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HOUSE BILL 369

**50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

INTRODUCED BY

Dennis J. Kintigh

AN ACT

RELATING TO COMPULSORY SCHOOL ATTENDANCE; PROVIDING FOR AND  
SETTING FORTH THE PROCESS FOR TERMINATION OF STUDENT PUBLIC  
ASSISTANCE TO PARENTS OF STUDENTS WHO FAIL TO MEET SCHOOL  
ATTENDANCE REQUIREMENTS; AMENDING AND ENACTING SECTIONS OF THE  
COMPULSORY SCHOOL ATTENDANCE LAW.

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

**SECTION 1.** Section 22-12-9 NMSA 1978 (being Laws 2004,  
Chapter 28, Section 1, as amended) is amended to read:

"22-12-9. UNEXCUSED ABSENCES AND TRUANCY--ATTENDANCE  
POLICIES.--

A. As used in this section, Section 2 of this 2011  
act and Sections 22-12-7 and 22-12-8 NMSA 1978:

(1) "habitual truant" means a student who has  
accumulated the equivalent of ten or more unexcused absences

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1 within a school year;

2 (2) "student in need of early intervention"  
3 means a student who has accumulated five unexcused absences  
4 within a school year; and

5 (3) "unexcused absence" means an absence from  
6 school or classes for which the student does not have an  
7 allowable excuse pursuant to the Compulsory School Attendance  
8 Law or rules of the local school board or governing authority  
9 of a charter school or private school.

10 B. An unexcused absence of two or more classes up  
11 to fifty percent of an instructional day shall be counted as  
12 one-half day absence, and the unexcused absence of more than  
13 fifty percent of an instructional day shall be counted as one  
14 full-day absence.

15 C. Each school district and charter school shall  
16 maintain an attendance policy that:

17 (1) provides for early identification of  
18 students with unexcused absences, students in need of early  
19 intervention and habitual truants and provides intervention  
20 strategies that focus on keeping students in need of early  
21 intervention in an educational setting and prohibit  
22 out-of-school suspension and expulsion as the punishment for  
23 unexcused absences and habitual truancy;

24 (2) uses withdrawal as provided in Section  
25 22-8-2 NMSA 1978 only after exhausting intervention efforts to

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1 keep students in educational settings;

2 (3) requires that class attendance be taken  
3 for every instructional day in every public school or school  
4 program in the school district; ~~and~~

5 (4) provides for schools to document the  
6 following for each student identified as a habitual truant:

7 (a) attempts of the school to notify the  
8 parent that the student had unexcused absences;

9 (b) attempts of the school to meet with  
10 the parent to discuss intervention strategies; and

11 (c) intervention strategies implemented  
12 to support keeping the student in school; and

13 (5) provides for reporting of students not  
14 meeting attendance requirements to the human services  
15 department as required pursuant to Section 2 of this 2011 act.

16 D. The department shall review and approve school  
17 district and charter school attendance policies.

18 E. School districts and charter schools shall  
19 report unexcused absences and habitual truancy rates to the  
20 department in a form and at such times as the department  
21 determines and shall document intervention efforts made to keep  
22 students in need of early intervention and habitual truants in  
23 educational settings. Locally chartered charter schools shall  
24 provide copies of their reports to the school district. The  
25 department shall compile school district and charter school

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1 reports on rates of unexcused absences and habitual truancy and  
2 require school districts and charter schools to certify that  
3 the information is being reported consistently."

4 SECTION 2. A new section of the Compulsory School  
5 Attendance Law is enacted to read:

6 "[NEW MATERIAL] CANCELLATION OF PUBLIC ASSISTANCE--  
7 REPORTING--PROCESS--REGAINING ELIGIBILITY.--

8 A. The human services department shall cancel all  
9 state public assistance to a parent who is receiving the public  
10 assistance for a student if that student is not meeting school  
11 attendance requirements. A student is not meeting school  
12 attendance requirements if the student:

- 13 (1) is a habitual truant;
- 14 (2) has accumulated three unexcused absences  
15 in a grading period, but not on the same day;
- 16 (3) is not attending school as required  
17 pursuant to the provisions of Section 22-12-2 NMSA 1978; or
- 18 (4) has one or more unexcused absences during  
19 the time period covered by an intervention plan as provided for  
20 in Subsection B of Section 22-12-7 NMSA 1978.

21 B. A student's unsatisfactory school attendance, as  
22 set forth in Subsection A of this section, shall be excused if  
23 the absences were due to:

- 24 (1) personal illness, as evidenced by a note  
25 from a doctor or other health professional;

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1 (2) a family emergency, for a period not to  
2 exceed thirty days;

3 (3) participation in or attendance at cultural  
4 and religious activities and the student has parental consent  
5 to attend such activities; or

6 (4) the student being a parent of a child  
7 under twelve weeks of age.

8 C. If a student is not meeting school attendance  
9 requirements, the public school, charter school or private  
10 school that the student attends shall report the student to the  
11 school district or, if a charter school or private school, the  
12 governing body, and the human services department within  
13 fourteen days of discovering the student is not meeting  
14 attendance requirements.

15 D. Within ten days of reporting the student as not  
16 meeting school attendance requirements, the school shall notify  
17 the parent of the student in writing by mail or personal  
18 service that the student is not meeting school attendance  
19 requirements and the human services department has been  
20 notified. The notice shall include a date that shall not be  
21 more than fifteen days from the date of the notice, time and  
22 place for the parent to meet with the school to develop an  
23 intervention plan that focuses on keeping the student in an  
24 educational setting and improving the student's attendance.

25 E. Within ten days of the meeting between the

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1 parent and the school, the school shall notify the human  
2 services department and the school district or, if a charter  
3 school or private school, the governing body that:

4 (1) the parent and school were able to develop  
5 an intervention plan that will ensure regular attendance by the  
6 student;

7 (2) the parent failed to attend, without being  
8 excused by the school, the meeting to develop the intervention  
9 plan; or

10 (3) the parent and school were unable to  
11 develop an intervention plan that will ensure regular  
12 attendance by the student.

13 F. If an intervention plan is agreed upon between  
14 the school and the parent, the school shall notify the human  
15 services department of the plan and the department shall not  
16 terminate state public assistance to that parent. If the  
17 parent failed to attend the meeting or the school and parent  
18 were unable to develop an adequate intervention plan, the  
19 school shall notify the human services department and the  
20 department shall remove the student from the parent's public  
21 assistance effective the month following the notice by the  
22 school.

23 G. If a student has one or more unexcused absences  
24 following the development of an intervention plan approved by  
25 the school, the school shall notify the human services

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1 department and the department shall remove the student from the  
2 parent's public assistance effective the month following the  
3 notice by the school.

4 H. A parent may regain eligibility for a student's  
5 public assistance if the student for which the assistance was  
6 terminated attends school with no unexcused absences for thirty  
7 days or, if during the summer months, the student is promoted,  
8 attends summer school or graduates. The parent shall petition  
9 the human services department for return of the public  
10 assistance. The human services department shall verify with  
11 the school that the student has met the requirements of this  
12 subsection.

13 I. The human services department shall enact rules  
14 necessary for the implementation of this section."

15 SECTION 3. EFFECTIVE DATE.--The effective date of the  
16 provisions of this act is July 1, 2011.