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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
54th Legislature, 2nd Session, 2020

Bill Number	<u>HB53</u>	Sponsor	<u>Roybal Caballero/Hochman-Vigil</u>
Tracking Number	<u>.215740.1</u>	Committee Referrals	<u>HRC</u>
Short Title	<u>Health SVCS As Part of Sufficient Education</u>		
Analyst	<u>Alexander</u>	Original Date	<u>1/31/2020</u>
		Last Updated	<u>2/7/2020</u>

BILL SUMMARY

Synopsis of Bill

House Bill 53 (HB53) would create a new section of the Public School Code to require nursing, school counseling, and behavioral health services as part of “basic sufficient education.” These services must be culturally and linguistically relevant to the student population.

HB53 would require school districts and charter schools to submit an annual plan to the Public Education Department (PED) by September 30 each year for the succeeding fiscal year, including:

- An overview of the nursing, school counseling, and behavioral health services needed to address the unique needs of that school district or charter school’s student population;
- A description of how these services will be culturally and linguistically relevant;
- The estimated cost of providing these services to the school district or charter school’s student population;
- An overview of how the school district or charter school will partner with and utilize local community partners; and input from community members.

The bill also creates a monitoring system in which PED makes available staff with expertise in the social and emotional health of students, provides technical assistance and annual plan development support to school districts and charter schools, monitors the implementation of funding for nursing, school counseling, and behavioral health services, reviews school district and charter school annual plans, and incorporates the estimated cost of these services into its annual budget request.

FISCAL IMPACT

HB53 does not include an appropriation.

The annual plan submitted by school districts and charter schools must include an estimated cost of providing nursing, school counseling, and behavioral health services to the student population, and requires PED to incorporate these estimated costs into its annual budget.

Meeting Staffing Needs and Addressing Provider Shortages. HB53 does not specify what staffing levels, student-to-provider ratios, or community partnerships will qualify as providing a basic sufficient education. However, PED analysis suggests that schools may need to hire additional personnel to adequately provide nursing, school counseling, and behavioral health services to students. This analysis aligns with the shortage of nurses, counselors, and behavioral health providers being reported statewide. According to 2019 analysis by the U.S. Health and Human Services Department, New Mexico faces significant social service and health care provider shortages, particularly in rural and frontier counties. The New Mexico Department of Health (DOH) "State of Health in New Mexico 2018" report similarly highlighted that 32 of the state's 33 counties have been designated as "primary care health professional shortage areas" by the U.S. Health Resources and Services Administration.

The cost of hiring additional health and social services staff could be significant. PED data from FY18 indicated a student-to-nurse ratio of 700:1, a student-to-counselor ratio of 428:1, and a student-to-social worker ratio of 916:1. PED analysis from FY19 estimates that achieving a 250:1 student-to-school counselor ratio, a national recommendation by the American School Counselor Association, could cost about \$35 million based on average FY18 salaries and benefits. However, utilizing nationally-supported ratios to estimate cost should be approached with caution, as many school districts in New Mexico serve fewer than 250 students. The sponsor may wish to consider setting service requirements relevant to New Mexico school districts and charter schools, whether these requirements be student-to-provider ratios, requiring at least one nurse, school counselor, and behavioral specialist per school, or other options that ensure students have reliable access to health services.

Potential Funding. The House Appropriations and Finance Committee Substitute for House Bills 2 and 3 (HB2/HAFCS) includes \$50.2 million to increase the at-risk index from 0.25 to 0.30, which could provide funding for additional nurses, school counselors, and behavioral health professionals. HB2/HAFCS also includes \$1.4 million for school-based health centers (SBHCs) and \$4 million to support community schools. Providing nurses, school counselors, and behavioral health professionals through SBHCs or community schools may also alleviate the potential staffing costs to school districts, charter schools, and PED.

Long-Term Financial Benefits. The long-term impact of HB53 on student well-being and the corresponding financial benefits should be considered. Analysis from the DOH suggests access to school-based mental health services reduces costly negative outcomes such as disciplinary incidents, delinquency, dropout, substance abuse, and involvement with the criminal justice system.

SUBSTANTIVE ISSUES

Martinez and Yazzie Lawsuit. HB53 would require nursing, school counseling, and behavioral health services to be "part of basic sufficient education." The inclusion of this language may create an obligation to fulfill the statement as part of a sufficient education under the New Mexico Constitution. In her decision in the *Martinez* and *Yazzie* consolidated lawsuit, Judge Singleton found similar statements of legislative purpose, finding that such statements created an actionable obligation. The language in Subsection (B) could be cited in future hearings on the progress of the lawsuit, requiring further action on the part of the Legislature, PED, and public schools. Failure to provide the services required by HB53 could result in continued litigation and associated legal costs.

Behavioral, Mental, and Physical Health Needs of New Mexico Students. Behavioral, mental, and physical health needs are a significant concern for New Mexico students, particularly the at-risk students identified by the *Martinez* and *Yazzie* lawsuit (English learners, students with disabilities, Native American students, and low-income students). The New Mexico Youth Risk and Resiliency Survey from 2017 reported increased rates of student sadness, hopelessness, and skipping school, with the highest rates occurring among at-risk youth. A report on the state of mental health in New Mexico published by DOH in 2018 found the percentage of youth ages 12-17 having at least one major depressive episode per year has increased steadily since 2013. According to America’s Health Rankings, approximately 28 percent of children in New Mexico reported experiencing two or more adverse childhood experiences (ACEs) in 2018, higher than the national rate of 22 percent. Research suggests that a history of ACEs can negatively impact student academic outcomes. A 2012 study from Washington found that for students with one reported ACE, 54 percent experienced academic problems; for students with two ACEs, 71 percent; and for students with three or more ACEs, 80 percent experienced academic problems.

Analysis from DOH, the National Association of Social Workers, and the American Counseling Association indicates that access to school-based mental health services is linked to students’ improved physical and psychological safety, academic performance, and social emotional learning. School counselors, social workers, and behavioral health professionals help students, families, and teachers address barriers to learning, including truancy, social withdrawal, aggressive behaviors, and the effects of physical, emotional, or economic problems. Greater support for nursing, school counseling, and behavioral health services may therefore help address the high level of New Mexico students with a history of ACEs and mental health challenges.

ADMINISTRATIVE IMPLICATIONS

HB53 requires the PED to promulgate rules on nursing, school counseling, and behavioral health services in alignment with state policies and standards, review school district and charter schools’ annual plans for providing these services, provide technical and annual plan development support, and monitor funding implementation. The bill states these responsibilities must be conducted in collaboration with school districts, charter schools, and tribes, here defined as an Indian nation, tribe, or pueblo located partly or wholly within New Mexico.

PED analysis notes the bill does not provide explicit consequences for school districts or charter schools that are unable to comply with the law.

OTHER SIGNIFICANT ISSUES

Existing Requirements. New Mexico Administrative Code currently outlines the nursing, school counseling, and behavioral health services proposed by HB53; NMAC 6.29.1.11 requires school districts and charter schools to provide “health education, physical education, health services, and school counseling.” Additional programming addressed in NMAC 6.29.1.11 may include “nutrition, staff wellness, family-school-community partnerships, healthy environment and psychological services.”

Defining Terms. HB53 outlines that nursing, school counseling, and behavioral health services are to be included in the definition of a “basic sufficient education.” Of these three services, only “behavioral health services” is clearly defined as “services from a licensed behavioral health professional, including social workers and psychologists.” The sponsor should also consider defining “nursing” and “school counseling” to ensure that school districts and charter schools

clearly understand which services they will be required to provide. For example, it may be worthwhile for a school district or charter school to know whether the requirement for providing nursing services can be met by a partnership with a local clinic, a SBHC, or a part-time nurse working across multiple districts.

RELATED BILLS

Relates to HB56, Behavioral Health Licensure Study, which appropriates \$200,000 for a study of the licensing of behavioral health-related professions. If behavioral health licensure is updated, this may impact which professionals school districts and charter schools recruit and hire.

Relates to HB65, School Based Health Clinics Funding, which appropriate \$2 million for the funding of existing and new SBHCs, including mobile clinic services.

Relates to SB54, Behavioral Health Community Integration Act, which provides community-based support services for adults and youth facing mental illness and emotional disturbance challenges.

SOURCES OF INFORMATION

- LESC Files
- Department of Health (DOH)
- Public Education Department (PED)
- Board of Nursing
- New Mexico Alliance for School-Based Health Care

CA/tb/mc/sgs