(a) teacher;

(b) school counselor;

(c) school administrator; and

(d) parent."