

CYFD Admin Hearings Bill - **SB395/HB284**

- This bill protects ALL stakeholders against known retaliation from CYFD including: the child, the court-appointed special advocate, the child's attorney, custodian, foster parent, guardian, guardian ad litem, youth attorney Indian tribe, parent, pre-adoptive parent, relative, fictive kin, mental health provider, school staff, or PSD worker.
- As of now, the NM Administrative Hearing process for CYFD is broke. For example, when a foster parent's license is revoked or suspended, a child is removed from foster care, there is a dispute over reimbursement, a dispute over a placement move, a ruling, or any allegation that a CYFD action conflicts with law, policy or rule, that dispute is resolved by a CYFD hearing officer, who is appointed by the CYFD secretary and makes a recommendation: to the same CYFD secretary.
- This internal CYFD administrative appeals process creates huge conflicts of interest, and creates the appearance of failures to provide due process, or any process at all. Regardless of whether the process is fair, it cannot be perceived as fair by the public when the hearing officer making the determination was appointed by the CYFD secretary, and when the ultimate arbiter of the alleged wrongful conduct by CYFD is the CYFD Secretary -- who also appointed the hearing officer making the recommendation.
- HB284 creates a simple and logical fix for this broken CYFD administrative hearing process; it moves the administrative hearings outside of CYFD to the "administrative hearing office," which is attached to the Department of Finance and Administration. Taking this process outside of CYFD takes away the appearance of conflicts of interest and inherent unfairness, and hopefully will make it a more fair process.
- HB284 puts in place provisions that hopefully will ensure a more fair process for those involved. It requires the hearing officer's determination to be set forth in detailed findings and conclusions, based on substantial evidence, and provides for procedural due process throughout the process, including the ability to subpoena witnesses and documents.

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