

1 A MEMORIAL

2 REQUESTING THE SECRETARY OF CHILDREN, YOUTH AND FAMILIES AND
3 THE SECRETARY OF PUBLIC EDUCATION TO CONVENE A TASK FORCE TO
4 REVIEW ISSUES RELATING TO SCHOOL STABILITY FOR SCHOOL-AGE
5 CHILDREN IN FOSTER CARE AND TO RECOMMEND STATUTES, POLICIES
6 AND PRACTICES TO ENSURE EDUCATIONAL STABILITY FOR STUDENTS IN
7 FOSTER CARE.

8
9 WHEREAS, children and youth in foster care represent one
10 of the most vulnerable student subgroups in this country; and

11 WHEREAS, of the approximately four hundred fifteen
12 thousand children in foster care in 2014, nearly two hundred
13 seventy thousand were in elementary and secondary schools,
14 and, at any given time, there are approximately two thousand
15 three hundred children in foster care in New Mexico, of which
16 eighty-six percent are school-age youth; and

17 WHEREAS, studies find that children in foster care are
18 much more likely than their peers to struggle academically
19 and fall behind in school; and

20 WHEREAS, students in foster care, at age seventeen, are
21 also less likely to graduate from high school, and children
22 in foster care score lower on assessments and show less
23 progress in scores over time compared to peers of similar
24 backgrounds who were not in foster care, according to a study
25 of foster youths; and

1 WHEREAS, educational stability means the assurance that
2 a student in foster care remains in the student's school of
3 origin, including preschool if the school district offers a
4 public preschool education, unless it is determined that
5 remaining in the school of origin is not in the student's
6 best interest; and

7 WHEREAS, "school of origin" means the school in which a
8 student is enrolled at the time of placement in foster care
9 and, if a student's foster care placement has changed, the
10 school of origin would then be considered the school in which
11 the student was enrolled at the time of the placement change;
12 and

13 WHEREAS, the United States department of education and
14 the United States department of health and human services
15 guidance on foster care provisions of the federal Elementary
16 and Secondary Education Act of 1965, as amended by the
17 federal Every Student Succeeds Act, states that the factors
18 relating to the child's best-interest determination may
19 include preferences of the child; preferences of the child's
20 parent or parents or education decision-makers; the child's
21 attachment to the school, including meaningful relationships
22 with staff or peers; placement of the child's siblings; the
23 influence of the school climate on the child, including
24 safety; the availability and quality of services in the
25 school to meet the child's educational and socio-emotional

1 needs; the child's history of school transfers and how school
2 transfers have impacted the child; and how the length of the
3 commute would impact the child, based on the child's
4 developmental stage; and

5 WHEREAS, the passage of the federal Fostering
6 Connections to Success and Increasing Adoptions Act of 2008
7 was a significant step toward supporting the importance of
8 school stability for children in foster care and requires
9 child welfare agencies to collaborate with educational
10 agencies to keep a child in foster care in the same school
11 when living placements change, if remaining in that school is
12 in the child's best interest; and

13 WHEREAS, if it is determined that it is not in the
14 child's best interest to stay in the child's school of
15 origin, collaboration is needed with educational agencies to
16 ensure that the child is immediately enrolled in a new school
17 even if the child's caregiver is unable to produce records
18 normally required for enrollment; and

19 WHEREAS, in December 2015, the United States congress
20 passed the Every Student Succeeds Act, which reauthorized the
21 Elementary and Secondary Education Act of 1965, instituting
22 new protections for children in foster care; and

23 WHEREAS, the provisions in the federal Every Student
24 Succeeds Act complement those in the federal Fostering
25 Connections to Success and Increasing Adoptions Act of 2008

1 and require state and local education agencies to work with
2 child welfare agencies to ensure the educational stability of
3 children in foster care, unless it is determined to be in the
4 children's best interest to change schools; and

5 WHEREAS, when making decisions regarding the educational
6 placement of students with disabilities under the federal
7 Individuals with Disabilities Education Act and Section 504
8 of the federal Rehabilitation Act of 1973, the school
9 district or charter school must ensure that all required
10 special educational and related services and supports are
11 provided in the least restrictive placement where the child's
12 unique needs, as described in the student's individual
13 educational plan, or Section 504 plan, can be met; and

14 WHEREAS, the foster care provisions of the federal Every
15 Student Succeeds Act emphasize the importance of
16 collaboration and joint decision-making between child welfare
17 agencies and educational agencies; and

18 WHEREAS, the provisions of the Fostering Connections to
19 Success and Increasing Adoptions Act of 2008 and the Every
20 Student Succeeds Act emphasize the importance of limiting
21 educational disruption by keeping a child who moves in foster
22 care, due to entering the foster care system or changing
23 placements, in the child's schools of origin, unless it is
24 determined to be in the child's best interest to change
25 schools; and

1 WHEREAS, the provisions of the federal Fostering
2 Connections to Success and Increasing Adoptions Act of 2008
3 and the federal Every Student Succeeds Act encourage the
4 establishment of a mechanism through which relevant parties,
5 such as the child, the child's family and the child's
6 immediate caregivers, whether a foster family or kinship
7 placement, can meaningfully participate in the best-interest
8 determination; and

9 WHEREAS, some children will need transportation to
10 remain in their schools of origin when it is in their best
11 interest, and to facilitate transportation for these
12 children, the children, youth and families department and the
13 school district or charter school must collaborate to develop
14 and implement clear written procedures governing how students
15 will be maintained in their schools of origin and how to
16 ensure that transportation for children in foster care is
17 arranged, provided and funded; and

18 WHEREAS, the cost of transportation should not be a
19 factor in determining the best interest of the child;

20 NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF
21 REPRESENTATIVES OF THE STATE OF NEW MEXICO that the secretary
22 of children, youth and families and the secretary of public
23 education be requested to convene a task force to study the
24 educational stability of students in foster care and to
25 review and make recommendations to the children, youth and

1 families department, the public education department, school
2 districts, charter schools, the legislative education study
3 committee and the legislative health and human services
4 committee for the creation of statutes, policies and
5 procedures to create standardization and consistency for
6 educational stability for students in foster care; and

7 BE IT FURTHER RESOLVED that the task force be requested
8 to:

9 A. review the requirements of the Fostering
10 Connections to Success and Increasing Adoptions Act of 2008
11 and the Every Student Succeeds Act pertaining to ensuring
12 educational stability for children in foster care;

13 B. make recommendations for consideration
14 concerning responsibilities for foster care points of contact
15 for the children, youth and families department, the public
16 education department, school districts and charter schools;

17 C. make recommendations for consideration
18 concerning the process for the children, youth and families
19 department and school districts or charter schools to ensure
20 that transportation for children in foster care is arranged,
21 provided and funded and to recommend solutions to ensure that
22 the cost of transportation is not a factor in determining the
23 best interest of the child;

24 D. make recommendations for considerations
25 concerning dispute resolution if the children, youth and

1 families department and the school district or charter school
2 do not agree on a best-interest determination decision or
3 transportation plan;

4 E. make recommendations for consideration
5 concerning the establishment of a mechanism through which
6 relevant parties, such as the student, the student's family,
7 the student's immediate caregivers, whether a foster family
8 or kinship placement, can meaningfully participate in the
9 best- interest determination; and

10 F. make recommendations for consideration
11 concerning transparency around educational stability for
12 students in foster care and training needs for traditional
13 foster care, treatment foster care, residential treatment
14 centers, school districts, foster care case workers and
15 others; and

16 BE IT FURTHER RESOLVED that the secretary of children,
17 youth and families and the secretary of public education be
18 requested to include the following participants in the task
19 force:

20 A. an employee of the public education department
21 with a special education background;

22 B. the foster care point of contact for the
23 children, youth and families department;

24 C. a children's court judge or designee;

25 D. an urban school district representative who is

1 a foster care point of contact;

2 E. a rural school district representative who is a
3 foster care point of contact;

4 F. a foster parent or designee;

5 G. a representative from the New Mexico coalition
6 for state charter schools; and

7 H. a representative of law enforcement within the
8 school community; and

9 BE IT FURTHER RESOLVED that findings and recommendations
10 of the task force be presented to the legislative education
11 study committee and the legislative health and human services
12 committee by December 1, 2019; and

13 BE IT FURTHER RESOLVED that copies of this memorial be
14 transmitted to the governor, the chair of the legislative
15 education study committee, the chair of the legislative health
16 and human services committee, the secretary of children, youth
17 and families, the secretary of public education and the chair
18 of the education committee of the children's court improvement
19 commission. _____

20

21

22

23

24

25