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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
54th Legislature, 1st Session, 2019

Bill Number	<u>HB121</u>	Sponsor	<u>Roybal Caballero</u>
Tracking Number	<u>.211758.1</u>	Committee Referrals	<u>HHHC/HEC; SEC/SFC</u>
Short Title	<u>Social Services as Basic Sufficient Education</u>		
Analyst	<u>Force</u>	Original Date	<u>1/28/19</u>
		Last Updated	<u>3/5/19</u>

BILL SUMMARY

Synopsis of Bill

House Bill 121 (HB121) would require local school districts and charter schools to develop annual plans for the provision of culturally and linguistically relevant social services, such as nursing, school counseling, and behavioral health services to their student populations. The Public Education Department (PED), in consultation with school districts, schools, and tribes, would be required to promulgate rules on nursing, school counseling, and behavioral health services, as well as develop a monitoring process to review the implementation of their service plans, which must be submitted to PED annually.

PED would be required to provide technical assistance in the development of their annual plans, and would have to incorporate an estimated cost to provide the social services required by the bill, to be included in its annual budget request. PED would also be required to “have staff with expertise” in the social and emotional health of students, and in the mitigation of extra-school factors to ensure college and career-readiness.

School districts’ and charter schools’ annual plans are to include a description of the social services needed to alleviate students’ health and social challenges; a description of the cultural and linguistic relevance to the student population; an estimated cost for the provision of required services; a description of how school districts and schools partner with community groups and leverage local resources to help provide the required services; and a description of the challenges found to the provision of services.

FISCAL IMPACT

HB121 does not contain an appropriation.

PED notes an unquantifiable impact on the department, indicating it would need to develop and promulgate rules and establish processes for the submission, review and monitoring of annual social service plans. PED also suggests it may have to employ additional FTE with expertise in the social and emotional health of students who would review and monitor the approximately 140

annual social services plans. HB121 would also impact local school districts and charter schools, possibly requiring additional FTE for the development and submission of the social services plans, and potentially additional personnel, including nurses, social workers, and counselors to implement the plan. Because the bill contains no appropriations, it may be an unfunded mandate to PED and school districts and charter schools. However, both the executive and Legislative Finance Committee (LFC) public school support recommendations include approximately \$113 million dollars resulting from an increase of the at-risk index, from 0.13 to 0.25, which may be used to support the provision of the bill. Additionally, the LFC recommendation includes \$1.5 million for school-based health centers.

SUBSTANTIVE ISSUES

Subsection (B) of Section 1 of HB121 states, “Nursing, school counseling, and behavioral health services are part of a basic sufficient education.” The inclusion of this language may create a duty and obligation to fulfill the statement as part of a sufficient education under the New Mexico Constitution. In her Decision and Order for the *Martinez* and *Yazzie* consolidated lawsuit, Judge Singleton relied on similar statements of legislative purpose, finding that such statements created an actionable obligation; the more direct language in Subsection (B) similarly would be found to create an additional legal obligation that may arise in future hearings on the progress of the lawsuit, requiring further action on the part of the Legislature.

Judge Singleton’s Decision and Order in the consolidated *Martinez* and *Yazzie* lawsuit requires the Legislature and the executive to take steps to ensure New Mexico schools have the resources necessary to give at-risk students – English learners, students with disabilities, Native American students and low-income students – the opportunity to obtain a uniform and sufficient education that prepares them to enter a postsecondary institution or to enter the workforce. At-risk students, who are more likely to experience adverse childhood experiences (ACEs) comprise approximately 70 percent of students in kindergarten through 12th grade in the state. Some examples of ACEs are parental divorce or separation; residence with someone with an alcohol or drug problem or is mentally ill or suicidal; witnessing domestic violence; physical, emotional, or sexual abuse or neglect; and incarcerated parents.

A recent report from Child Trends, a nonprofit research organization focused on improving the lives of children, youth, and families found, in 2016, 18 percent of children from birth to 17 years old in New Mexico experienced three or more ACEs, compared with the national rate of 11 percent. According to America’s Health Rankings, approximately 28 percent of children in New Mexico experienced two or more ACEs in 2018, compared with the national rate of 22 percent. Further, a 2012 study on ACEs among students in Spokane, Washington found the percentage of students with academic problems correlated to the number of ACEs experienced: For students with no known ACEs, 34 percent experienced academic problems; 54 percent of students who experienced one ACE experienced problems; for students with 2 ACEs, 71 percent reported academic problems; and for students with three or more, the percentage of students with academic issues rose to 80 percent.

The National Association of Nurses recommends a nurse to student ratio of 1:750, although for students needing daily services, that ratio is reduced to 1:225. In FY17, New Mexico had 438 licensed school nurses, 32 licensed practical nurses, and 303 healthcare assistants for approximately 335 thousand students. The American School Counselor Association recommends a 1:250 counselor to student ratio. In FY17, in New Mexico, there were 3 counseling coordinators,

109 school psychologists, 352 social workers, 7 special education social workers, and 114 general education social workers serving the same 335 thousand students.

PED notes several current department rules support the provisions of HB121, including 6.29.1.11, Program Requirements, which requires school districts and charter schools provide health and physical education, health services, and school counseling. Additional programming addressed in the rule may include nutrition, wellness, family-school-community partnerships, healthy environments, and psychological services. HB121 also requires the annual service plans include a description of the challenges schools experience in providing the required social services to students. It is unclear how these challenges are to be addressed after they are reported to PED. Further, the bill is silent as to consequences of noncompliance with requirements.

The Indian Affairs Department notes that consultation with Native American local collaboratives should be included in development of services programming and rulemaking requirements.

ADMINISTRATIVE IMPLICATIONS

PED notes extensive administrative implications for the department, including rulemaking, and the development of processes for the submission and monitoring of annual plans. Further, personnel of various expertise would be needed on a continual basis for the review and monitoring of annual service plans.

TECHNICAL ISSUES

HB121 requires PED to promulgate rules for nursing services. As noted by the Nursing Board, this directive may conflict with rules promulgated by the board pursuant to the Nursing Practice Act.

RELATED BILLS

SB31, Social Workers in All High-Poverty High Schools, would require schools with 85 percent or more students eligible for free or reduced-fee meals to employ a licensed social worker for each school year, to be phased in over a three-year period.

SOURCES OF INFORMATION

- LESC Files
- Public Education Department (PED)
- Indian Affairs Department (DIA)
- Nursing Board
- Human Services Department (HSD)
- Department of Health (DOH)

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