

LESC bill analyses are available on the New Mexico Legislature website (www.nmlegis.gov). Bill analyses are prepared by LESC staff for standing education committees of the New Mexico Legislature. LESC does not assume any responsibility for the accuracy of these reports if they are used for other purposes.

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

Bill Number	<u>SB331/aSJC</u>	Sponsor	<u>Lopez</u>
Tracking Number	<u>.212504.1</u>	Committee Referrals	<u>SEC/SJC; HEC/HSEIC</u>
Short Title	<u>Charter School Nepotism & Monitoring</u>		
Analyst	<u>Stiles</u>	Original Date	<u>1/31/19</u>
		Last Updated	<u>3/4/19</u>

BILL SUMMARY

Synopsis of SJC Amendment

Senate Judiciary Committee Amendment to SB331 (SB331/aSJC) would allow a chartering authority to sanction a governing body, which may include corrective actions and suspensions. The amendment also adds language which would require a charter school to identify who the immediate supervisor of record will be, in cases where the chartering authority is working with a charter school to alleviate or mitigate the effects of existing nepotism within the charter school. SB331/aSJC adds language requiring a governing body's compliance with federal and state laws in addition to the requirement the governing bodies are prohibited from violating policies and procedures in the charter. The amendment also strikes the requirement for a charter school application to include actions a chartering authority may take when a governing body fails to do its duty or fails to act in the best interest of a charter school.

Finally, SB331/aSJC removes language allowing a chartering authority to take over control and management of a charter school if it fails to meet requirements of the charter contract, law, or department rules or standards and instead adds language which would require a chartering authority to promptly notify a charter school of a perceived problem if the charter school's performance or legal compliance is unsatisfactory, and to provide a reasonable opportunity for the school to remedy the problem, unless the problem warrants revocation, in which case revocation procedures would be required to be followed. The amendment further allows every chartering authority to exercise sanctions short of revocation in response to deficiencies in charter school performance or legal compliance, which may include, if warranted, requiring a school to develop and execute a corrective action plan within a specified time. A chartering authority would be required to follow its own policy on suspension, revocation, or nonrenewal.

Synopsis of Original Bill

Senate Bill 331 (SB331) would clarify and expand the prohibition of nepotism in charter schools and charter school governing boards. The bill would also increase oversight rights and responsibilities of charter school authorities over governing bodies by requiring a chartering authority to supervise all charter schools, and allowing chartering authorities to take over the

control and management of a charter school if it fails to meet the requirements of a charter school contract, law, or department standards, suspending the governing body until the charter school is in compliance with the contract, law, or department standards.

FISCAL IMPACT

SB331/aSJC contains no appropriation.

SUBSTANTIVE ISSUES

SB331/aSJC adds language to the Charter Schools Act prohibiting the initial employment of an immediate family member of a charter school administrator, a member of the governing body, or a direct supervisor. SB331/aSJC further requires a charter school with existing employees who would be prohibited from employment under the provisions of SB331/aSJC, to notify the chartering authority of the relationship. The chartering authority would be required to work with the charter school to alleviate or mitigate the effects of the nepotism, including identifying who the supervisor of record will be. SB331/aSJC prevents a charter school's governing body from waiving this provision.

Several states have laws regarding nepotism or conflicts of interest in charter schools, though each state differs on what it defines as nepotism and what provisions are in place regarding nepotism. The National Alliance for Public Charter Schools' model law recommends charter school governing bodies adopt policies regarding the hiring of family members to avoid any nepotism in hiring and supervision; however, it does not address recommendations regarding governing bodies internally avoiding conflicts of interest.

SB331/aSJC would require a charter school authority to oversee charter school governing bodies, including the governing body's compliance with federal and state law, and to develop and maintain policies to monitor charter school bodies, to intervene when necessary, and to take action when the governing body is not operating within the law or is not carrying out its responsibilities in the best interests of the charter school.

SB331/aSJC would add a new section to 22-8B-10 NMSA 1978, which would require a chartering authority to supervise all charter schools and charter school officials under its jurisdiction, and to promptly notify a charter school of a perceived problem if the charter school's performance or legal compliance is unsatisfactory, and to provide a reasonable opportunity for the school to remedy the problem, unless the problem warrants revocation, in which case revocation procedures would be required to be followed. The amendment further allows every chartering authority to exercise sanctions short of revocation in response to deficiencies in charter school performance or legal compliance, which may include, if warranted, requiring a school to develop and execute a corrective action plan within a specified time. A chartering authority would be required to follow its own policy on suspension, revocation, or nonrenewal.

SB331/aSJC would require charter authorities to disclose how the chartering authority utilizes the withheld two percent of the school-generated program cost as provided in Section 22-8B-13 NMSA 1978.

ADMINISTRATIVE IMPLICATIONS

SB331/aSJC may require charter school authorizers to revise authorizing practices and policies to reflect updated nepotism laws. Chartering authorities may need to work with charter schools that have existing employees who are family members of a charter school administrator, a member of the governing body, or a direct supervisor of the employee to alleviate or mitigate the effects of nepotism.

OTHER SUBSTANTIVE ISSUES

Existing law defines “immediate family member” as spouse, father, father-in-law, mother, mother-in-law, son, son-in-law, daughter, daughter-in-law or any other relative who is financially supported. This definition excludes mention of a live-in-partner, possibly missing a group of people who may need to be included.

SOURCES OF INFORMATION

- LESC Files
- New Mexico Attorney General (AG)

AMS/mc/mhg