

P.L. 2021, CHAPTER 141, *approved June 30, 2021*
Assembly, No. 5365 (*First Reprint*)

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

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. The Legislature finds and declares that:

8 a. School closures and the widespread use of virtual or remote
9 instruction caused by the COVID-19 pandemic have presented an
10 extraordinary challenge to students, the parents and guardians of
11 students, and the education community at-large.

12 b. Although the increased use of virtual or remote instruction
13 has been necessary in order to limit the transmission of COVID-19,
14 research has shown that the use of such instruction may lead to a
15 gap in learning gains that students may have otherwise experienced
16 had they been learning through in-person instruction.

17 c. In addition to the concerns surrounding gaps in learning, the
18 widespread use of virtual or remote instruction may also impact
19 students' social and emotional well-beings in ways that are difficult
20 for school district staff to detect and address through virtual or
21 remote means.

22 d. As students continue to learn in virtual or remote
23 environments, parents are placed in a unique position to observe the
24 effects that the COVID-19 pandemic is having on their children's
25 educational progress.

26 e. In many instances, the parents of students learning virtually or
27 remotely are witnessing first-hand the impacts of the current shift
28 away from in-person instruction as they assist their children in
29 adapting to the complexities of learning during the COVID-19
30 pandemic.

31 f. Given the new role that parents have taken on in their
32 children's education during this unprecedented time, it is fitting that
33 parents have an increased say in certain educational decisions,
34 including decisions concerning grade retention.

35

36 2. a. (1) Notwithstanding section 1 of P.L.1985, c.408
37 (C.18A:35-4.9) or any other law or regulation to the contrary, for
38 the 2021-2022 school year, ¹**【**a school district shall permit a student
39 enrolled in any of the grades kindergarten through eight during the
40 2020-2021 school year to repeat the same grade level in which the

EXPLANATION – Matter enclosed in bold-faced brackets **【thus】** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AED committee amendments adopted May 12, 2021.

1 student was enrolled during the 2020-2021 school year, provided
2 that¹ the parent, guardian, or other person having legal custody of
3 ~~the~~ a student ~~submits~~ enrolled in the grades kindergarten
4 through eight shall be permitted to submit¹ a written request of grade
5 retention for the same grade level in which the student was
6 enrolled during the 2020-2021 school year¹ to the ~~superintendent~~
7 of the school district, in accordance with subsection b. of this
8 section, ~~principal of the school in which the student is enrolled or to~~
9 the lead person of the charter school or renaissance school project in
10 which the student is enrolled, as applicable,¹ by June 30, 2021. A
11 ~~superintendent~~ school principal or lead person¹ who receives a
12 written request of grade retention pursuant to this act ~~by June 30,~~
13 2021¹ shall ~~grant~~ review¹ the request in accordance with the
14 procedures enumerated in subsection b. of this section¹.

15 (2) A superintendent of a school district or a lead person of a
16 charter school or renaissance school project¹ may accept a written
17 request of grade retention ~~submitted in accordance with~~
18 subsection b. of this section¹ after June 30, 2021 at the
19 superintendent's or lead person's¹ discretion. A superintendent or
20 lead person¹ who chooses to accept a written request of grade
21 retention pursuant to this act after June 30, 2021 ~~shall grant the~~
22 request¹ may grant the request upon review of the written request in
23 accordance with the procedures enumerated in subparagraph (b) of
24 paragraph (1) of subsection b. of this section¹.

25 b. (1) ~~(a)~~¹ The parent, guardian, or other person having legal
26 custody of a student who submits a written request of grade retention
27 pursuant to paragraph (1) of subsection a. of this section¹ shall consult
28 with the ~~school principal or another school leader~~ school
29 counselor, the child study team, or the individualized education
30 program team, as applicable,¹ and the student's teachers ~~prior to~~
31 submitting a request for grade retention pursuant to the provisions
32 of this act¹ to review and evaluate whether grade retention is
33 necessary to meet the academic and social and emotional needs of the
34 student. The results of the consultation conducted pursuant to this
35 subparagraph shall be submitted to the principal of the school in which
36 the student is enrolled or to the lead person of the charter school or
37 renaissance school project in which the student is enrolled, as
38 applicable. As appropriate, a parent, guardian, or other person having
39 legal custody of a student who submits a written request of grade
40 retention may request a conference with the school principal or the
41 lead person of the charter school or renaissance school project in
42 which the student is enrolled, as applicable, to discuss the results of the
43 consultation conducted pursuant to this subparagraph.

44 (b) In the event that a superintendent of a school district or a lead
45 person of a charter school or renaissance school project determines to

1 accept a written request of grade retention submitted after June 30,
2 2021 pursuant to paragraph (2) of subsection a. of this section, a
3 consultation shall be conducted in accordance with the procedures
4 enumerated in subparagraph (a) of this paragraph, except that the
5 results of the consultation shall be submitted to the superintendent or
6 to the lead person, as applicable¹.

7 (2) ¹**Following consultation with the school principal or**
8 **another school leader and the student's teachers pursuant to**
9 **paragraph (1) of this subsection, the parent, guardian, or other**
10 **person having legal custody of the student may submit a written**
11 **request of grade retention to the superintendent of the school**
12 **district of residence** **】** If it is determined that grade retention is
13 necessary to meet the academic and social and emotional needs of the
14 student in accordance with paragraph (1) of this subsection, the school
15 principal, lead person of a charter school or renaissance school project,
16 or superintendent, as applicable, shall grant the written request of
17 grade retention. If there is not a consensus as to whether grade
18 retention is necessary to meet the academic and social and emotional
19 needs of the student, the superintendent of the school district, or the
20 superintendent's designee, or the lead person of the charter school or
21 renaissance school project, as applicable, shall review the results of the
22 consultation conducted pursuant to paragraph (1) of this subsection
23 and make a final determination to grant or deny the written request of
24 grade retention¹.

25 (3) When ¹**the parent, guardian, or other person having legal**
26 **custody of a student submits** **】** ¹a written request of grade retention
27 ¹**to the superintendent of the school district of residence** **】** is
28 submitted pursuant to this act¹, and the student will attend a school
29 outside of the school district of residence during the 2021-2022
30 school year, the superintendent of the school district of residence
31 shall transmit the written request, as soon as practicable, to the
32 superintendent or other chief administrative officer of the school of
33 attendance.

34 c. Nothing in this section shall be construed to limit, supersede,
35 or preempt the rights, privileges, remedies, or procedures afforded
36 to students with disabilities under federal or State law or regulation
37 and any provision of an individualized education program ¹and the
38 "Individuals with Disabilities Education Act," 20 U.S.C.1400 et seq.,¹
39 or a plan developed pursuant to section 504 of the federal
40 "Rehabilitation Act of 1973," 29 U.S.C. s.794.

41 d. A school district ¹, charter school, or renaissance school
42 project¹ shall report the number of students enrolled in the schools
43 of the district that repeat a grade level pursuant to the provisions of
44 this act to the Department of Education ¹**【by June 30, 2022】** in
45 accordance with reporting requirements to be established by the
46 department¹.

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1 e. As used in this section, “school of attendance” means a
2 public school.

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4 3. This act shall take effect immediately.

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9 Permits parent or guardian to request grade retention for student
10 during 2021-2022 school year.

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