

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: SB 382aa

51st Legislature, 1st Session, 2013

Tracking Number: .191208.3

Short Title: Excused School Absences for Pregnancy

Sponsor(s): Senator Linda M. Lopez and Representative Rick Miera, and Others

Analyst: Travis Dulany

Date: March 6, 2013

AS AMENDED

The Senate Education Committee amendment:

- **strikes the Senate Public Affairs Committee amendment;**
- **adds language to require that school district policies provide:**
 - *at least 10 days of excused absences for a student who provides documentation of the birth of the student's child; and*
 - *excused absences for any additional days missed by a pregnant or parenting student for which a longer period of absence is deemed medically necessary by the student's physician (see "Original Substantive Issues"); and*
- **clarifies that the four days of excused absences for a student who provides appropriate documentation of pregnancy or that the student is the parent of a child under the age of 13 needing care are allowed *per semester* (see "Original Technical Issues").**

The Senate Public Affairs Committee amendment inserts language to specify that the four days of excused absences for a student who provides appropriate documentation of pregnancy or that the student is the parent of a child under the age of 13 needing care are granted *in addition to the number of allowed absences for all students.*

Original Bill Summary:

SB 382 requires each school district and charter school to maintain an attendance policy that provides:

- ten days of excused absences for a student who provides documentation of the birth of the student's child;
- four days of excused absences for a student who provides appropriate documentation of pregnancy or that the student is the parent of a child under the age of 13 who needs care; and
- the student a time period to make up work equal to the number of days the student was absent from school.

The bill states that the pregnant or parenting student is responsible for communicating the student's pregnancy or parenting status to appropriate school personnel if the student chooses to disclose the information.

Finally, SB 382 requires the school district or charter school to provide a copy of the pregnant or parenting student absence policies to all students in middle, junior high, and high schools.

Original Fiscal Impact:

SB 382 makes no appropriation.

Original Substantive Issues:

Two other sections of the *Compulsory School Attendance Law* address excused absences for two different purposes:

- no student shall be absent from school for school-sponsored interscholastic extracurricular activities in excess of 15 days per semester, provided that the student has at least a 2.0 GPA; additionally, the Secretary of Public Education may issue a wavier relating to the number of absences for participation in any state or national competition; and
- if approved by the school principal, a student may be excused from school to participate in religious instruction for no more than one class period each school day.

The Public Education Department (PED) reports that SB 382 conflicts with federal Title IX provisions¹ which state that:

- recipients of federal funding are required to treat pregnancy, childbirth, false pregnancy, termination of pregnancy, and recovery in the same manner and under the same policies as any other temporary disability; and
- in the case of (1) a recipient of federal funds that does not maintain a leave policy for its students, or (2) a student who does not otherwise qualify for leave under a district's policy, the conditions noted above are to be treated as justification for a leave of absence for a period of time deemed medically necessary by the student's physician.

However, a comparison of Title IX and SB 382 by Legislative Education Study Committee (LESC) staff indicates that the two may be applied and implemented in concert with each other. Because Title IX provides for leaves of absence for students for a period of time determined by the student's physician, and because SB 382 provides 10 days of excused absences without requiring the student's physician to deem the absence medically necessary, the bill could be read as providing a minimum of 10 days of excused absences for students who provide documentation for the birth of the student's child. Any additional days beyond the 10 days established in SB 382 would need to be deemed medically necessary by the student's physician pursuant to Title IX.

Original Technical Issues:

Page 2, lines 8 through 13 provide for four days of excused absences for students who provide documentation of pregnancy or that the student is the parent of a child under the age of 13

¹ 34 CFR § 106.40

needing care. The bill's sponsor may wish to clarify whether these four absences are allowed per semester or per academic school year.

Background:

During the 2012 interim, the LESC heard testimony from Ms. Sally Kosnick, Executive Director, New Mexico Graduation, Reality, and Dual-role Skills (GRADS) instructional program; and Ms. Jinx Baskerville, Principal, New Futures School, Albuquerque Public Schools (APS), for a report on the educational barriers facing pregnant teens.

To provide the committee with some related background, Ms. Kosnick referred to a 2010 Child Trends report, *Diploma Attainment among Teen Mothers*, which found that among those surveyed:

- young women who had been teen mothers were 38 percent less likely than other young women to earn a high school diploma by age 22;
- teens who gave birth before the age of 18 were 22 percent less likely to receive a high school diploma than teens who gave birth after their 18th birthday;
- teens who gave birth before the age of 18 were 16 percent less likely to earn either a high school diploma or a general educational development (GED) certificate than teens who gave birth after their 18th birthday;
- Hispanic teen parents were less likely to receive a high school diploma or GED than Caucasian and African-American teen parents; and
- only one-half of women in the study sample who had been teen mothers had earned a high school diploma by the age of 22, compared with 89 percent of young women in the study sample who had not given birth as a teen.

Referring to a committee handout, Ms. Kosnick reported that for school year 2011-2012, the GRADS program reached 613 teen parents, among who had:

- a 79 percent graduation rate compared to a 40 percent graduation rate for teen parents nationwide;
- a repeat pregnancy rate of 3.5 percent compared to 19 percent and 20 percent repeat pregnancy rates nationally and statewide, respectively; and
- an occurrence of low birth weight babies for 2.4 percent of GRADS students compared to 8.2 percent and 8.3 percent of teen parents having low birth weight babies nationally and statewide, respectively.

She also noted that, in school year 2011-2012, the program actively recruited 140 dropouts back to school, which generated \$503,841 for school districts. She added that the GRADS program has worked with over 14,500 teens since it began in 1989.

Ms. Baskerville reported that she started teaching at New Futures School in 1999 and has been the principal for the last five years. Noting that the school started in 1970, Ms. Baskerville informed the committee that students used to stay until the end of the semester, then received home schooling after giving birth. She also explained that there was a high dropout rate among the students due to the lack of on-site child-care, which led to attendance problems.

Before New Futures School established a school building in 1988, Ms. Baskerville stated, students either withdrew or dropped out of school as a result of their pregnancy. With a facility,

she said, the school now provides daycare that allows parents to interact with their children in a safe, caring environment. According to Ms. Baskerville, the school has 19 National Board Certified teachers on staff, most of whom hold a Level 3 teaching license; there is low turnover among the faculty. She also reported that the school has 200 students, including four males who are parenting fathers, and 120 infants and children.

Regarding attendance, Ms. Baskerville referred to the current APS policy that allows for nine absences in nine weeks; however, students need to take time off when their child is sick and often miss class in order to be responsible parents, she said. At New Futures School, according to Ms. Baskerville, students are given a two-week maternity leave for births and allowed additional time to catch up on their work.

To conclude, Ms. Kosnick briefed the committee on the scope of the problem, noting that 29 percent of girls in New Mexico become teen mothers, and they have a 51 percent overall graduation rate, with a 34 percent rate for Hispanic mothers. She then discussed the following recommendations:

- require schools and school districts to allow absences of up to 14 days per semester for pregnant and parenting teens;
- require schools and school districts to allow up to 10 days of maternity leave for students who provide documentation of the birth of their child;
- require teachers to provide make up work and missed testing for students who missed school due to their pregnancy and/or parenting responsibilities;
- allow students an equal number of days to make up work as they were absent or on leave from school;
- require schools to distribute absence and leave policies to all students, including pregnant and parenting teens; and
- require schools and school districts to offer training for teachers and administrators on the rights of pregnant and parenting teens to receive a quality education.

Committee Referrals:

SPAC/SEC/HEC/HCPAC

Related Bills:

HB 300a *School Excused Absences for Pregnancy* (Identical)