

TITLE 37. EDUCATION
CHAPTER 177. LITERACY-BASED PROMOTION ACT

Miss. Code Ann. § 37-177-1 (2013)

§ 37-177-1. Literacy-based Promotion Act established; purpose; determination of a reading deficiency in students in grades K through 3.

(1) There is established an act prohibiting social promotion to be known as the "Literacy-Based Promotion Act," the purpose of which is to improve the reading skills of Kindergarten and First through Third Grade students enrolled in the public schools so that every student completing the Third Grade is able to read at or above grade level. It is the intent of the Legislature, in establishing this act, to ensure that: each Kindergarten and First through Third Grade student's progression is determined, in part, upon the student's proficiency in reading; the policies of local school boards facilitate this proficiency; and each student and the student's parent or legal guardian is informed of the student's academic progress.

(2) Each public school student who exhibits a substantial deficiency in reading at any time, as demonstrated through performance on a reading screener approved or developed by the State Department of Education or through locally determined assessments and teacher observations conducted in Kindergarten and Grades 1 through 3 or through statewide end-of-year assessments or approved alternate yearly assessments in Grade 3, must be given intensive reading instruction and intervention immediately following the identification of the reading deficiency.

(3) The universal reading screener or locally determined reading assessment may be given in the first thirty (30) days of the school year and repeated if indicated at midyear and at the end of the school year to determine student progression in reading in Kindergarten through Third Grade. If it is determined that the student continues to have a reading deficiency, the student must be provided with continued intensive reading instruction and intervention by the school district until the reading deficiency is remedied. A student exhibiting continued reading deficiency with continued intensive interventions should be considered for exceptional criteria evaluation.

(4) A Kindergarten or First, Second or Third Grade student identified with a deficiency in reading must be provided intensive interventions in reading to ameliorate the student's specific reading deficiency, as identified by a valid and reliable diagnostic assessment. The intensive intervention must include effective instructional strategies, and appropriate teaching methodologies necessary to assist the student in becoming a successful reader, able to read at or above grade level, and ready for promotion to the next grade. A Kindergarten, First, Second or Third Grade student identified with a reading deficiency or not promoted may be placed in a transition class.

§ 37-177-3. Written notification to parent or guardian of determination of reading deficiency;

contents of notification

Immediately upon the determination of a reading deficiency, and subsequently with each quarterly progress report until the deficiency is remediated, the parent or legal guardian of a Kindergarten or First, Second or Third Grade student who exhibits a substantial deficiency in reading must be notified in writing by the student's teacher of the following:

- (a) That the student has been identified as having a substantial deficiency in reading;
- (b) A description of the services that the school district currently is providing to the student;
- (c) A description of the proposed supplemental instructional services and supports that are designed to remediate the identified area of reading deficiency which the school district plans to provide the student;
- (d) That if the student's reading deficiency is not remediated before the end of the student's Third Grade year, the student will not be promoted to Fourth Grade unless a good cause exemption specified under Section 37-177-11 is met;
- (e) Strategies for parents and guardians to use in helping the student to succeed in reading proficiency; and
- (f) That while the state annual accountability assessment for reading in Third Grade is the initial determinant, it is not the sole determiner of promotion and that approved alternative standardized assessments are available to assist the school district in knowing when a child is reading at or above grade level and ready for promotion to the next grade.

§ 37-177-5. Establishment of Mississippi Reading Panel; purpose; composition

The State Department of Education shall establish a Mississippi Reading Panel to collaborate with the State Department of Education in recommending appropriate equitable alternative standardized assessments and cut scores to be used to determine promotion to the Fourth Grade of those Third Grade students who scored at the lowest achievement level on the state annual accountability assessment or who, for unforeseen circumstances, were unable to take the assessment. The panel should have knowledge and input in the adoption or development of a universal screener for required use only in select schools most in need for the reading intervention program to identify reading deficiencies and determine progress. A suggestive list of no less than four (4) screening assessments should be available to schools not selected for the critical reading intervention program taking into consideration those screening assessments already being used satisfactorily in Mississippi elementary schools. An approved alternative standardized reading assessment may be used in 2014-2015 in the transition to common core standardization of testing. The panel shall consist of six (6) members as follows: the State Superintendent of Education, or his/her designee, who will chair the committee; the Chair of the House Education Committee, or his designee; the Chairman of the Senate Education

Committee, or his designee; one (1) member appointed by the Governor; and two (2) additional members appointed by the State Superintendent of Education.

§ 37-177-7. Selection of schools for reading intervention program; supervisory position in each school responsible for implementation of reading intervention program

The State Department of Education shall:

(a) Select schools most in need for the reading intervention program and create criteria for selection for participation based on number and percentages of students scoring in the lowest two (2) achievement levels on state-adopted yearly reading assessments, screening results, and other relevant data; and

(b) Assign a supervisory position within each school to be responsible for the faithful implementation of the Reading Intervention Program.

§ 37-177-9. Assignment of grade level based on student's age or other social promotion prohibited; promotion to grade 4 prohibited unless reading deficiency remedied before end of grade 3

A public school student may not be assigned a grade level based solely on the student's age or any other factors that constitute social promotion.

Beginning in the 2014-2015 school year, if a student's reading deficiency is not remedied by the end of the student's Third Grade year, as demonstrated by the student scoring at the lowest achievement level in reading on the state annual accountability assessment or on an approved alternative standardized assessment for Third Grade, the student shall not be promoted to Fourth Grade.

§ 37-177-11. Good cause exemption for promotion to grade 4 of student not meeting academic requirements

(1) A Third Grade student who does not meet the academic requirements for promotion to the Fourth Grade may be promoted by the school district only for good cause. Good cause exemptions for promotion are limited to the following students:

(a) Limited English proficient students who have had less than two (2) years of instruction in an English Language Learner program;

(b) Students with disabilities whose individual education plan (IEP) indicates that participation in the statewide accountability assessment program is not appropriate, as authorized under state law;

(c) Students with a disability who participate in the state annual accountability assessment

and who have an IEP or a Section 504 plan that reflects that the individual student has received intensive remediation in reading for more than two (2) years but still demonstrates a deficiency in reading and previously was retained in Kindergarten or First, Second or Third Grade;

(d) Students who demonstrate an acceptable level of reading proficiency on an alternative standardized assessment approved by the State Board of Education; and

(e) Students who have received intensive intervention in reading for two (2) or more years but still demonstrate a deficiency in reading and who previously were retained in Kindergarten or First, Second or Third Grade for a total of two (2) years and have not met exceptional education criteria. A student who is promoted to Fourth Grade with a good cause exemption shall be provided intensive reading instruction and intervention informed by specialized diagnostic information and delivered through specific reading strategies to meet the needs of each student so promoted. The school district shall assist schools and teachers in implementing reading strategies that research has shown to be successful in improving reading among students with persistent reading difficulties.

(2) A request for good cause exemptions for a Third Grade student from the academic requirements established for promotion to Fourth Grade must be made consistent with the following:

(a) Documentation must be submitted from the student's teacher to the school principal which indicates that the promotion of the student is appropriate and is based upon the student's record. The documentation must consist of the good cause exemption being requested and must clearly prove that the student is covered by one (1) of the good cause exemptions listed in subsection (1)(a) through (e) of this section.

(b) The principal shall review and discuss the recommendations with the teacher and parents and make a determination as to whether or not the student should be promoted based on requirements set forth in this chapter. If the principal determines that the student should be promoted, based on the documentation provided, the principal must make the recommendation in writing to the school district superintendent, who, in writing, may accept or reject the principal's recommendation. The parents of any student promoted may choose that the student be retained for one (1) year, even if the principal and district superintendent determines otherwise.

§ 37-177-13. Actions required of school districts for grade 3 students not promoted to grade 4

Beginning in the 2014-2015 school year, each school district shall take the following actions for retained Third Grade students:

(a) Provide Third Grade students who are not promoted with intensive instructional services, progress monitoring measures, and supports to remediate the identified areas of reading

deficiency, including a minimum of ninety (90) minutes during regular school hours of daily, scientifically research-based reading instruction that includes phonemic awareness, phonics, fluency, vocabulary and comprehension, and other strategies prescribed by the school district, which may include, but are not limited to:

- (i) Small group instruction;
- (ii) Reduced teacher-student ratios;
- (iii) Tutoring in scientifically research-based reading services in addition to the regular school day;
- (iv) The option of transition classes;
- (v) Extended school day, week or year; and
- (vi) Summer reading camps.

(b) Provide written notification to the parent or legal guardian of any Third Grade student who is retained that the student has not met the proficiency level required for promotion and the reasons the student is not eligible for a good cause exemption. The notification must include a description of proposed interventions and supports that will be provided to the child to remediate the identified areas of reading deficiency. This notification must be provided to the parent or legal guardian in writing, in a format adopted by the State Board of Education in addition to report cards given by the teacher.

(c) Provide Third Grade students who are retained with a high-performing teacher, as determined by student performance data, particularly related to student growth in reading, above-satisfactory performance appraisals, and/or specific training relevant to implementation of this chapter.

(d) Provide parents and legal guardians of Third Grade students with a "Read at Home" plan outlined in a parental contract, including participation in regular parent-guided home reading.

§ 37-177-15. Intensive acceleration class for certain students; purpose

Each district may provide, where applicable, an intensive acceleration class for any student retained in Grade 3 who was previously retained in Kindergarten or Grades 1 through 3. The focus of the intensive acceleration class should be to increase a student's reading level at least two (2) grade levels in one (1) school year. The intensive acceleration class should provide reading instruction and intervention for the majority of student contact each day and incorporate opportunities to master the Grade 4 state standards in other core academic areas.

§ 37-177-17. Annual report regarding student progression and student retention and

promotion

(1) Within thirty (30) days of final State Board of Education approval of state accountability results, the school board of each school district must publish, in a newspaper having a general circulation within the school district, and report to the State Board of Education and the Mississippi Reading Panel the following information relating to the preceding school year:

(a) The provisions of this chapter relating to public school student progression and the school district's policies and procedures on student retention and promotion;

(b) By grade, the number and percentage of all students performing at each level of competency on the reading and math portion of the annual state accountability system and the number and percentage of students given an approved alternative standardized reading assessment and the percentage of these students performing at each competency level on said alternative standardized assessment;

(c) By grade, the number and percentage of all students retained in Kindergarten through Grade 8;

(d) Information on the total number and percentage of students who were promoted for good cause, by each category of good cause described in Section 37-177-11; and

(e) Any revisions to the school board's policy on student retention and promotion from the prior school year.

(2) The State Department of Education shall establish a uniform format for school districts to report the information required in subsection (1) of this section. The format must be developed with input from school boards and must be provided no later than ninety (90) days before the annual due date of the information. The department shall compile annually the required district information, along with state-level summary information, and report the information to the Governor, Senate, House of Representatives and general public.

§ 37-177-19. Implementation of chapter

(1) The State Board of Education shall adopt such policies, rules and regulations as may be necessary for the implementation of this chapter.

(2) The State Department of Education shall provide such technical assistance and training of teachers/administrators as may be needed to aid local school districts in administering the provisions of this chapter.

(3) Each local school district must include provisions required by this chapter as an addition to the district's published handbook of policy for employees and students beginning in school year 2013-2014.

§ 37-177-21. Certain components of provisions of this chapter subject to legislative appropriation

The provisions of this chapter which include components necessary to provide for teacher training, instructional materials, remedial education training and administration of an intensive literacy curriculum shall be subject to legislative appropriation.