

CHAPTER 141

AN ACT concerning grade retention during the 2021-2022 school year.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. The Legislature finds and declares that:
 - a. School closures and the widespread use of virtual or remote instruction caused by the COVID-19 pandemic have presented an extraordinary challenge to students, the parents and guardians of students, and the education community at-large.
 - b. Although the increased use of virtual or remote instruction has been necessary in order to limit the transmission of COVID-19, research has shown that the use of such instruction may lead to a gap in learning gains that students may have otherwise experienced had they been learning through in-person instruction.
 - c. In addition to the concerns surrounding gaps in learning, the widespread use of virtual or remote instruction may also impact students' social and emotional well-beings in ways that are difficult for school district staff to detect and address through virtual or remote means.
 - d. As students continue to learn in virtual or remote environments, parents are placed in a unique position to observe the effects that the COVID-19 pandemic is having on their children's educational progress.
 - e. In many instances, the parents of students learning virtually or remotely are witnessing first-hand the impacts of the current shift away from in-person instruction as they assist their children in adapting to the complexities of learning during the COVID-19 pandemic.
 - f. Given the new role that parents have taken on in their children's education during this unprecedented time, it is fitting that parents have an increased say in certain educational decisions, including decisions concerning grade retention.

2. a. (1) Notwithstanding section 1 of P.L.1985, c.408 (C.18A:35-4.9) or any other law or regulation to the contrary, for the 2021-2022 school year, the parent, guardian, or other person having legal custody of a student enrolled in the grades kindergarten through eight shall be permitted to submit a written request of grade retention for the same grade level in which the student was enrolled during the 2020-2021 school year to the principal of the school in which the student is enrolled or to the lead person of the charter school or renaissance school project in which the student is enrolled, as applicable, by June 30, 2021. A school principal or lead person who receives a written request of grade retention pursuant to this act shall review the request in accordance with the procedures enumerated in subsection b. of this section.
 - (2) A superintendent of a school district or a lead person of a charter school or renaissance school project may accept a written request of grade retention after June 30, 2021 at the superintendent's or lead person's discretion. A superintendent or lead person who chooses to accept a written request of grade retention pursuant to this act after June 30, 2021 may grant the request upon review of the written request in accordance with the procedures enumerated in subparagraph (b) of paragraph (1) of subsection b. of this section.
- b. (1) (a) The parent, guardian, or other person having legal custody of a student who submits a written request of grade retention pursuant to paragraph (1) of subsection a. of this section shall consult with the school counselor, the child study team, or the individualized education program team, as applicable, and the student's teachers to review and evaluate whether grade retention is necessary to meet the academic and social and emotional needs of the student. The results of the consultation conducted pursuant to this subparagraph shall be

submitted to the principal of the school in which the student is enrolled or to the lead person of the charter school or renaissance school project in which the student is enrolled, as applicable. As appropriate, a parent, guardian, or other person having legal custody of a student who submits a written request of grade retention may request a conference with the school principal or the lead person of the charter school or renaissance school project in which the student is enrolled, as applicable, to discuss the results of the consultation conducted pursuant to this subparagraph.

(b) In the event that a superintendent of a school district or a lead person of a charter school or renaissance school project determines to accept a written request of grade retention submitted after June 30, 2021 pursuant to paragraph (2) of subsection a. of this section, a consultation shall be conducted in accordance with the procedures enumerated in subparagraph (a) of this paragraph, except that the results of the consultation shall be submitted to the superintendent or to the lead person, as applicable.

(2) If it is determined that grade retention is necessary to meet the academic and social and emotional needs of the student in accordance with paragraph (1) of this subsection, the school principal, lead person of a charter school or renaissance school project, or superintendent, as applicable, shall grant the written request of grade retention. If there is not a consensus as to whether grade retention is necessary to meet the academic and social and emotional needs of the student, the superintendent of the school district, or the superintendent's designee, or the lead person of the charter school or renaissance school project, as applicable, shall review the results of the consultation conducted pursuant to paragraph (1) of this subsection and make a final determination to grant or deny the written request of grade retention.

(3) When a written request of grade retention is submitted pursuant to this act, and the student will attend a school outside of the school district of residence during the 2021-2022 school year, the superintendent of the school district of residence shall transmit the written request, as soon as practicable, to the superintendent or other chief administrative officer of the school of attendance.

c. Nothing in this section shall be construed to limit, supersede, or preempt the rights, privileges, remedies, or procedures afforded to students with disabilities under federal or State law or regulation and any provision of an individualized education program and the "Individuals with Disabilities Education Act," 20 U.S.C.1400 et seq., or a plan developed pursuant to section 504 of the federal "Rehabilitation Act of 1973," 29 U.S.C. s.794.

d. A school district, charter school, or renaissance school project shall report the number of students enrolled in the schools of the district that repeat a grade level pursuant to the provisions of this act to the Department of Education in accordance with reporting requirements to be established by the department.

e. As used in this section, "school of attendance" means a public school.

3. This act shall take effect immediately.

Approved June 30, 2021.