

HB 1231

2009

1 A bill to be entitled
 2 An act relating to public school student progression;
 3 amending s. 1008.25, F.S.; requiring student proficiency
 4 in additional subjects; providing a process by which the
 5 retention of a student for a reading deficiency may be
 6 appealed; providing for exemption from mandatory retention
 7 through successful appeal; specifying circumstances
 8 recognized as justification for granting an appeal;
 9 providing for reporting; providing an effective date.

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11 Be It Enacted by the Legislature of the State of Florida:

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13 Section 1. Section 1008.25, Florida Statutes, is amended
 14 to read:

15 1008.25 Public school student progression; remedial
 16 instruction; reporting requirements.--

17 (1) INTENT.--It is the intent of the Legislature that each
 18 student's progression from one grade to another be determined,
 19 in part, upon proficiency in reading, writing, science, and
 20 mathematics and, where appropriate, history, civics, geography,
 21 arts, music, and physical education; that district school board
 22 policies facilitate such proficiency; and that each student and
 23 his or her parent be informed of that student's academic
 24 progress.

25 (2) COMPREHENSIVE PROGRAM.--Each district school board
 26 shall establish a comprehensive program for student progression
 27 which must include:

28 (a) Standards for evaluating each student's performance,
 29 including how well he or she masters the performance standards
 30 approved by the State Board of Education.

31 (b) Specific levels of performance in reading, writing,
 32 science, and mathematics and, where appropriate, history,
 33 civics, geography, arts, music, and physical education for each
 34 grade level, including the levels of performance on statewide
 35 assessments as defined by the commissioner, below which a
 36 student must receive remediation, or be retained within an
 37 intensive program that is different from the previous year's
 38 program and that takes into account the student's learning
 39 style.

40 (c) Appropriate alternative placement for a student who
 41 has been retained 2 or more years.

42 (3) ALLOCATION OF RESOURCES.--District school boards shall
 43 allocate remedial and supplemental instruction resources to
 44 students in the following priority:

45 (a) Students who are deficient in reading by the end of
 46 grade 3.

47 (b) Students who fail to meet performance levels required
 48 for promotion consistent with the district school board's plan
 49 for student progression required in paragraph (2)(b).

50 (4) ASSESSMENT AND REMEDIATION.--

51 (a) Each student must participate in the statewide
 52 assessment tests required by s. 1008.22. Each student who does
 53 not meet specific levels of performance as determined by the
 54 district school board in reading, writing, science, and
 55 mathematics and, where appropriate, history, civics, geography,

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56 | arts, music, and physical education for each grade level, or who
57 | scores below Level 3 in reading or math, must be provided with
58 | additional diagnostic assessments to determine the nature of the
59 | student's difficulty, the areas of academic need, and strategies
60 | for appropriate intervention and instruction as described in
61 | paragraph (b).

62 | (b) The school in which the student is enrolled must
63 | develop, in consultation with the student's parent, and must
64 | implement a progress monitoring plan. A progress monitoring plan
65 | is intended to provide the school district and the school
66 | flexibility in meeting the academic needs of the student and to
67 | reduce paperwork. A student who is not meeting the school
68 | district or state requirements for proficiency in reading and
69 | math shall be covered by one of the following plans to target
70 | instruction and identify ways to improve his or her academic
71 | achievement:

- 72 | 1. A federally required student plan such as an individual
73 | education plan;
74 | 2. A schoolwide system of progress monitoring for all
75 | students; or
76 | 3. An individualized progress monitoring plan.

77 |
78 | The plan chosen must be designed to assist the student or the
79 | school in meeting state and district expectations for
80 | proficiency. If the student has been identified as having a
81 | deficiency in reading, the K-12 comprehensive reading plan
82 | required by s. 1011.62(9) shall include instructional and
83 | support services to be provided to meet the desired levels of

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84 performance. District school boards may require low-performing
85 students to attend remediation programs held before or after
86 regular school hours or during the summer if transportation is
87 provided.

88 (c) Upon subsequent evaluation, if the documented
89 deficiency has not been remediated, the student may be retained.
90 Each student who does not meet the minimum performance
91 expectations defined by the Commissioner of Education for the
92 statewide assessment tests in reading, writing, science, and
93 mathematics must continue to be provided with remedial or
94 supplemental instruction until the expectations are met or the
95 student graduates from high school or is not subject to
96 compulsory school attendance.

97 (5) READING DEFICIENCY AND PARENTAL NOTIFICATION.--

98 (a) It is the ultimate goal of the Legislature that every
99 student read at or above grade level. Any student who exhibits a
100 substantial deficiency in reading, based upon locally determined
101 or statewide assessments conducted in kindergarten or grade 1,
102 grade 2, or grade 3, or through teacher observations, must be
103 given intensive reading instruction immediately following the
104 identification of the reading deficiency. The student's reading
105 proficiency must be reassessed by locally determined assessments
106 or through teacher observations at the beginning of the grade
107 following the intensive reading instruction. The student must
108 continue to be provided with intensive reading instruction until
109 the reading deficiency is remedied.

110 (b) Beginning with the 2002-2003 school year, if the
111 student's reading deficiency, as identified in paragraph (a), is

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112 not remedied by the end of grade 3, as demonstrated by scoring
113 at Level 2 or higher on the statewide assessment test in reading
114 for grade 3, the student must be retained.

115 (c) The parent of any student who exhibits a substantial
116 deficiency in reading, as described in paragraph (a), must be
117 notified in writing of the following:

118 1. That his or her child has been identified as having a
119 substantial deficiency in reading.

120 2. A description of the current services that are provided
121 to the child.

122 3. A description of the proposed supplemental
123 instructional services and supports that will be provided to the
124 child that are designed to remediate the identified area of
125 reading deficiency.

126 4. That if the child's reading deficiency is not
127 remediated by the end of grade 3, the child must be retained
128 unless he or she is exempt from mandatory retention for good
129 cause.

130 5. Strategies for parents to use in helping their child
131 succeed in reading proficiency.

132 6. That the Florida Comprehensive Assessment Test (FCAT)
133 is not the sole determiner of promotion and that additional
134 evaluations, portfolio reviews, and assessments are available to
135 the child to assist parents and the school district in knowing
136 when a child is reading at or above grade level and ready for
137 grade promotion.

138 7. The district's specific criteria and policies for
139 midyear promotion. Midyear promotion means promotion of a

140 retained student at any time during the year of retention once
 141 the student has demonstrated ability to read at grade level.

142 8. The availability of an appeal process for a student who
 143 otherwise would be retained under paragraph (b).

144 (6) ELIMINATION OF SOCIAL PROMOTION.--

145 (a) No student may be assigned to a grade level based
 146 solely on age or other factors that constitute social promotion.

147 (b) The district school board may only exempt students
 148 from mandatory retention, as provided in paragraph (5)(b), for
 149 good cause or for successful appeal of their retention under
 150 subsection (7). Good cause exemptions shall be limited to the
 151 following:

152 1. Limited English proficient students who have had less
 153 than 2 years of instruction in an English for Speakers of Other
 154 Languages program.

155 2. Students with disabilities whose individual education
 156 plan indicates that participation in the statewide assessment
 157 program is not appropriate, consistent with the requirements of
 158 State Board of Education rule.

159 3. Students who demonstrate an acceptable level of
 160 performance on an alternative standardized reading assessment
 161 approved by the State Board of Education.

162 4. Students who demonstrate, through a student portfolio,
 163 that the student is reading on grade level as evidenced by
 164 demonstration of mastery of the Sunshine State Standards in
 165 reading equal to at least a Level 2 performance on the FCAT.

166 5. Students with disabilities who participate in the FCAT
 167 and who have an individual education plan or a Section 504 plan

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168 that reflects that the student has received intensive
169 remediation in reading for more than 2 years but still
170 demonstrates a deficiency in reading and was previously retained
171 in kindergarten, grade 1, grade 2, or grade 3.

172 6. Students who have received intensive remediation in
173 reading for 2 or more years but still demonstrate a deficiency
174 in reading and who were previously retained in kindergarten,
175 grade 1, grade 2, or grade 3 for a total of 2 years. Intensive
176 reading instruction for students so promoted must include an
177 altered instructional day that includes specialized diagnostic
178 information and specific reading strategies for each student.
179 The district school board shall assist schools and teachers to
180 implement reading strategies that research has shown to be
181 successful in improving reading among low-performing readers.

182 (c) Requests for good cause exemptions for students from
183 the mandatory retention requirement as described in
184 subparagraphs (b)3. and 4. shall be made consistent with the
185 following:

186 1. Documentation shall be submitted from the student's
187 teacher to the school principal that indicates that the
188 promotion of the student is appropriate and is based upon the
189 student's academic record. In order to minimize paperwork
190 requirements, such documentation shall consist only of the
191 existing progress monitoring plan, individual educational plan,
192 if applicable, report card, or student portfolio.

193 2. The school principal shall review and discuss such
194 recommendation with the teacher and make the determination as to
195 whether the student should be promoted or retained. If the

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196 school principal determines that the student should be promoted,
197 the school principal shall make such recommendation in writing
198 to the district school superintendent. The district school
199 superintendent shall accept or reject the school principal's
200 recommendation in writing.

201 (7) APPEALS FOR EXEMPTION FROM MANDATORY RETENTION.--

202 (a) The Legislature recognizes that there are unusual and
203 unique circumstances that may warrant that a student be exempt
204 from mandatory retention. The Department of Education shall
205 establish an appeal process for such circumstances in which the
206 parent of a student who is to be retained pursuant to paragraph
207 (5) (b) may seek an exemption from the district school board. The
208 department may consider having each school district establish a
209 board or authority to serve as the appeal panel to make
210 recommendations to the district school board.

211 (b) Circumstances that shall be recognized as
212 justification for granting an appeal include:

213 1. If a student suffers physical or emotional trauma
214 resulting in test anxiety, including, but not limited to, death
215 of a family member, removal from the home, or serious illness or
216 injury to the student or a family member.

217 2. If a student develops unusual test anxiety, especially
218 when it arises from being threatened with retention.

219 (c) A parent shall have input as to the types of
220 additional support the student will receive to overcome his or
221 her deficiency.

222 (d) When an appeal is filed, the school shall provide an
 223 independent assessment of the student's academic needs by a
 224 qualified school psychologist.

225 (e) If a parent wishes to appeal his or her child's
 226 retention but does not have the means or resources to do so, the
 227 school district shall appoint a qualified advocate to intervene
 228 on the child's behalf during the appeal process.

229 (f) School personnel, including guidance counselors and
 230 teachers, may initiate the appeal process on behalf of a student
 231 but must receive the parent's permission to do so before
 232 proceeding with an appeal.

233 (8) ~~(7)~~ SUCCESSFUL PROGRESSION FOR RETAINED READERS.--

234 (a) Students retained under the provisions of paragraph
 235 (5) (b) must be provided intensive interventions in reading to
 236 ameliorate the student's specific reading deficiency, as
 237 identified by a valid and reliable diagnostic assessment. This
 238 intensive intervention must include effective instructional
 239 strategies, participation in the school district's summer
 240 reading camp, and appropriate teaching methodologies necessary
 241 to assist those students in becoming successful readers, able to
 242 read at or above grade level, and ready for promotion to the
 243 next grade.

244 (b) Beginning with the 2004-2005 school year, each school
 245 district shall:

246 1. Conduct a review of student progress monitoring plans
 247 for all students who did not score above Level 1 on the reading
 248 portion of the FCAT and did not meet the criteria for one of the
 249 good cause exemptions in paragraph (6) (b). The review shall

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250 address additional supports and services, as described in this
251 subsection, needed to remediate the identified areas of reading
252 deficiency. The school district shall require a student
253 portfolio to be completed for each such student.

254 2. Provide students who are retained under the provisions
255 of paragraph (5) (b) with intensive instructional services and
256 supports to remediate the identified areas of reading
257 deficiency, including a minimum of 90 minutes of daily,
258 uninterrupted, scientifically research-based reading instruction
259 and other strategies prescribed by the school district, which
260 may include, but are not limited to:

- 261 a. Small group instruction.
- 262 b. Reduced teacher-student ratios.
- 263 c. More frequent progress monitoring.
- 264 d. Tutoring or mentoring.
- 265 e. Transition classes containing 3rd and 4th grade
266 students.
- 267 f. Extended school day, week, or year.
- 268 g. Summer reading camps.

269 3. Provide written notification to the parent of any
270 student who is retained under the provisions of paragraph (5) (b)
271 that his or her child has not met the proficiency level required
272 for promotion and the reasons the child is not eligible for a
273 good cause exemption as provided in paragraph (6) (b). The
274 notification must comply with the provisions of s. 1002.20(15)
275 and must include a description of proposed interventions and
276 supports that will be provided to the child to remediate the
277 identified areas of reading deficiency.

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278 4. Implement a policy for the midyear promotion of any
279 student retained under the provisions of paragraph (5) (b) who
280 can demonstrate that he or she is a successful and independent
281 reader, reading at or above grade level, and ready to be
282 promoted to grade 4. Tools that school districts may use in
283 reevaluating any student retained may include subsequent
284 assessments, alternative assessments, and portfolio reviews, in
285 accordance with rules of the State Board of Education. Students
286 promoted during the school year after November 1 must
287 demonstrate proficiency above that required to score at Level 2
288 on the grade 3 FCAT, as determined by the State Board of
289 Education. The State Board of Education shall adopt standards
290 that provide a reasonable expectation that the student's
291 progress is sufficient to master appropriate 4th grade level
292 reading skills.

293 5. Provide students who are retained under the provisions
294 of paragraph (5) (b) with a high-performing teacher as determined
295 by student performance data and above-satisfactory performance
296 appraisals.

297 6. In addition to required reading enhancement and
298 acceleration strategies, provide parents of students to be
299 retained with at least one of the following instructional
300 options:

301 a. Supplemental tutoring in scientifically research-based
302 reading services in addition to the regular reading block,
303 including tutoring before and/or after school.

304 b. A "Read at Home" plan outlined in a parental contract,
 305 including participation in "Families Building Better Readers
 306 Workshops" and regular parent-guided home reading.

307 c. A mentor or tutor with specialized reading training.

308 7. Establish a Reading Enhancement and Acceleration
 309 Development (READ) Initiative. The focus of the READ Initiative
 310 shall be to prevent the retention of grade 3 students and to
 311 offer intensive accelerated reading instruction to grade 3
 312 students who failed to meet standards for promotion to grade 4
 313 and to each K-3 student who is assessed as exhibiting a reading
 314 deficiency. The READ Initiative shall:

315 a. Be provided to all K-3 students at risk of retention as
 316 identified by the statewide assessment system used in Reading
 317 First schools. The assessment must measure phonemic awareness,
 318 phonics, fluency, vocabulary, and comprehension.

319 b. Be provided during regular school hours in addition to
 320 the regular reading instruction.

321 c. Provide a state-identified reading curriculum that has
 322 been reviewed by the Florida Center for Reading Research at
 323 Florida State University and meets, at a minimum, the following
 324 specifications:

325 (I) Assists students assessed as exhibiting a reading
 326 deficiency in developing the ability to read at grade level.

327 (II) Provides skill development in phonemic awareness,
 328 phonics, fluency, vocabulary, and comprehension.

329 (III) Provides scientifically based and reliable
 330 assessment.

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331 (IV) Provides initial and ongoing analysis of each
332 student's reading progress.

333 (V) Is implemented during regular school hours.

334 (VI) Provides a curriculum in core academic subjects to
335 assist the student in maintaining or meeting proficiency levels
336 for the appropriate grade in all academic subjects.

337 8. Establish at each school, where applicable, an
338 Intensive Acceleration Class for retained grade 3 students who
339 subsequently score at Level 1 on the reading portion of the
340 FCAT. The focus of the Intensive Acceleration Class shall be to
341 increase a child's reading level at least two grade levels in 1
342 school year. The Intensive Acceleration Class shall:

343 a. Be provided to any student in grade 3 who scores at
344 Level 1 on the reading portion of the FCAT and who was retained
345 in grade 3 the prior year because of scoring at Level 1 on the
346 reading portion of the FCAT.

347 b. Have a reduced teacher-student ratio.

348 c. Provide uninterrupted reading instruction for the
349 majority of student contact time each day and incorporate
350 opportunities to master the grade 4 Sunshine State Standards in
351 other core subject areas.

352 d. Use a reading program that is scientifically research-
353 based and has proven results in accelerating student reading
354 achievement within the same school year.

355 e. Provide intensive language and vocabulary instruction
356 using a scientifically research-based program, including use of
357 a speech-language therapist.

358 f. Include weekly progress monitoring measures to ensure
359 progress is being made.

360 g. Report to the Department of Education, in the manner
361 described by the department, the progress of students in the
362 class at the end of the first semester.

363 9. Report to the State Board of Education, as requested,
364 on the specific intensive reading interventions and supports
365 implemented at the school district level. The Commissioner of
366 Education shall annually prescribe the required components of
367 requested reports.

368 10. Provide a student who has been retained in grade 3 and
369 has received intensive instructional services but is still not
370 ready for grade promotion, as determined by the school district,
371 the option of being placed in a transitional instructional
372 setting. Such setting shall specifically be designed to produce
373 learning gains sufficient to meet grade 4 performance standards
374 while continuing to remediate the areas of reading deficiency.

375 (9)~~(8)~~ ANNUAL REPORT.--

376 (a) In addition to the requirements in paragraph (5)(b),
377 each district school board must annually report to the parent of
378 each student the progress of the student toward achieving state
379 and district expectations for proficiency in reading, writing,
380 science, and mathematics. The district school board must report
381 to the parent the student's results on each statewide assessment
382 test. The evaluation of each student's progress must be based
383 upon the student's classroom work, observations, tests, district
384 and state assessments, and other relevant information. Progress

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385 reporting must be provided to the parent in writing in a format
386 adopted by the district school board.

387 (b) Each district school board must annually publish in
388 the local newspaper, and report in writing to the State Board of
389 Education by September 1 of each year, the following information
390 on the prior school year:

391 1. The provisions of this section relating to public
392 school student progression and the district school board's
393 policies and procedures on student retention and promotion.

394 2. By grade, the number and percentage of all students in
395 grades 3 through 10 performing at Levels 1 and 2 on the reading
396 portion of the FCAT.

397 3. By grade, the number and percentage of all students
398 retained in grades 3 through 10.

399 4. Information on the total number of students who were
400 promoted for good cause, by each category of good cause as
401 specified in paragraph (6) (b).

402 5. Information on the total number of students who were
403 promoted as a result of appealing their retention under
404 subsection (7).

405 ~~6.5.~~ Any revisions to the district school board's policy
406 on student retention and promotion from the prior year.

407 (c) The Department of Education shall establish a uniform
408 format for school districts to report the information required
409 in paragraph (b). The format shall be developed with input from
410 district school boards and shall be provided not later than 90
411 days prior to the annual due date. The department shall annually
412 compile the information required in subparagraphs (b)2., 3., and

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413 4., and 5., along with state-level summary information, and
414 report such information to the Governor, the President of the
415 Senate, and the Speaker of the House of Representatives.

416 (10)~~(9)~~ STATE BOARD AUTHORITY AND RESPONSIBILITIES.--

417 (a) The State Board of Education shall have authority as
418 provided in s. 1008.32 to enforce this section.

419 (b) The State Board of Education shall adopt rules
420 pursuant to ss. 120.536(1) and 120.54 for the administration of
421 this section.

422 (11)~~(10)~~ TECHNICAL ASSISTANCE.--The department shall
423 provide technical assistance as needed to aid district school
424 boards in administering this section.

425 Section 2. This act shall take effect July 1, 2009.