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## FISCAL IMPACT REPORT

SPONSOR Lopez ORIGINAL DATE 2/17/19  
 LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE School Treatment of Students with Disability SB 467

ANALYST Chilton

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		Uncertain	Uncertain	Uncertain	Recurring	General Fund and multiple additional funds

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

- Public Education Department (PED)
- Children, Youth and Families Department (CYFD)
- Department of Health (DOH)
- Human Services Department (HSD)
- Department of Public Safety (DPS)

### SUMMARY

#### Synopsis of Bill

Senate Bill 467 addresses adding protections for public school students accused of violating school rules, especially where they may have backgrounds that have caused their failures to comply with those rules or made them more likely. Examples of the types of background problems that would be taken into account are developmental disabilities and adverse childhood experiences. The proposed law, Michael’s Law, is named for an Albuquerque child with developmental disabilities whose breaking of a school rule led to conflict between his parents and school authorities.

The legislation would limit the use of restraint and seclusion, would mandate help for these children and a plan of protection for them. It does so by adopting a new section to the Public School Code and amending a section of the Children’s Mental Health and Developmental Disabilities Act.

Provisions of the law are outlined in the table under Significant Issues below.

### FISCAL IMPLICATIONS

There is no appropriation.

As pointed out by HSD, “as the bill does not carry an appropriation, there could be significant fiscal impact on agencies that are responsible for the comprehensive training that would be involved. Unless these efforts are tied to federal grants, the fiscal impact may not be able to be absorbed by the affected agencies.”

CYFD makes the following points regarding the fiscal impact of the bill, which are difficult to predict:

Although the purpose of the bill is to reduce delinquency and referrals and also provide protection of student in need of accommodations, if it is determined that the behavior was a direct manifestation of the student’s adverse childhood, mental health, need for accommodations or the child is under the age of thirteen, there is no appropriation to cover the required screenings and assessments. There is also no appropriation to cover their concomitant licensing, training, and certification to make these determinations; and although the bill further states that if a child is 13 or under, they cannot be referred to the Juvenile Justice Services, there is no indication within the bill of where the resources will come from once a student is determined to be “in need of accommodations” and falls into this latter age group.

On the one hand, the bill’s requirements that the school delay referral to CYFD/Juvenile Justice, or outright not refer a child, may decrease the number of referrals to CYFD/JJS; while conversely the requirement that schools engage with CYFD/JJS to develop a prevention plan of action for a student could increase the CYFD/JJS caseload.

### SIGNIFICANT ISSUES

Section of SB 467	Provisions
1	Naming the law, “Michael’s Law”
2	Definitions. Important among them: <ul style="list-style-type: none"><li>• Adverse childhood experiences (ACEs): such negative events as child abuse or neglect, loss of a parent to divorce, incarceration, drug abuse or mental illness, poverty, homelessness that result in short- and long-term ill effects.</li><li>• Aversive interventions: acts or procedures carried out against a student breaking rules that cause pain or humiliation</li><li>• Crisis team: groups of persons who intervene in positive ways with students needing help, needing methods to prevent further problems or interventions when there are problems.</li><li>• Developmental disability: defined narrowly as a condition beginning in childhood and resulting in inability to normally perform three or more of such functions as reading, communication, learning, moving, and/or being able to operate independently.</li></ul>

	<ul style="list-style-type: none"> <li>• Present danger: imminent bodily harm to the subject or another person</li> <li>• Seclusion: placing the person in a room away from the usual location in which he/she would be, and where he/she would be prevented from leaving. Does not include time out (where a child can leave when she/he feels ready).</li> <li>• Student in need of accommodation: a child exhibiting a pattern of at-risk behaviors, has had two or more adverse childhood experiences, has a disability, or has been referred multiple times for discipline.</li> <li>• Supports screening: an assessment of a student to determine if he/she is a student in need of accommodation as indicated above.</li> </ul>
3	<p>Provides for a “school supports plan” for students in need of accommodation to be approved by a parent and the school principal, to include:</p> <ul style="list-style-type: none"> <li>• Training of local law enforcement regarding the child’s needs;</li> <li>• Restricting use of seclusion and restraint to a minimum;</li> <li>• Interaction and communication with the student;</li> <li>• Recognition of the factors that have led the student to need accommodation;</li> <li>• Finding local resources to help deal with the child’s problems and how to involve those resources (including crisis intervention teams and behavioral health providers);</li> <li>• Prevention of re-traumatization (Defined elsewhere as “A relapse into a state of trauma, triggered by some subsequent event.”); and</li> <li>• Protecting students from unlawful searches and seizure.</li> </ul>
4	<p>Regards providing preventive plans of action and establishing a plan to deal with future breaks in discipline. Requires that the student, a parent and the principal meet, along with an advocate for the child if a parent or student wants one present. Avoids juvenile justice referral unless the student may have committed a violent crime or put himself or another person in danger. Provides for use of a crisis intervention plan and a screening for ACEs, a strengths-based needs assessment, and a behavioral health screening, and trainings for school personnel and law enforcement in the use of resources and procedures to work with such students. Requires review of a child’s requirements for disciplinary action and discipline accorded him/her. Requires that teachers and parents have input into the plan and that confidentiality be maintained. Parents must be kept informed.</p> <p>Preventive plans of action are to include:</p> <ul style="list-style-type: none"> <li>• Reports on the evaluations indicated above;</li> <li>• Goal identification for the student;</li> <li>• Means of reaching the goals, including’             <ul style="list-style-type: none"> <li>○ Evidence-based modifications in the school environment;</li> <li>○ Daily schedule accommodations;</li> <li>○ In-home or in-community teaching for students In needed self-management skills;</li> <li>○ Positive reinforcement methods;</li> <li>○ Parent training and support;</li> <li>○ Establishing that student-to-teacher ratios are not contributing to the problems;</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>○ Use of communication modes or assistive technology that will enable the child to comply and to learn;</li> <li>○ Physical, occupational or speech therapy;</li> <li>○ Creative outlets;</li> <li>○ Helping a child to participate in school activities to the extent possible, avoiding stigma; and</li> <li>○ Training school personnel in implementing the plan and avoiding re-traumatization.</li> </ul> <p>Referrals made must have parental approval, and should not “unfairly burden the student’s family.” All services must be free to the student. Progress must be assessed at least every 30 days and modifications made as necessary. If a child is deemed to have reached his/her goals, a two-month transition off the plan is prescribed.</p> <p>Schools are to consult with the Juvenile Justice Division of CYFD in making the preventive plan, but the school remains responsible for it. However, children under age 14 are not to be referred to CYFD, and children with disabilities or seen as “in need of accommodation” and are only to be referred after a “manifestation determination hearing.” A parent is to be notified on the same day as a juvenile justice referral. Recourse to law enforcement is to be used as a “last resort.” Behavioral health personnel support is to be invoked early.</p>
5	<p>School boards must adopt rules limiting use of restraint and seclusion, especially in order to avoid re-traumatization.</p>
6	<p>The Children’s Mental Health and Developmental Disabilities Act (Section 32A-6A-24 NMSA 1978, which deals with disclosure of information) would be amended to allow the parent of a child 14 years or older to have access to information to enable him/her to be part of the process of developing the prescribed plans and to be informed of progress toward meeting the goals until the child is discharged from the plan.</p>

DOH indicates that it “operates Sequoyah Adolescent Treatment Center (SATC), which is both a school district and a treatment setting governed by the Children’s Mental Health and Developmental Disabilities Act. SATC has policies and procedures in place that outline the type of assessments a resident receives both prior to admission and throughout the resident’s treatment stay and include a resident’s personal, family, medical and social history, resident and family abuse of substances, and a resident’s history as a victim of physical abuse, sexual abuse, or neglect. These assessments are incorporated into the resident’s treatment planning at SATC, and the resident and the resident’s parent/legal guardian are involved throughout the treatment planning process. SATC also has policies and procedures in place outlining the appropriate use of physical restraint and seclusion in accordance with the Children’s Mental Health and Developmental Disabilities Act.” The procedure used may be instructive as school districts work to develop plans to comply with Michael’s Law.

HSD points out the possibility of duplication of reporting requirements: “Pursuant to Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973 and under the Department of Education Act (20 U.S.C. 3413) reporting requirements already exist through the Office of Civil Rights, specifically pertaining to students who are subjected to mechanical/physical/restraints and/or seclusion. Thus, a duplication of reporting efforts may occur.”

CYFD’s analysis indicates the following significant problems and concerns:

There is some ambiguity in the bill surrounding whether the requirements apply only to those students who meet the standard of a “student in need of accommodation.” There is a disconnection between the students referred to in Section 3A, which more clearly applies to students in need of accommodation, and Section 4A, which generally refers to students who committed a “first offense.”

Next, the requirement for a needs assessment to match those used in juvenile facilities will be an onerous requirement and the assessments for clients in a facility could disserve the students referenced in this bill, as they are unlikely to address many of these students’ issues. Input from CYFD/Protective Services, which would have more impact on this population, is not sought as part of the assessment process, as the focus is on students needing accommodation who are in the disciplinary process. Additionally, there is no mention of parental consent, which could pose constitutional issues; and the school is required to assess the student’s family and home. Finally, the bill requires that all documents pertaining to the child’s assessment, screening, and intervention held by the parents be turned over to the school: for children aged 14 and older, if these records include mental and behavioral health records, this mandate is in direct conflict with §32A-6A. Similarly, the bill requires that any evidence of CYFD/Protective Services involvement be included in the prevention plan of action, which, depending on who has access to this plan, may conflict with the confidentiality requirements of §32A-4-33.

Additionally, while section 4 (A) requires a delay in referrals to juvenile justice, it does not specify how long that delay should be. It also requires a determination of whether intervention could deter escalation or repetition of the offense, but does not specify who would make the determination.

This bill requires a student support plan be developed and implemented in order to prevent a student’s rights from being violated. Students who are disabled qualify for Individual Education Plans. It is not clear if the intention of the bill is to replace the IEP, or if the student support plan will be a supplement to it.

The bill also requires a crisis team, defined as a crisis intervention resource team, a mobile crisis team, an assertive community treatment team, or a team including a behavioral health provider and any school employee. The bill does not identify or define “any school employee.” This could then include an office assistant, a custodian, etc.

It is important to note that there are currently no mobile crisis teams for kids in New Mexico.

Seclusion and restraint are last resort techniques, and although used to control behavior, are not treatment. Getting all school personnel trained in a trauma informed de-escalation protocol is a positive step in the right direction.

This bill will require that clinical intervention trauma informed licensed clinicians, such as social workers, psychologists, and psychiatrists be involved, as teachers typically do not have the clinical training, education, or expertise to appropriately implement this in the classroom.

The intergenerational connections of adverse childhood experiences are better dealt with in family therapy and individual therapy.

PED's analysis suggests that reference be made to the departmental policy on seclusion and restraint, (See attachment 1). PED also makes numerous comments on individual words and phrases, decreased below in "Technical Issues," some suggesting significant issues with the bill and some suggesting amendments that might be considered.

## **PERFORMANCE IMPLICATIONS**

It is not clear from the bill which agency would be responsible for training law enforcement and school personnel in the procedures to be used, especially in the case of children in need of accommodation.

## **TECHNICAL ISSUES**

Training each law enforcement officer in the individual needs of each child in need of accommodation might be an overwhelming task, especially in large communities.

Section 4 does not specify how serious a deviation of school rules would be needed to trigger the actions required, such as a meeting among student, parent, and principal.

In section 4, schools are required to consult with CYFD's juvenile justice system on the preventive plans, but are not permitted (under Subsection L) to refer children under age 14 to CYFD. This appears to be a conflict between provisions, and the provision does not account for the possibility of severe or violent infractions by younger children.

Provision in Section 6 for informing parents about preventive plans and parental involvement appear not to take into account a parent's or parents' acts of omission or commission that may have contributed to the problems at hand. In the case of parental child abuse or neglect, how would the school team proceed?

DOH makes the following points:

SB467 would prohibit schools from referring a child 13 years of age or younger to the Juvenile Justice Division of the CYFD (p. 15, lines 2-4). This prohibition may cause confusion for schools when contacting law enforcement if a serious and/or violent crime is committed on the premises by a child 13 years of age or younger. Intervention by law enforcement and/or detention of a child triggers a referral to the juvenile justice system and CYFD.

The Children's Mental Health and Developmental Disabilities Act governs the manner in which physical restraint and seclusion may be used in a treatment setting, including but not limited to when and how physical seclusion and restraint may be used, who may apply physical restraints and seclusion, specific requirements for seclusion rooms, and required documentation, parental notification, debriefing, and revision of a child's treatment plan after physical restraint or seclusion have been applied.

Training required under the protocols of the bill would include “the rights of the student against unlawful search and seizure.” *See* page 8, lines 1-2. The sweeping intention of SB467 suggests that training regarding this specific constitutional right is inadequate.

There are a number of undefined terms within this proposed legislation, including “intellectual disability” (page 5, lines 15-16), “educational accommodation plan” (page 15, line 20), “manifestation determination hearing” (page 15, line 22), “promising practices” (page 16, line 9), and “at risk for referral” (page 21, line 21).

At page 14, paragraph J., lines 11-20, the bill states in part, “The student, the student’s parent and providers of services indicated on the student’s prevention plan of action **shall reach consensus** on whether the goals identified in a student’s prevention plan of action are reached . . .” (emphasis added) Requiring consensus and/or not defining what steps would be taken if consensus is not reached is problematic and would need to be addressed, at a minimum by administrative regulation.

DOH also points out that the bill uses “parent” instead of “parent or guardian,” and on one occasion (page 10, line 9) uses the term “parents” where it also should say “parent or guardian.” DOH also points out that the school principal, rather than the school board, should be responsible for determining when a child has committed an offense against rules.

PED’s extensive comments on the bill’s provisions, wording, phrasing and possible amendments are slightly edited for clarity and copied into attachment two. A brief summary of this document would include concerns about conflicts between Michael’s Law, the IEP process, and IDEA provisions; uncertainty as to payment for mandated procedures and services, assignment of tasks to schools that properly fall under other agencies such as CYFD or the courts, concern about prohibition on making referrals of children under age 14; perceived problems with definitions; and safety issues (as with time out procedures or violent, emergency situations). These concerns might well be taken into account if there is to be amendment or substitution of this bill.

LAC/al



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HANNA SKANDERA  
SECRETARY OF EDUCATION

SUSANA MARTINEZ  
GOVERNOR

May 24, 2017

**MEMORANDUM**

**TO:** Superintendents  
Charter School Administrators

**FROM:** Denise Koscielniak, Director of Federal Programs 

**RE:** Staff Use of Restraint and Seclusion Techniques with Students

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History/Background

During the 2017 Legislative Session, House Bill 75 was passed by the legislature and signed by Governor Martinez. The new law provides parameters on the use of restraint and seclusion techniques with students in New Mexico's public schools. A school may permit the use of restraint or seclusion on a student only if both of the following two (2) conditions apply:

1. The student's behavior presents an imminent danger of serious physical harm to the student or others (students, staff, visitors, substitute teachers, contractors, etc.); and
2. Less(er) restrictive intervention(s) appear insufficient to mitigate the imminent danger of serious physical harm.

This memorandum provides only the highlights of the new section of the public school code and you are encouraged to read the entire section. This law will go into effect on June 16<sup>th</sup>, 2017 and the Public Education Department will be promulgating rules in the near future. When the law goes into effect, it supersedes any previous state policies and guidance memorandums on the use of restraint and seclusion.

Development of Policies and Procedures

Each school is required to establish policies and procedures for the use of restraint and seclusion techniques and include them in the school-level safe schools plan as required under New Mexico Administrative Code (NMAC) 6.12.6.8(D), *School District Wellness Policy*.

The school-level safe school plan shall:

- Not include restraint and seclusion techniques that are specific to any individual student; and



- Be drafted by a planning team that includes at least one special education expert.

The restraint and seclusion policies shall consider school district support and strategies for school employees to successfully reintegrate a student who has been restrained or secluded back into the school or classroom environment.

### Staff Training

The restraint and seclusion techniques shall only be used and applied by school employees who are trained in the safe and effective use of restraint and seclusion unless an emergency situation does not allow sufficient time to summon those trained school employees.

### Types of Restraints and Procedures Required During the Restraint and Seclusion Process

The restraint technique applied shall not impede the student's ability to breathe or speak. This includes the use of prone restraint in which a student's chest, abdomen or stomach is placed on the floor, wall or another surface and force is applied to the student's back, legs, or head. The restraint technique shall not be out of proportion to the student's age or physical condition.

School employees shall maintain continuous visual observation and monitoring of the student while restraint or seclusion is in use. The restraint or seclusion technique must end when the student's behavior no longer presents an imminent danger of serious physical harm to the student or others.

### Reporting and Documentation

Schools are required to establish reporting and documentation procedures that must be followed when a restraint or seclusion technique has been used with a student. At a minimum, the procedures shall include the following:

- A school employee shall provide the student's parent or guardian with written or oral notice on the same day that the incident occurred, unless circumstances prevent same-day notification;
- If the school employee does not provide notice on the same day as the incident, notice must be provided within twenty four (24) hours of the restraint or seclusion; and
- A school employee shall provide the student's parent or guardian with written documentation that includes information about any persons, locations, or activities that may have triggered the behavior, if known. Written documentation must also include specific information about the behaviors and its precursors or antecedents, the type of restraint and seclusion used, and the duration of its use. This information must be provided to the student's parent or guardian within a reasonable time following the incident of restraint and seclusion.

All of these reporting and documentation provisions apply even if non-trained personnel use restraint and seclusion techniques. If law enforcement personnel are summoned in lieu of restraint and seclusion, the schools must comply with the reporting, documentation, and review procedures.

### Review of Procedures After Use of Restraint and Seclusion

Schools shall review strategies used to address a student's behavior if restraint or seclusion are used with individual students two (2) or more times during any thirty-calendar-day period. The review shall include:

- A review and analysis of the circumstances in which restraint or seclusion techniques were used. This should include the antecedents to the dangerous behavior, setting in which the behavior occurred, and people involved in the incident. The consequences of the behavior should be

reviewed. The purpose of this analysis is to determine how future incidents of restraint and seclusion may be avoided. In addition, a determination can be made if the student requires a Functional Behavioral Assessment (FBA). For additional technical assistance on FBAs see <http://ped.state.nm.us/RtI/dl10/Addressing%20Student%20Behavior%20Guide%202010.pdf>.

- A meeting of student's Individualized Education Program (IEP) team, Behavioral Intervention Plan (BIP) team, or Student Assistance Team (SAT) within two weeks of each use of restraint or seclusion after the second use within a thirty-calendar-day period to provide recommendations for avoiding future incidents requiring the use of restraint and seclusion.

For IEP technical assistance see

<http://ped.state.nm.us/ped/SEBdocuments/technical/IEP%20Manual%20October%202011.pdf>.

For SAT technical assistance see

[http://ped.state.nm.us/ped/RtIdocs/RtI%20Manual%20most%20updated%20\(2.15\).pdf](http://ped.state.nm.us/ped/RtIdocs/RtI%20Manual%20most%20updated%20(2.15).pdf).

Nothing in the Public School Code or this guidance memorandum precludes school staff from conducting reviews of student behaviors or convening the student's SAT, BIP team, or IEP team more frequently, if necessary.

The provisions of this section of the Public School Code do not apply to any school located within a county juvenile detention center or a state-operated juvenile facility. For definitions included in HB 75, see Section I of the bill.

If you have any questions about this memorandum or your school-level safe schools plan, please do not hesitate to call the Coordinated School Health and Wellness Bureau at (505) 827-1821 or visit <http://ped.state.nm.us/sfsb/index.html>. For technical assistance regarding students with disabilities, contact the Special Education Bureau at (505) 827-1457 or visit [http://ped.state.nm.us/ped/SEB\\_index.html](http://ped.state.nm.us/ped/SEB_index.html).

cc: Paul "Hipolito" Aguilar, Deputy Secretary, Finance and Operations  
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Deborah Dominguez-Clark, Director, Special Education Bureau  
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Guidance Counselors  
Special Education Directors and Coordinators

### Specific Comments from PED regarding SB 467

- Line 4 pg 2 Adverse childhood experience cannot be defined in this manner.
- Line 24 p. 2 p. 3 1-5 Aversive intervention These are abusive situations that are not allowed in schools.
- Lines 6-15 pg 8 All districts are required to have a crisis team. This is beyond the requirement and would not include an assertive community treatment team. There is no definition and schools do not oversee the community in that fashion.
- Lines 16-25 pg 3 and pg 4 lines 1-14 Developmental Disability definition does not align with the IDEA definition of Developmental Delay. IDEA definition is up to age 9 and the bill would categorize Developmental disability as long as it was manifested up until age 22. Development disability definition conflicts with the 13 categories of IDEA. The bill implies that receptive and expressive, learning, reading, communicating, and concentrating would fall under developmental disability. These currently fall under SLP and SLD in the IDEA. Developmental disability is not appropriate. There is no definition reference with developmental disability and it cannot be validated with her description. We have identified student who are developmentally delayed. Developmental delay means a child who is experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development; and who, by reason thereof, needs special education and related services. The eligibility category may be applicable for children aged three through nine (or any subset of that age range). (34 CFR Sec. 300.8(b))
- In New Mexico, developmental delay (DD) is called developmentally delayed and means a child aged 3 through 9 (or who will turn 3 at any time during the school year) with documented delays in development which are at least two standard deviations below the mean on a standardized test instrument or 30 percent below chronological age; and who, in the professional judgment of the IEP team and one or more qualified evaluators, needs special education and related services in at least one of the following areas: communication development, cognitive development, physical development, social or emotional development, or adaptive development. A child with a disability who only needs a related service, as defined under 34 CFR Sec. 300.34, and not special education as defined under 34 CFR Sec. 300.39(a)(2)(i), is not eligible under IDEA, and is not eligible to receive related services.
- Line 11 pg 4 This is an IEP decision
- Line 24 pg 4 Seclusion definition is not consistent with [sub-]section 5
- Lines 7-22 pg This is an IEP decision, there are many more [definitions of “students in need of accommodation] given or could be proposed.
- Lines 23-25 pg 5 The support screenings to determine the need for accommodations could conflict with the assessments given to students with an

IEP to determine the accommodations needed to succeed in the general education and special education classrooms.

- Screenings are not used to diagnose. Supports screenings are not assessments or evaluations; there is a conflict within the definition.
- Line 3 page 6 Time out allows a child to voluntarily leave the room, which could be a safety concern.
- Page 6 lines 8-21 A student support plan conflicts with the IDEA definition of an IEP, which is given to a student with a disability. The student support plan does not take into consideration a student's FBA and BIP.
- Line 12 page 6 IDEA is the protection for the students. We have a provision of procedural safeguards for our state.
- Line 22 page 6 The state doesn't have jurisdiction over law enforcement. Who would pay for that training? Local is not defined; would it be city, sheriff, etc.
- Page 7 lines 2 and 3 Please see [attachment] clarification for restrain and seclusion
- Page 7 lines 4-5 do not take into account current FBA or BIP in place. Local law enforcement doesn't have this access. There are FERPA and HIPAA laws and the writer assumes all students look the same in terms of disability.
- Page 7, lines 6-16 are all IEP team decisions
- Page 7, lines 17-25 This list is not all-inclusive. That is why the IEP team is critical to the student program
- Page 8 lines 1-2 Search and seize is already in place
- Page 8 lines 12- 18 This is not appropriate. A crisis situation requires immediate action. Weapon, drugs, serious bodily injury
- Page 8 lines 19-25 There is an obligation for mandated reporting
- Page 8 line 23 Screenings are not used to diagnose. The support screenings to determine the need for accommodations could conflict with the assessments given to students with an IEP to determine the accommodations needed to succeed in the general education and special education classrooms.
- Page 9, lines 1-22 Schools already have a safety plan. Schools do not interfere with law enforcement and assessments are not evaluations and diagnosis. Intentional infractions need to be measurable. Intentional infractions need to be defined and measurable.
- Lines 23-25 page 9 all records need to meet FERPA and HIPAA laws
- Page 10 lines 3-7 need defining
- Page 10 lines 8-14 wording is convoluted and not defined.
- Page 10 line 18 Home environment is not a formal assessment completed by schools
- Page 10 lines 21-25 The writer uses screenings and evaluations as interchangeable, which is confusing. The initial evaluations for eligibility [require] 60 days. Additional needs are part of the IEP team decision.
- Page 11 line 2 Thirty days are not defined. [?] The team would decide the timeframe needed.
- Page 11 lines 6 -25 [In] line 18, the [modification] of the daily schedule could conflict with IEP team driven decision for daily schedules. [In line] 20 [developing changes in the] home [setting] is outside the school obligation

and the program is for the student in the school. This is not measurable in all areas. Well-being cannot be defined. Support services are not defined.

- Page 12 line 4 parent training needs to be defined. This assumes parents will participate on school schedules. [Would the training be] evidence based?
- Page 12 lines 8-11 This is not [for] students [having an IEP] only. This implies any student would receive supports.
- Page 12 lines 16- 20 creative outlets [are] not defined [and are] too vague
- Page 12 lines 21-25 This [requires] a specific training and expertise, possibly [requiring] a licensee for [performing the needed trainings]. Adverse childhood experience needs to be defined.
- Page 13 lines 8-15 Referrals are made based on the situation that is occurring. There is not time to contact families while dialing 911. The family should be contacted immediately following a referral. [Family t]ransportation is a discussion for the IEP. This must be defined as needed services and location of where it takes place. This is confusing and overrides the ability to manage a school and programs.
- Page 13 lines 16-21 This is a conflict with IDEA
- Page 13 lines 22-25 and page 14 lines 1-6 This [assessment of effectiveness of services provided]. is not measurable. This conflicts with the IEP.
- Page 14 line 1 Every 30 days. This is an IEP team decision
- Page 14 lines 7-10 This [the prevention plan] crosses over boundaries of agencies. Parents do not have that authority.
- Page 14 lines 11-20 Conflicts with student's IEP in regards to services and transition planning. IEP team determines frequency.
- Page 14 lines 21-25 Each agency has their own policies. Juvenile justice is already a state supported school and adheres with rules and regulations.
- Page 15-lines 2-25 It is a school official's obligation to report a student to CYFD at any age if they suspect abuse or neglect, the following implies that only 13 year olds and above can be reported:
- Page 15 line 19 There is a current process for the manifestation determination and this leaves out not only critical steps [but also i]t depends on the offence and length of time. A manifestation doesn't determine the need of support from CYFD.
- Page 16 lines 4-14 Alternatives to seclusion are already part of the IEP. Please see NMPED memo regarding restraint and seclusion. Promising practices are not recognized. Evidence-based [practices] are recognized.
- Page 16 lines 18-25 The bill conflicts with the age of majority and transfer of rights.
- Page 17 lines 1-5 This is not just under 14. The definition parent should be more comprehensive [as it is] defined by IDEA. This limits the guardian ad litem or custody of and agency.
- Page 17 lines 17-22 This is not part of IDEA.
- Page 17 lines 23-25 This discusses disclosure without addressing HIPAA and FERPA.
- Page 18 lines 2-3 this limits treatment providers

- Page 18 lines 7-15 The criteria are based on guardianship, FERPA and HIPPA.
- Page 18 lines 16-25 We do not manage insurance. Through the IEP if a student is in need of a service, the school will provide that service or pay for it to be provided as part of the IEP team decision.
- Page 19 lines 1-25 We adhere to a court order; we don't drive court orders.
- Page 20 lines 1-25 There are currently Federal laws that regulate this confidential information (HIPAA and FERPA).
- Page 21 lines 1-12 are not regulated by schools.
- Page 21 line 16 Department is not defined [assumed to mean Public Education Department]
- Page 21 lines 20-25 Conflicts with IDEA and conflicts with transfer of rights and age of majority. You cannot give away your rights due to a mental health illness.
- Page 22 lines 1-5 Districts do not have this authority.