



# Reading/Literacy

P-3

Education Commission of the States

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## Third Grade Reading Policies

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August 2012

In 2012, 14 states passed legislation geared toward improving 3rd-grade literacy through identification, intervention, and/or retention initiatives. Today, a total of 32 states and the District of Columbia have policies in statute aimed at improving 3rd-grade reading proficiency. The majority of these states require early assessment and intervention, often as early as kindergarten. Fourteen states and the District of Columbia require retention of students on the basis of reading proficiency, most which require assessment and remediation for students in all K-3 grades.

This paper identifies statutory provisions regarding identification of, intervention for, and retention of struggling readers in the P-3 grades. A state-by-state policy summary is included in **Appendix A**. For examples of statutory language, see **Appendix B**. Examples of notable changes made this year are included in **Appendix C**. Note: for state responses to improving 3rd-grade reading proficiency, see the March 2012 ECS report [Third Grade Literacy Policies: Identification, Intervention, Retention](#). For recent trends in reading/literacy policy activity, see the [ECS State Policy Database](#).

The following states require identification of, intervention for, and/or retention of struggling readers in the P-3 grades:

Identification		
#	States	What's Required
<b>32 + DC</b>	AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IA, KY, LA, MD, MN, MO, NM, NY, NC, ND, OH, OK, RI, SC, TN, TX, UT, VT, VA, WA, WV, WI, WY	Reading assessment or diagnosis of reading deficiency in at least one grade, P-3. The assessments are a mix of state-mandated and locally determined approaches, with most states administering a criterion-referenced reading test in grade 3.
<b>2</b>	AZ, FL	<p><b>Annual reading assessments for students in:</b></p> <ul style="list-style-type: none"> <li>• Pre-K-3</li> </ul>
<b>17 + DC</b>	AR, CO, CT, DC, GA, IA, LA, KY, MN, NC, NM, ND, OK, TX, UT, WA <sup>1</sup> , WI, WY	<ul style="list-style-type: none"> <li>• Grades K-3</li> </ul>
<b>3</b>	ID, OH, SC	<ul style="list-style-type: none"> <li>• Grades 1-3</li> </ul>
<b>1</b>	CA	<ul style="list-style-type: none"> <li>• Grades 2-3</li> </ul>
<b>9</b>	DE, MD, MO, NY, RI, TN, VT, VA, WV	<ul style="list-style-type: none"> <li>• Grade 3</li> </ul>
<b>2</b>	NY, RI	Screening of students prior to, or upon, their first entry to school

1. Washington currently has a voluntary pilot program for 2nd-grade reading assessments. As the state phases in full-day kindergarten, districts are instructed to use the state's Kindergarten Inventory of Developing Skills.

Intervention				
#	States		What's Required	
29 + DC	AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IA, KY, LA, MD, MN, MO, NM, NY, NC, ND, OH, OK, RI, TN, TX, UT, VA, WV, WI, WY		Districts offer some type of intervention or remediation for struggling readers in a P-3 grade. Some states require specific interventions, while others let districts choose from a list of suggested interventions.	
21 + DC	AZ, AR, CA, CO, CT, DE, DC, FL, GA, IA, MN, MO, NY, NC, OH, OK, TX, UT, VT, VA, WA, WI		Parental notification of a student's reading deficiency, interventions in place, and (if applicable) the possibility a student may be retained.	
19 + DC	AZ, AR, CO, CT, DC, FL, GA, ID, IA, KY, LA, MN, NY, NC, ND, OK, RI, TX, WI, WY		<b>Interventions provided for struggling readers in:</b>	
2	OH, UT		<ul style="list-style-type: none"> <li>Grades K-3</li> </ul>	
1	CA		<ul style="list-style-type: none"> <li>Grades 1-3</li> </ul>	
6	DE, MD, MO, TN, VA, WV		<ul style="list-style-type: none"> <li>Grades 2-3</li> </ul>	
			<ul style="list-style-type: none"> <li>Grade 3</li> </ul>	
#	Require	#	Recommend	Type of Intervention
15	AR, CO, CT, FL, IA, KY, MD, NC, OH, OK, RI, TX, VT, WV, WI	3	GA, MN, VA	Supplemental instruction during regular school hours
6	AZ, CT, FL, IA, MO, NC	11 + DC	CA, CO, DE, DC, MN, ND, OH, OK, TX, UT, VA, WV	Summer school
5	AZ, ID, MO, NC, WV	13 + DC	CA, CT, DE, DC, FL, IA, MN, NC, NM, OH, OK, TX, UT, VA	Instruction outside of regular school hours, including after school and Saturday school
11	AR, CO, CT, DE, FL, MO, NM, NC, OH, OK, WY	0		Academic improvement plans (AIPs) for struggling readers
4	AZ, CO, DE, OH	DC	DC	Parents are involved in choosing an intervention strategy or developing an AIP
5	CO, IA, NC, OH, UT	6	AZ, CT, FL, OK, VT, WV	Information, support, and/or strategies for parents to work with students at home (a "home reading program," HRP)
1	NC	11 + DC	CT, DE, DC, FL, IA, MN, NC, ND, OH, OK, UT, VA	Individual or group tutoring
8	AR, CO, FL, KY, NC, NY, OK, UT	2 + DC	DC, GA, IA	Instruction tailored specifically to students' deficiencies/needs
1	AZ	3	OK, UT, VA	Online or computer-based instruction
2	CT, ND	2	OK, VA	Involvement of a reading specialist
3	AZ, NC, FL	1 + DC	DC, OH	Assignment to a different teacher if retained

Retention		
#	States	What's Required
14 + DC	AZ, AR, CA, CT, DE, DC, FL, GA, IA, MD, MO, NC, OH, OK, TN	Third grade students must be proficient in reading, attain a specific score on a state-wide reading exam, or otherwise meet a defined literacy benchmark in order to be promoted to 4th grade.
7	AR, CT, DE, IA, MD, TN, WV	Retention permitted only if a student does not participate in an intervention before starting 4th grade, such as mandatory summer school.
2	OK, MO	Allow teachers to make retention contingent upon participating in an intervention, but do not require it.
1	OH	Permits a student to be promoted to 4th grade if he/she receives remediation in the 4th grade.
1	CT	Permits retention of students in 1st, 2nd, and 3rd grade.
1	CA	Makes reading proficiency the primary basis for retention in both 2nd and 3rd grades
1	MO	Requires second year of retention (in 4th grade) if the student is reading below 3rd-grade level after completing 4th grade and summer school.
1	CO	For 3rd-grade students with <i>significant</i> reading deficiencies, parents, teachers, and other personnel must meet and consider retention as an intervention strategy and determine whether the student should advance to 4th grade. The decision is subject to approval by the district superintendent, who can require that a student be retained.
1	WV	Allows students to be retained in grades 3 and 8 if they are identified for additional academic help and fail to attend summer school.
1	TX	Students in grades 5 and 8 must be retained if they do not perform satisfactorily on statewide reading or mathematics exams. State statute <i>previously</i> required that 3rd-grade students be retained if they did not perform satisfactorily on the 3rd-grade reading exam.
Exemptions from Retention		
#	State	States Exempt Students Who:
8	CT, DE, FL, IA, NC, OH, OK, TX	Are deemed proficient on the basis of an alternative assessment or portfolio of student work, or whose principal and reading teacher agree are prepared for the next grade
11	AZ, AR, CO, FL, IA, MD, MO, NC, OK, TN, WV	Receive special education services, have disabilities, are intellectually limited, or have been assigned an Individualized Education Plan (IEP)
7	AZ, CO, FL, IA, MO, NC, OK	Are English Language Learners (ELL) or have limited English proficiency. States often clarify that this exemption applies to students with less than two years of instruction in an ELL program.
5	DE, CO, IA, MD, MO	Have previously been retained solely on the basis of a reading deficiency
3	FL, NC, OK	Have been retained twice solely on the basis of a reading deficiency
4	CA, CT, OH, OK	Receive a principal or teacher recommendation
1	GA	Receive a parental appeal, which is reviewed by a placement committee and includes indicators of academic achievement

**Appendix A:** State Policies Dealing with Identification, Intervention, and Retention of P-3 Students based on Literacy Assessments

**I. Identification of Struggling Readers**

	<b>Statute</b>	<b>P-3 Grades Tested<sup>1</sup></b>	<b>State or Local Assessment<sup>2</sup></b>	<b>Assessment Timing</b>
<b>Arizona</b>	<a href="#">S.B. 1258 (2012), §15-701, §15-704</a>	Pre-K-3	State	Ongoing
<b>Arkansas</b>	<a href="#">§6-15-2009, §6-15-433</a>	K-3	Local: K-2 State: 3	-
<b>California</b>	<a href="#">§48070.5, §60642.5</a>	2-3	State	Annual
<b>Colorado</b>	<a href="#">H.B. 12-1238 (2012), §22-7-504</a>	K-3	Local	Ongoing
<b>Connecticut<sup>3</sup></b>	<a href="#">S.B. 458 (2012), §10-221h, §10-265g, §10-265l</a>	K-3	State or Local	Ongoing
<b>Delaware</b>	<a href="#">§14.1-§151, §14.1-§153</a>	3 <sup>4</sup>	State	Twice a year
<b>District of Columbia</b>	<a href="#">B19-0648 (2012), §38-1803.11, §38-1803.21, Rule: 5-E2200.9</a>	K-3	Local	Annual
<b>Florida</b>	<a href="#">H.B. 5101 (2012), §1008.25</a>	Pre-K-3	Local: Pre-K-3 State: 3	At least annually
<b>Georgia</b>	<a href="#">§20-2-153, §20-2-283</a>	K-3	Local: K-2 State: 3	-
<b>Idaho</b>	<a href="#">§33-1614, §33-1615</a>	1,2,3	State	Twice a year
<b>Iowa</b>	<a href="#">S.F. 2284 (2012)</a>	K-3	Local or State	Beginning of year
<b>Kentucky</b>	<a href="#">H.B. 69 (2012), §158.791, §158.840</a>	K-3	Local	-
<b>Louisiana</b>	<a href="#">LAC 28: CXV §2307</a>	K-3	Local	-
<b>Maryland</b>	<a href="#">§7-202</a>	3	Local	-
<b>Minnesota</b>	<a href="#">§120B.12, §120B.30</a>	K-3	Local: K-2 State: 3	By end of year
<b>Missouri</b>	<a href="#">§167.645, §162.1100</a>	3	Local	End of year
<b>New Mexico</b>	<a href="#">§22-13-1, §22-13-1.3, §22-2C-4</a>	K-3	Local: K-2 State: 3	Ongoing
<b>New York</b>	<a href="#">CR 117.3, §3208, §3602-e, §3211-a</a>	Pre-K-3 <sup>5</sup>	Local: K-2 State: 3	Ongoing

	Statute	P-3 Grades Tested	State or Local Assessment	Assessment Timing
North Carolina	<a href="#">H.B. 950 (2012)</a> , <a href="#">§115C-105.41</a> , <a href="#">§115C-81.2</a> , <a href="#">§115C-105.27</a> , <a href="#">§115C-174.11</a>	K-3	State	Annual
North Dakota	<a href="#">§15.1-07</a> , <a href="#">§15.1-21-08</a>	K-3	Local: K-2 State: 3	Twice a year <sup>6</sup>
Ohio	<a href="#">S.B. 316 (2012)</a> , <a href="#">§3313.608</a> , <a href="#">§3301.0710</a>	K-3	State	Beginning of year
Oklahoma <sup>7</sup>	<a href="#">H.B. 2516 (2012)</a> , <a href="#">§70-1210.508C</a> , <a href="#">§70-1210.508E</a>	K-3	Local: K-2 State: 3	Ongoing
Rhode Island	<a href="#">§16-67-2</a>	K-3 <sup>8</sup>	Local: K-2 State: 3	-
South Carolina	<a href="#">§59-18-310</a>	1-3	Local: 1,2 State: 3	Ongoing
Tennessee	<a href="#">S.B. 2156 (2012)</a> , <a href="#">§49-6-3115</a> , <a href="#">§49-6-6002</a> , <a href="#">§49-6-702</a>	3 <sup>9</sup>	State	Annual
Texas	<a href="#">§28.006</a> , <a href="#">§28.0211</a>	K-3	Local: K-2 State: 3	-
Utah	<a href="#">§53A-1-606.5-7</a> , <a href="#">§53A-17a-150</a>	K-3	State	Beginning, middle, end
Vermont	<a href="#">16 V.S.A. §2903</a> , <a href="#">16 V.S.A. §164</a>	3	State	-
Virginia <sup>10</sup>	<a href="#">H.B. 1181 (2012)</a> , <a href="#">§22.1-253.13:1</a>	3	State	-
Washington	<a href="#">§28A.300.310</a> , <a href="#">§28A.300.320</a> , <a href="#">§28A.150.315</a>	K, 2 <sup>11</sup>	State	-
West Virginia	<a href="#">§18-2E-10</a>	3	Local	Ongoing <sup>12</sup>
Wisconsin	<a href="#">S.B. 461 (2012)</a> , <a href="#">§118.016</a> , <a href="#">§121.02</a>	K-3	Local: K-2 State: 3	Annual
Wyoming	<a href="#">S.F. 52 (2012)</a> , <a href="#">§21-3-401</a>	K-3	Local	Annual

Note: “-” = Not specified.

1. Many states test reading after grade 3. Only the assessments through grade 3 are included here.
2. Many states with local assessments require districts to pick from a state-developed list of approved assessments or mandate that local assessments must be approved by the state.
3. Specific identification, intervention and retention policies are laid out in statute for priority school districts only. S.B. 453 requires that an intensive reading program be piloted in five elementary schools for the 2013-14 school year.
4. Delaware [H.B. 317](#) (2012) requires the state to adopt a kindergarten readiness assessment by 2015 that includes a language and literacy development component.

5. New York requires diagnostic screening of all new entrants and students with low test scores. Pre-K providers are required to administer an assessment of the development of language.
6. In North Dakota, schools must administer interim assessments for students in grades 2-10.
7. Oklahoma passed numerous bills in 2012 pertaining to reading assessments and interventions, including [S.B. 1565](#), [H.B. 2511](#), and [H.B. 2676](#).
8. In Rhode Island, all districts that provide elementary education are required to screen all children prior to, or upon, their first entry to school to determine their level of educational readiness. Third graders take the New England Common Assessment Program ([NECAP](#)).
9. Tennessee statute prohibits state-mandated tests earlier than grade 3, except for when the 1st- and 2nd-grade tests provided for in Acts 1997, ch. 434, § 7 are available.
10. Virginia statute requires local school boards to implement early identification, diagnosis, and assistance for students with reading problems and provide instructional strategies that benefit the development of reading skills for all students.
11. As Washington phases in Full-Day Kindergarten, districts are instructed to use the state's Kindergarten Inventory of Developing Skills. The state superintendent is to develop 2nd-grade assessments and passages for districts to choose from to assess oral reading accuracy and fluency skills. Washington currently has a voluntary pilot program for 2nd-grade reading assessments.
12. West Virginia requires every school to establish a student assistance team that reviews student academic needs that have persisted despite being addressed by instruction and intervention.

## II. Interventions for Struggling Readers

### Interventions Include:

**AIP:** Assignment to an Academic Improvement Program      **DT:** Assignment to a different teacher  
**HRP:** Implementation of a Home Reading Program      **OI:** Online or computer-based instruction  
**OS:** Instruction outside of school hours including after school and Saturday school instruction  
**RS:** Involvement of a Reading Specialist      **SI:** Supplemental Instruction (during school hours)  
**SS:** Summer School or summer reading program      **T:** Individual or group tutoring  
**TI:** Instruction tailored specifically to students' deficiencies/needs

	Statute	Grades Intervention Provided	Required Interventions	Suggested Interventions	Notification of Parent / Guardian
Arizona	<a href="#">S.B. 1258 (2012), §15-701, §15-704</a>	K-3	Choose one: SS, OS, OI, DT	HRP	Yes
Arkansas	<a href="#">§6-15-2009, §6-15-433</a>	K-12	AIP, SI, TI	-	Yes
California	<a href="#">§48070.5, §60642.5</a>	2-5, 6, 8	-	SS, OS	Yes
Colorado	<a href="#">H.B. 12-1238 (2012), §22-7-504</a>	K-3	AIP, SI, TI, HRP	SS	Yes
Connecticut <sup>1</sup>	<a href="#">S.B. 458 (2012), §10-221h, §10-265g, §10-265l</a>	K-3	AIP, RS, SI, SS	T, OS, HRP	Yes
Delaware	<a href="#">§14.1-§151, §14.1-§153</a>	3	AIP <sup>2</sup>	SS, OS, T	Yes
District of Columbia	<a href="#">B19-0648 (2012), §38-1803.11, §38-1803.21, Rule: 5-E2200.9</a>	K-12	-	T, OS, SS, TI, DT	Yes
Florida	<a href="#">HB 5101 (2012), §1008.25</a>	K-5 <sup>3</sup>	AIP, SI, TI, DT, SS <sup>4</sup>	HRP, OS, T <sup>5</sup>	Yes
Georgia	<a href="#">§20-2-153, §20-2-283</a>	K-5	-	SI, TI	Yes
Idaho	<a href="#">§33-1614, §33-1615</a>	K-3	OS	-	-
Iowa	<a href="#">S.F. 2284 (2012)</a>	K-3	HRP, SI, SS	OS, T, TI	Yes
Kentucky	<a href="#">H.B. 69 (2012), §158.791, §158.840</a>	K-3	SI, TI	-	-
Louisiana	<a href="#">LAC 28: CXV §2307</a>	K-3	-	-	-
Maryland	<a href="#">§7-202</a>	3	SI	-	-
Minnesota	<a href="#">§120B.12, §120B.30</a>	K-3	-	SI, SS, OS, T	Yes

	Statute	Grades Intervention Provided	Required Interventions	Suggested Interventions	Notification of Parent / Guardian
Missouri	<a href="#">§167.645, §162.1100</a>	3	AIP, OS, SS	-	Yes
New Mexico	<a href="#">§22-13-1, §22-13-1.3, §22-2C-4</a>	-	AIP	OS	-
New York	<a href="#">CR 117.3, §3208, §3602-e, §3211-a</a>	K-12	TI	-	Yes
North Carolina	<a href="#">H.B. 950 (2012), §115C-105.41, §115C-81.2, §115C-105.27, §115C-174.11</a>	K-3	AIP, HRP <sup>6</sup> , DT, SI, SS <sup>7</sup> , TI	OS, T	Yes
North Dakota	<a href="#">§15.1-07, §15.1-21-08</a>	K-3	Performance Strategist <sup>8</sup>	T, SS (K-8)	-
Ohio	<a href="#">S.B. 316 (2012), §3313.608, §3301.0710</a>	K-4	AIP, SI, HRP <sup>9</sup>	DT, OS, SS, T	Yes
Oklahoma <sup>10</sup>	<a href="#">H.B. 2516 (2012), §70-1210.508C, §70-1210.508E</a>	K-3	AIP, SI, TI	OS, SS, T, OI, HRP, RS	Yes
Rhode Island	<a href="#">§16-67-2</a>	K-12	SI	-	-
South Carolina	<a href="#">§59-18-310</a>	-	-	-	-
Tennessee	<a href="#">S.B. 2156 (2012), §49-6-3115, §49-6-6002, §49-6-702</a>	3	Locally Determined	-	-
Texas	<a href="#">§28.006, §28.0211</a>	K-8	SI	OS, SS	Yes
Utah	<a href="#">§53A-1-606.5-7, §53A-17a-150</a>	1-3	TI, HRP	T, OS, SS, OI	Yes
Vermont	<a href="#">16 V.S.A. §2903, 16 V.S.A. §164</a>	4-12	SI	HRP	Yes
Virginia <sup>11</sup>	<a href="#">H.B. 1181 (2012), §22.1-253.13:1</a>	3-8	Locally Determined	RS, T, OI, SI, OS, SS	Yes
Washington	<a href="#">§28A.300.310, §28A.300.320, §28A.150.315</a>	-	-	-	Yes
West Virginia	<a href="#">§18-2E-10</a>	3, 8	SI, OS	SS, HRP	-
Wisconsin	<a href="#">S.B. 461 (2012), §118.016, §121.02</a>	K-4	SI	-	Yes
Wyoming	<a href="#">S.F. 52 (2012), §21-3-401</a>	K-3	AIP	-	-

Note: “-” = Not specified.



1. Specific identification, intervention and retention policies are laid out in statute for priority school districts only. S.B. 453 requires that an intensive reading program be piloted in five elementary schools for the 2013-14 school year.
2. Delaware specifies that a student's AIP must be developed with input from a parent or guardian.
3. Florida [HB 5101](#) also provides for additional reading instruction for students in grades K-12 in each school district that has one or more of the 100 lowest-performing elementary schools based on the state reading assessment.
4. In Florida, 3<sup>rd</sup> grade students who score below the cutoff on the state reading exam (FCAT) are required to attend their district's summer reading camp (SS). If the student can demonstrate proficiency upon completion of camp, he/she may be promoted to 4<sup>th</sup> grade. FL statute [§1011.62\(9\)\(c\)\(5\)](#) permits funding for summer reading camps for all K-2 students who demonstrate a reading deficiency, as well as students in grades 3-5 who score at Level 1 on FCAT Reading in each school district that has one or more of the 100 lowest-performing elementary schools based on the state reading assessment.
5. Florida statute [§1008.25\(7\)\(b\)](#) requires and recommends intensive interventions for students who are retained in the third grade including assistance to parents of retained students (HRP), assignment to a high-performing teacher (DT), a mentor or tutor with specialized reading training (T) and tutoring outside of school hours (OS).
6. North Carolina requires parents of retained students to be provided with a plan for reading at home, including participation in shared and guided reading workshops for the parent or guardian, and outlined in a parental or guardian contract.
7. North Carolina requires 3rd grade students who do not demonstrate reading proficiency to attend a summer reading camp. Students who do not demonstrate reading proficiency after completion of camp will be retained.
8. North Dakota requires school districts to employ one performance strategist for every 400 students in grades K-3, whose duties include tutoring students and providing instructional coaching to teachers.
9. Ohio specifies that parents of 3rd-grade students must be involved in choosing an intervention strategy.
10. Oklahoma passed numerous bills in 2012 pertaining to reading assessments and interventions including [S.B. 1565](#), [H.B. 2511](#), and [H.B. 2676](#).
11. Virginia statute requires local school boards to implement early identification, diagnosis, and assistance for students with reading problems, and provide instructional strategies that benefit the development of reading skills for all students.

### III. Reading-Based Retention

	Statute	Require, Recommend or Allow	Grades Students are Retained	May be Promoted if Participate in Intervention	Promotion based on Alternative Assessment /Portfolios?	Exemptions Included <sup>1</sup>
Arizona	<a href="#">S.B. 1258 (2012), §15-701, §15-704</a>	Require	3	No	No	ELL, Special Education
Arkansas	<a href="#">§6-15-2009, §6-15-433</a>	Require	3	Yes	No	Special Education
California	<a href="#">§48070.5, §60642.5</a>	Require	2, 3	Yes	-	Teacher Rec.
Colorado	<a href="#">H.B. 12-1238 (2012), §22-7-504</a>	Recommend <sup>2</sup>	3	No	No	2x, ELL, Special Education
Connecticut <sup>3</sup>	<a href="#">S.B. 458 (2012), §10-221h, §10-265g, §10-265l</a>	Require	1,2,3	Yes	Yes	Principal Rec <sup>4</sup>
Delaware	<a href="#">§14.1-§151, §14.1-§153</a>	Require	3	Yes	Yes <sup>5</sup>	2x
District of Columbia	<a href="#">B19-0648 (2012), §38-1803.11, §38-1803.21, Rule: 5-E2200.9</a>	Require	3 <sup>6</sup>	-	-	-
Florida	<a href="#">H.B. 5101 (2012), §1008.25</a>	Require	3	No	Yes	2x, ELL, Special Education
Georgia	<a href="#">§20-2-153, §20-2-283</a>	Require	3	No	No	Parental Appeal
Idaho	<a href="#">§33-1614, §33-1615</a>	-	-	-	-	-
Iowa	<a href="#">S.F. 2284 (2012)</a>	Require	3	Yes	Yes	2x, ELL, Special Education
Kentucky	<a href="#">H.B. 69 (2012), §158.791, §158.840</a>	-	-	-	-	-
Louisiana	<a href="#">LAC 28: CXV §2307</a>	-	-	-	-	-
Maryland	<a href="#">§7-202</a>	Require	3	Yes	-	2x, Special Education
Minnesota	<a href="#">§120B.12, §120B.30</a>	-	-	-	-	-
Missouri	<a href="#">§167.645, §162.1100</a>	Require	3, 4	Allowed in grade 3 only	No	2x, ELL, Special Education
New Mexico	<a href="#">§22-13-1, §22-13-1.3, §22-2C-4</a>	-	-	-	-	-
New York	<a href="#">CR 117.3, §3208, §3602-e, §3211-a</a>	-	-	-	-	-

	Statute	Require, Recommend or Allow	Grades Students are Retained	May be Promoted if Participate in Intervention	Promotion based on Alternative Assessment /Portfolios?	Exemptions Included
North Carolina	<a href="#">H.B. 950 (2012), §115C-105.41, §115C-81.2, §115C-105.27, §115C-174.11</a>	Require	3	No	Yes	3x, ELL, Disabilities
North Dakota	<a href="#">§15.1-07, §15.1-21-08</a>	-	-	-	-	-
Ohio	<a href="#">S.B. 316 (2012), §3313.608, §3301.0710</a>	Require	3	Yes <sup>7</sup>	Yes	2x, ELL, Special Education
Oklahoma	<a href="#">H.B. 2516 (2012), §70-1210.508C, §70-1210.508E</a>	Require	3	Allowed <sup>8</sup>	Yes	3x, ELL, Principal Rec., Special Education
Rhode Island	<a href="#">§16-67-2</a>	-	-	-	-	-
South Carolina	<a href="#">§59-18-310</a>	-	-	-	-	-
Tennessee	<a href="#">S.B. 2156 (2012), §49-6-3115, §49-6-6002, §49-6-702</a>	Require	Grades 3 & 8	Yes	-	Special Education
Texas	<a href="#">§28.006, §28.0211</a>	Require	Grades 5 & 8	Yes	Yes	Parental Appeal
Utah	<a href="#">§53A-1-606.5-7, §53A-17a-150</a>	-	-	-	-	-
Vermont	<a href="#">16 V.S.A. §2903, 16 V.S.A. §164</a>	-	-	-	-	-
Virginia	<a href="#">H.B. 1181 (2012), §22.1-253.13:1</a>	-	-	-	-	-
Washington	<a href="#">§28A.300.310, §28A.300.320, §28A.150.315</a>	-	-	-	-	-
West Virginia	<a href="#">18-2E-10</a>	Allow	Grades 3 & 8	Yes	-	Special Education
Wisconsin	<a href="#">S.B. 461 (2012), §118.016, §121.02</a>	-	-	-	-	-
Wyoming	<a href="#">S.F. 52 (2012), §21-3-401</a>	-	-	-	-	-

Note: “-” = Not specified.

1. Exemptions from retention policies include:

- a. 2x – students may not be retained twice solely on the basis of a reading deficiency, so students who have been previously retained in grade may not be retained again (some states specify that the student must have been held back due to a reading deficiency).

- b. 3x – students who have been previously held back two times may not be retained three times solely on the basis of a reading deficiency (some states specify that the student must have been held back due to a reading deficiency).
  - c. ELL – students with limited English proficiency or who are English Language Learners are exempt from retention. This provision often applies only to students who have had less than two years of instruction in English.
  - d. Parental Appeal – students may be promoted if parents appeal the retention decision and a placement committee finds the student's academic achievement sufficient for promotion.
  - e. Principal Rec. – students may be promoted based upon a recommendation from their principal.
  - f. Special Education – students who are assigned to Special Education or receive Special Education services, who have an Individualized Education Plan (IEP), have a disability, or are intellectually limited are not subject to retention.
  - g. Teacher Rec. – students may be promoted based upon a recommendation from their teacher.
2. Colorado H.B. 12-1238 requires that, for any student with a significant reading deficiency at the end of 3rd grade, the parent, the student's teacher, and other personnel of the local education provider are required to meet and consider retention as an intervention strategy and determine whether the student is able to maintain adequate academic progress at the next grade level.
  3. Specific identification, intervention and retention policies are laid out in statute for priority school districts only. S.B. 453 requires that an intensive reading program be piloted in five elementary schools for the 2013-14 school year.
  4. The superintendent of schools may exempt an individual student from having to attend summer school in order to be promoted, upon the recommendation of the school principal, based on the student's progress with the student's personal reading plan.
  5. A student may advance to the next grade level without attending summer school if an academic review committee determines that the student has demonstrated proficient performance using evidence from other indicators.
  6. The Superintendent must establish promotion gates for mathematics, reading, and writing, for not less than one grade level from kindergarten through grade 4, including at least grade 4.
  7. Ohio statute specifies that a 3rd-grade child without a passing score on the state reading assessment may be retained in 3rd grade, promoted to 4th grade based on principal/reading teacher agreement that the student is prepared, or promoted to 4th grade with intensive intervention services (in grade 4). S.B. 316 changes the state's policy such that, beginning in 2013, no student with a failing score may be promoted unless he or she demonstrates proficiency on an alternate assessment, or is a limited English proficient student or child with a disability.
  8. Oklahoma's 2012 House Bill 2516 changed the retention provision such that a teacher *may* recommend promotion contingent upon a student's participation in intervention, but does not have to.

## Appendix B: Sample Statutory Language from some of the more established/comprehensive 3rd-grade reading policies

### Identification

- Arizona – [§15-701](#)
  - “The state board of education shall ... provide for universal screening of pupils in preschool programs, kindergarten programs and grades one through three that is designed to identify pupils who have reading deficiencies.”
- Arizona – [§15-704](#)
  - “Each school district or charter school that provides instruction in kindergarten programs and grades one through three shall select and administer screening, ongoing diagnostic and classroom based instructional reading assessments, including a motivational assessment, as defined by the state board of education, to monitor student progress. Each school shall use the diagnostic information to plan appropriate and effective intervention.”

### Intervention

- Oklahoma – [H.B. 2516](#) (2012)
  - “Beginning with the 2011-2012 school year, each school district shall establish a Reading Enhancement and Acceleration Development (READ) Initiative. The focus of the READ Initiative shall be to prevent the retention of third-grade students by offering intensive accelerated reading instruction to third-grade students who failed to meet standards for promotion to fourth grade and to kindergarten through third-grade students who are exhibiting a reading deficiency. The READ Initiative shall:
    1. Be provided to all kindergarten through third-grade students at risk of retention as identified by the assessments administered pursuant to the Reading Sufficiency Act. The assessment used shall measure phonemic awareness, phonics, fluency, vocabulary, and comprehension;
    2. Be provided during regular school hours in addition to the regular reading instruction; and
    3. Provide a state-approved reading curriculum that, at a minimum, meets the following specifications:
      - Assists students assessed as exhibiting a reading deficiency in developing the ability to read at grade level,
      - Provides skill development in phonemic awareness, phonics, fluency, vocabulary, and comprehension,
      - Provides scientifically a scientific-research-based and reliable assessment,
      - Provides initial and ongoing analysis of the reading progress of each student,
      - Is implemented during regular school hours,
      - Provides a curriculum in core academic subjects to assist the student in maintaining or meeting proficiency levels for the appropriate grade in all academic subjects,
      - Establishes at each school, where applicable, an Intensive Acceleration Class for retained third-grade students who subsequently score at the unsatisfactory level on the reading portion of the statewide criterion-referenced tests. The focus of the Intensive Acceleration Class shall be to increase the reading level of a child at least two grade levels in one (1) school year.”
  - “Any student who is assessed and found not to be reading at the appropriate grade level shall be provided a program of reading instruction designed to enable the student to acquire the appropriate grade level reading skills. Beginning with students entering the first grade in the 2011-2012 school

year, the program of reading instruction shall include provisions of the READ Initiative adopted by the school district ... The program of reading instruction ... shall align with the PASS, shall include provisions of the READ Initiative adopted by the school district ... beginning with students entering the first grade in the 2011-2012 school year and may include, but is not limited to:

1. Sufficient additional in-school instructional time for the acquisition of phonological awareness, phonics, spelling, reading fluency, vocabulary, and comprehension
  2. If necessary, tutorial instruction after regular school hours, on Saturdays and during summer
  3. Assessments identified for diagnostic purposes and periodic monitoring to measure the acquisition of reading skills including, but not limited to, phonological awareness, phonics, spelling, reading fluency, vocabulary, and comprehension, as identified in the student's program of reading instruction.
  4. The program of reading instruction shall continue until the student is determined by the results of approved reading assessments to be reading on grade level."
- "Beginning with the 2011-2012 school year, each school district shall ... Provide to students *who have been retained* ... with intensive interventions in reading, intensive instructional services and supports to remediate the identified areas of reading deficiency, including a minimum of ninety (90) minutes of daily, uninterrupted, scientific-research-based reading instruction. Retained students shall be provided other strategies prescribed by the school district, which may include, but are not limited to:
    1. Small group instruction,
    2. Reduced teacher-student ratios,
    3. More frequent progress monitoring,
    4. Tutoring or mentoring,
    5. Transition classes containing third- and fourth-grade students,
    6. Extended school day, week, or year, and
    7. Summer reading academies"
  - "In addition to required reading enhancement and acceleration strategies, provide students who are retained with at least one of the following instructional options:
    1. Supplemental tutoring in scientific-research-based reading services in addition to the regular reading block, including tutoring before or after school,
    2. A parent-guided "Read at Home" assistance plan, as developed by the State Department of Education, the purpose of which is to encourage parent-guided home reading, or
    3. A mentor or tutor with specialized reading training"
  - "School districts may approve an option for students who are unable to attend a summer academy. The optional program may include, but is not limited to, an approved private provider of instruction, approved computer- or Internet-based instruction, or an approved program of reading instruction monitored by the parent or guardian. School districts shall not be required to pay for the optional program, but shall clearly communicate to the parent or guardian the expectations of the program and any costs that may be involved."

## **Retention**

- Georgia – [§20-2-283](#)
  - "No student shall be promoted, except as provided in this section, to:
    1. The fourth grade program to which the student would otherwise be assigned if the student does not achieve grade level as defined by the Office of Student Achievement ... on the third grade criterion-referenced reading assessment ... and meet the promotional standards and

criteria established by the State Board of Education and by the local school board for the school that the student attends.”

### **Exemptions from Retention**

- Florida – [§1008.25](#)
  - “The district school board may only exempt students from mandatory retention ... for good cause. Good cause exemptions shall be limited to the following:
    1. Limited English proficient students who have had less than 2 years of instruction in an English for Speakers of Other Languages program.
    2. Students with disabilities whose individual education plan indicates that participation in the statewide assessment program is not appropriate, consistent with the requirements of State Board of Education rule.
    3. Students who demonstrate an acceptable level of performance on an alternative standardized reading assessment approved by the State Board of Education.
    4. Students who demonstrate, through a student portfolio, that the student is reading on grade level as evidenced by demonstration of mastery of the Sunshine State Standards in reading equal to at least a Level 2 performance on the FCAT.
    5. Students with disabilities who participate in the FCAT and who have an individual education plan or a Section 504 plan that reflects that the student has received intensive remediation in reading for more than 2 years but still demonstrates a deficiency in reading and was previously retained in kindergarten, grade 1, grade 2, or grade 3.
    6. Students who have received intensive remediation in reading for 2 or more years but still demonstrate a deficiency in reading and who were previously retained in kindergarten, grade 1, grade 2, or grade 3 for a total of 2 years. Intensive reading instruction for students so promoted must include an altered instructional day that includes specialized diagnostic information and specific reading strategies for each student. The district school board shall assist schools and teachers to implement reading strategies that research has shown to be successful in improving reading among low-performing readers.”

## Appendix C: Notable 2012 Policy Changes

- [Iowa](#) created a new section in their Early Childhood Literacy statutes to require school districts to assess all students in K-3 for reading or reading readiness, and provide intensive reading instruction to any student who exhibits a substantial deficiency. S.F. 2284 also requires that students must be retained in 3<sup>rd</sup> grade if their reading deficiencies are not remedied unless they attend an intensive summer reading institute.
- [Connecticut](#)'s S.B. 458 requires all certified teachers and administrators working in K-3 to take a state board-approved reading instruction practice exam, and teachers with a comprehensive special education or remedial reading and language arts endorsement to pass the exam starting July 1, 2013. Connecticut will also establish a professional development program in reading instruction and identify mentor teachers who will train teachers in reading instruction.
- [Colorado](#) added a number of provisions related to reading, including one requiring a student's parent, teacher and other school personnel to meet to decide whether a student should advance to 4th grade despite having a significant reading deficiency. [Arizona](#) now requires that a student's parent or guardian choose a remediation strategy for their child if he/she is deficient in reading.
- [Oklahoma](#) revised its 3rd-grade reading retention policy to allow principals to promote students with reading deficiencies to 4th grade based on alternative assessments or a portfolio of student work. Conversely, [Arizona](#) removed a similar provision from its statutes, such that a 3rd-grade student may no longer be exempt from retention on the basis of an alternative assessment, having been previously retained twice in grade or a parental request for exemption.
- Other notable changes to current reading statutes were passed in [Florida](#), [Kentucky](#), [North Carolina](#), [Ohio](#), [Tennessee](#), [Virginia](#), [Washington, D.C.](#), [Wisconsin](#), and [Wyoming](#).

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