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

Bill Number	<u>HB152</u>	Sponsor	<u>Ruiloba</u>
Tracking Number	<u>.211242.1</u>	Committee Referrals	<u>HHHC/HEC</u>
Short Title	<u>Education for Children in Foster Care</u>		
Analyst	<u>Sena</u>	Original Date	<u>1/24/19</u>
		Last Updated	<u></u>

BILL SUMMARY

Synopsis of Bill

House Bill 152 (HB152) amends Section 22-13-33 NMSA 1978 of the Public School Code, adding a definition of “educational stability;” requiring that students in foster care remain in their school of origin, and requiring the Children, Youth, and Families Department (CYFD) to establish foster care points of contact in every county, distribute a list of points of contact, and provide training to points of contact from CYFD, school districts, charter schools, foster care caseworkers, foster parents, treatment foster care agencies, and residential treatment centers. The bill also details the roles of CYFD, school districts, and charter schools in a best interest determination of a student in foster care.

FISCAL IMPACT

The bill does not contain an appropriation. CYFD analysis indicates the department spent approximately \$395 thousand on transportation for foster children to attend their school of origin in FY18.

SUBSTANTIVE ISSUES

The federal Every Student Succeeds Act (ESSA) requires states to include foster students as a separate subgroup in their reports of academic achievement.

HB152 defines “educational stability” as “the assurance that a student in foster care remains in the student’s school of origin, including preschool, unless it is determined that remaining in the school of origin is not in the student’s best interest.” This definition mirrors, nearly verbatim, language already in Section 1111 of the federal ESSA. The bill adds preschool to the requirement.

CYFD analysis points out that removing “or guardians” from page 2, line 13 fails to recognize that students can be taken from parents or guardians when placed in foster care.

School of Origin. HB152 defines “school of origin” as “the school in which a student is enrolled at the time of placement in foster care. If a student’s foster care placement changes, the school of origin would then be considered the school in which the student is enrolled at the time of placement change.” The definition makes concessions for the possibility that a best interest determination removed a foster student from their initial school of origin, making it necessary to establish a new school of origin. The bill potentially minimizes the number of times a student moves schools.

The bill would require CYFD to consider school of origin as “one of the top priorities when placing school-aged children in foster care” and would make prioritization of school of origin part of licensure for traditional foster care, treatment foster care, and residential treatment centers. The bill would make discharging a student from care due to issues around school of origin grounds for license revocation.

CYFD analysis points out that because of limited funding to support transportation to students’ school of origin, it is not realistic to revoke foster care licenses.

Points of Contact. HB152 would require CYFD to designate points of contact for each county in New Mexico, although counties could share a single point of contact. A point of contact would be responsible for being the liaison between CYFD foster care caseworkers and school districts or charter schools; complying with state policies and developing policies in collaboration with school districts and charter schools for best interest determinations, transportation policies, and dispute resolution; convening or participating in best interest determination meetings; ensuring transportation to a student’s school of origin; and supporting communication between schools, CYFD, a student’s educational decision maker, caregiver, and support persons identified by the foster student.

The bill would also require CYFD to provide training to all points of contact, school districts, charter schools, foster care caseworkers, foster parents, treatment foster care agencies, and residential treatment centers on ensuring educational stability. Training would include following all requirements of relevant federal and state laws, transparency with foster families regarding educational requirements, and specialized training for CYFD staff on the policies and procedures of the best interest determination process.

CYFD analysis notes that requiring points of contact to convene or participate in best interest determination meetings may be overly burdensome, considering the position’s other responsibilities, and might require hiring more personnel in county offices.

Best Interest Determination Disputes. The bill would require CYFD and school districts or charter schools to collaborate in determining school placement and resolving any conflict concerning school placement. If CYFD and schools do not agree on school placement, the bill would require them to forward all documents considered in the best interest determination to the secretaries of the Public Education Department, CYFD, and local superintendents or charter school directors within five business days. The secretaries and local superintendent or charter school director would be required to meet within 48 hours or two workdays, whichever is later, of receiving the paperwork to make a final determination. If the secretaries and local superintendent or charter school director cannot make a final determination, the case would be referred to children’s court.

CYFD has policies in place that address placement disputes. Those policies do not involve cabinet secretaries, which agency analysis notes would be unreasonable considering the secretaries’ other duties.

ADMINISTRATIVE IMPLICATIONS

The bill would place substantial additional administration responsibilities on CYFD that, according to agency analysis, the department cannot absorb with existing resources.

OTHER SIGNIFICANT ISSUES

CYFD analysis indicates that federal law addresses the substantive issues in the bill and that compliance with federal law does not require changes to state law.

SOURCES OF INFORMATION

- Children, Youth, and Families Department (CYFD)
- Public Education Department (PED)

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