

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: HB 318a

52nd Legislature, 1st Session, 2015

Tracking Number: .199093.1

Short Title: Education Counselor Salary Eligibility

Sponsor(s): Representative Paul A. Pacheco and Others

Analyst: Ian Kleats

Date: March 14, 2015

AS AMENDED

The House Education Committee amendment:

- **addresses a noted technical issue by striking references to counselors in the level 3-A teacher salary schedule; and**
- **clarifies that the minimum salary requirements for counselors apply to counselors holding a level 3 or 3-A license, rather than the “highest-ranked counselor license.”**

Original Bill Summary:

HB 318 amends the *School Personnel Act* to extend eligibility for the Level 3-A licensure salary schedule to counselors.

Fiscal Impact:

HB 318 makes no appropriation.

Fiscal Issues:

According to the Public Education Department (PED) bill analysis, the impact of HB 318 on school district budgets will depend on the number of staff affected. PED also notes that counselors are on a separate salary structure in some school districts, and HB 318 would require districts to adjust these pay plans to integrate these minimums.

According to the PED Stat Book, during school year 2012-2013:

- the average salary for the nearly 981 full-time equivalent (FTE) guidance counselors and social workers statewide was \$49,796; and
- of the 89 school districts, 43 locally chartered charter schools, and 51 state-chartered charter schools:
 - 48 school districts, eight locally chartered charter schools, and 11 state-chartered charter schools paid an average annual salary higher than the statewide average;
 - 30 school districts, nine locally chartered charter schools, and 10 state-chartered charter schools paid an average annual salary less than the statewide average; and

- 11 school districts, 26 locally chartered charter schools, and 30 state-chartered charter schools did not employ any guidance counselors or social workers.

Because data in the PED Stat Book combine the salaries of guidance counselors and social workers, it is difficult to determine the average salary earned by full-time employed school counselors alone.

Technical Issues:

New language on page 2, lines 15 and 16, which appears to include *any* counselor in the salary schedule of level 3-A teachers, may conflict with the language on page 3, lines 3-7, which appears to require PED to promulgate rules only for counselors *who hold the highest-ranked counselor license*.

Although the new language offered by HB 318 comports with other references to counselors under sections pertaining to level 3-B licensure, sections of the *School Personnel Act* relating to instructional support providers refer more specifically to school counselors. Moreover, PED rule refers to several other classes of counselors, including:

- alcohol abuse counselors;
- drug abuse counselors; and
- alcohol and drug abuse counselors.

It is unclear whether the sponsor intends for all types of instructional support providers that bear the designation of counselor or for only school counselors to be covered by the bill's provisions.

Another issue is that school guidance counselors often work 10-month or longer contract periods, whereas HB 318 includes them with Level 3-A teachers on "a standard nine and one-half month contract."

Substantive Issues:

School counselors are considered instructional support providers in PED rule. In PED rule, there are three licensure levels for instructional support providers in grades Pre-K through 12 not covered in other rules (6.63.3 NMAC). These licensure levels are not tied to salary minimums:

- Level 1: three-year provisional licensure for those providers with fewer than three full school years of school experience in the service area of the license;
- Level 2: nine-year professional licensure for those providers with three to five full school years of school experience in the service area of the license; and
- Level 3: nine-year instructional support leader, for those providers with six or more full years of school experience in the service area of the license.

Unlike the three-tiered teacher licensure system in current law, the three licensure levels in PED rule for most instructional support providers, including school counselors, do not specify procedures for advancement from one level to the next.

Finally, if HB 318 is enacted, the definition of "teacher" in the *School Personnel Act* would have to be changed as well. In current law, only teachers hold Level 3-A licenses (see "Background," below).

Background:

Current Law

Counselors, as licensed school employees, may be placed on the certified personnel salary schedule at the discretion of the local school district. For the purpose of calculating the instructional staff training and experience (T&E) index, the *Public School Finance Act* includes these requirements:

- the number of instructional staff to be counted in calculating the T&E index is the actual number of full-time equivalent instructional staff on the October payroll;
- the number of years of experience to be used in calculating the T&E index is that number of years of experience allowed for salary increment purposes on the salary schedule of the school district; and
- the academic degree and additional credit hours to be used in calculating the T&E index are the degree and additional semester credit hours allowed for salary increment purposes on the salary schedule of the school district.

In the *Public School Code* there are four definitions that may have some bearing on counselors in terms of HB 318:

- **“instructional staff”** means the personnel assigned to the instructional program of the school district, excluding principals, substitute teachers, instructional aides, secretaries, and clerks;
- **“instructional support provider”** means a person who is employed to support the instructional program of a school district, including educational assistant, school counselor, social worker, school nurse, speech-language pathologist, psychologist, physical therapist, occupational therapist, recreational therapist, marriage and family therapist, interpreter for the deaf, and diagnostician;
- **“licensed school employee”** means teachers, school administrators, and instructional support providers; and
- **“teacher”** means a person who holds a level 1, 2, or 3-A license and whose primary duty is classroom instruction or the supervision, below the school principal level, of an instructional program or whose duties include curriculum development, peer intervention, peer coaching or mentoring, or serving as a resource teacher for other teachers.

The *School Personnel Act* requires PED to license instructional support providers who work in public schools. PED may provide a professional licensing framework in which licensees can advance in their careers through the demonstration of increased competencies and the undertaking of increased duties. Provisions also prescribe that:

- PED must promulgate rules for the requirements for licensure of types of instructional support providers;
- the provider must present satisfactory evidence to PED that the provider holds a current, unsuspended license in the profession for which the provider is applying to provide instructional support services;
- the instructional support provider must notify the school district and PED immediately if the provider’s professional license is suspended, revoked, or denied; and

- suspension, revocation, or denial of a professional license shall be just cause for discharge or termination, and suspension, revocation, or denial of the instructional support provider license.

PED Rule: Licensure Requirements for Instructional Support Providers

There are three pathways for obtaining licensure to be a school counselor, but they are not related to licensure levels (6.63.6 NMAC):

- Pathway 1: possess a bachelor's and master's degree, have a minimum of 36 to 42 semester hours in a school counselor program including a practicum in a school setting, and pass the Content Knowledge Assessment (CKA) in school counseling;
- Pathway 2: possess a Licensed Professional Mental Health Counselor (LPC) or Licensed Professional Clinical Mental Health Counselor (LPCC) license issued by the New Mexico Counseling & Therapy Practice Board, have six semester hours of graduate credit in school counseling, and pass the CKA in School Counseling; or
- Pathway 3: possess a certificate issued by the National Board for Certified Counselors and pass the CKA in school counseling.

Two additional competencies for school counselors are specified in this section of rule:

- the counselor will understand the cultural context of relationships, issues, and trends in a multicultural and diverse society related to such factors as culture, ethnicity, nationality, age, gender, sexual orientation, mental and physical characteristics, education, family values, religious and spiritual beliefs, and socioeconomic status, and unique characteristics of individuals, couples, families, ethnic groups, and communities; and
- the counselor will be able to use technology in the design, implementation, monitoring, and evaluation of a comprehensive school counseling program.

PED Rule: Performance Evaluation System Requirements for Counselors

PED rules specify the requirements for the performance evaluation system for school counselors in grades Pre-K through 12 (6.69.6 NMAC). There are six competencies as part of the evaluation criteria, without differentiation by licensure levels. In each case, the counselor will:

1. develop and implement a school-level guidance program focused on the physical, social, intellectual, emotional, and vocational growth of each student;
2. coordinate activities in the guidance and counseling program;
3. provide information and facilitate guidance activities for students, staff, and parents;
4. serve as a consultant to the school and community;
5. provide individual and group counseling; and
6. uphold the standards of the counseling profession.

Committee Referrals:

HRPAC/HEC/SEC

Related Bills:

None as of March 14, 2015.