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FISCAL IMPACT REPORT

SPONSOR Espinoza **ORIGINAL DATE** 2/19/15
LAST UPDATED 3/19/2015 **HB** 53/aHHC/aHF1#1
SHORT TITLE No Compelling Students To Use Some Drugs **SB** _____
ANALYST Chavez/Hartzler

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY14	FY15	FY16	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Minimal (See Fiscal Implications)	Minimal (See Fiscal Implications)	Minimal (See Fiscal Implications)		School District and Charter School OpBuds

(Parenthesis () Indicate Expenditure Decreases)

For the Legislative Health and Human Services Committee

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Finance and Administration (DFA)

Children, Youth and Families Department (CYFD)

Public Education Department (PED)

SUMMARY

Synopsis of House Floor Amendment

The House Amendment for House Bill 53 makes technical corrections to the bill, particularly moving the last section of the bill prior to the sections describing when a child may be taken into protective custody. The last section states a child shall not be taken into protective custody solely on the grounds of the child’s parent, guardian, or custodian refusal to allow the child be given psychotropic drugs.

Synopsis of House Health Committee Amendment

The House Health Committee Amendment for HB 53 strikes the definition of school personnel as used in the original bill, meaning an employee, agent, or volunteer of a school district or other

governing body of a public school, and replaces it with narrower definition of school personnel meaning school personnel that PED has licensed.

Synopsis of Original Bill

House Bill 53 enacts a new section of the Public School Code to prohibit school personnel from compelling students to use psychotropic medications. The bill also amends the Children’s Code to provide that a parent’s, guardians, or custodian’s refusal to consent to administration of a psychotropic medication of a child is not grounds per se for protective custody.

FISCAL IMPLICATIONS

This bill does not contain an appropriation, but requires school districts and charter schools to promulgate rules. There may be some administrative costs associated with this effort.

SIGNIFICANT ISSUES

This bill requires each local school board or governing body [of a charter school] to develop and promulgate policies that prohibit school personnel from denying any student access to programs or services because of refusal to place the student on psychotropic medications.

HB 53 also proposes that school personnel shall not require a student to undergo psychological screening without parent or guardian written consent prior to each instance of psychological screening.

The bill allows for school personnel to share classroom-based observations with a parent or guardian regarding academic, functional, and behavioral performance, the need for evaluation for special education or related services, as well as offer program options that are available to the parent or guardian and the student. However, under the provisions of the bill, school personnel or an agent of a school district or governing body shall not compel or attempt to compel any specific actions by the parent or guardian or require that a student take psychotropic medication.

In addition, this bill amends a section of the children’s code (Section 32A-4-6 NMSA 1978 (being Laws 1993, Chapter 77, Section 100, as amended)) to state that “a child shall not be taken into protective custody solely on the grounds that the child’s parent, guardian or custodian refuses to consent to the administration of a psychotropic medication to the child.”

OTHER SIGNIFICANT ISSUES

PED notes that language prohibiting school personnel from denying any student access to programs or services because of refusal to place the student on psychotropic medications may be problematic in regards to situations where refusal to administer psychotropic medications contributes to substantial behavioral issues. PED considers that there may be situations in which it is appropriate for the school to deny the student access to a specific activity or program where students whose parents have refused the administration of psychotropic medications but whose behavior may be deemed to substantially impair the education of other students in the program.

TECHNICAL ISSUES

For clarification, PED recommends “of a charter school” be added after “governing body” on page 1, line 24.

PED notes it is unclear what would determine the qualification of an individual “employee, agent or volunteer” as defined in the bill to “offer program options and other forms of assistance that are available to the parent or guardian and the student.” The legislation could be interpreted as allowing volunteers and unlicensed school personnel to suggest program options to parents in relation to their child. (See “Alternatives.”)

ALTERNATIVES

PED suggests replacing the definition of “school personnel” on page 3, lines 10 through 12 which currently reads “ school personnel means a person that is an employee, agent, or volunteer of a school district or other governing body of a public school” to “school personnel means individuals that are PED-licensed school personnel.” This issue was addressed in the HHC amendment.

KC/je