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July 9, 2015

GUIDANCE MEMORANDUM #15-12

TO: Clark County Superintendent Pat Skorkowsky

COPY: All School Districts and Charter Schools

FROM: Dale A.R. Erquiaga
Superintendent of Public Instruction

SUBJECT: Request for Guidance Following the 2015 Legislative Session – Senate Bill 92

On June 10, 2015, you submitted 19 letters requesting detailed guidance on a number of bills passed by the 78th Regular Session of the Nevada Legislature and signed by Governor Sandoval. This guidance memorandum addresses **Senate Bill 92** that contains provisions governing the designation and administration of turnaround schools, including the disposition of certain funding to support turnaround schools and provide incentives to recruit staff; the bill also makes various changes to the rules governing transfers of teachers and administrators. Your letter is attached and incorporated by reference.

This guidance is issued pursuant to the authority provided in NRS 385.175(5), directing the Superintendent of Public Instruction to enforce the observance of Title 34 of Nevada's statutes and all other statutes and regulations governing public education.

Senate Bill 92, Section 4.2

The national literature on school turnaround makes clear that the two most important factors in immediate and sustained improvement of student and school performance are teachers and the school leader. The intent of Section 4.2 is to remove barriers that would otherwise delay the installation of an appropriate school leader in a turnaround school and empower that school leader with the necessary authority to build a team to carry out the work. Section 4.2 of the bill centers on the critical task of selecting the right leader for a particular school designated as turnaround.

The legislation is clear that the board of trustees of a school district may review the performance of the principal at the designated turnaround school in order to determine to replace or retain the principal. The legislation does not provide explicit guidelines or criteria for a district to use in the evaluation of a principal's performance in order to arrive at a decision to retain or replace the principal. The law does provide for the Department to approve the selection of a new principal if the board of trustees decides to replace the principal. The Department will adopt regulations identifying

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the criteria used to approve the selection of a principal at a designated turnaround school. The regulations will likely center on the knowledge and dispositions necessary to turn around underperforming schools in addition to the results of formal evaluation(s). The Department anticipates holding a workshop to address the proposed regulations on August 27th. Should you have any suggestions, please feel free to write to this office or provide testimony.

Section 4.2 conveys significant authority and autonomy to the principal of a turnaround school. Just as the criteria used when reviewing performance of a principal is left to the board of trustees to carefully describe, the district/board of trustees is provided discretion in determining the criteria a principal will use when evaluating staff in order to make retention decisions. However, the law specifically mentions two general categories that must be addressed: performance and the needs of the school.

Senate Bill 92 provides for boards of trustees to offer incentives in order to motivate teachers, administrators, and paraprofessionals who work in classrooms or provide tutoring to pupils to apply for positions and continue employment at designated turnaround schools. The specific question asked in your letter (i.e., whether or not turnaround funds could pay for continuing education) is best addressed in the application to the Department for turnaround funding and subsequent funding determination by the Department. Such documents will come into play should the Department designate a school as a turnaround school.

A district may consider the program of performance pay and enhanced compensation (NRS 391.168) to be separate and distinct from Senate Bill 92. A district **may** decide to adopt a performance pay and enhanced compensation program that is applicable to all personnel, thereby assigning the 10% cap across the district. A district adopting such a policy would aggregate incentive(s)/enhanced compensation from all applicable sources (e.g., Victory, Zoom, Turnaround, Pay for Performance) to ensure it does not exceed the 10% cap. Alternatively, a district **may** determine the 10% cap applies only to personnel receiving an increase by way of the Pay for Performance program required by NRS 391.168. A district adopting such a policy would ensure that only those funds paid under that district's program plan does not exceed the 10% cap. These options are yours to choose. (For your reference, Guidance Memorandum #15-08 further addressed AB 483 and SB 511.)

Your questions related to Senate Bill 92, Section 20 are more properly addressed by local legal counsel because the State does not approve the plans developed by the superintendent of schools of a local school district (Section 20.6). Additionally, many provisions within Section 20 implicate sections of law within NRS 288, where the Department and State Board of Education do not have direct expressed authority. Please consult your legal counsel.

A handwritten signature in blue ink, appearing to read "Taleah Squiggs".

June 10, 2015

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Dale A.R. Erquiaga
Superintendent of Public Instruction
Nevada Department of Education
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Carson City, NV 89701

Pat Skorkowsky, Superintendent

Dear Mr. Erquiaga:

The Clark County School District is ready to implement the work the Department of Education was able to accomplish during this legislative session. At this time, we are requesting a guidance memo related to legislation recently passed and signed into law. As the state superintendent of instruction, you were instrumental in the passage of these new programs, and we seek your guidance as we implement the new requirements. Many of the newly passed bills become effective on July 1, 2015. This requires immediate action by school districts across the state, given the current date and unclear scope of work and expectations in each bill.

Senate Bill 92 – Turnaround Schools Questions

The bill outlines provisions governing the designation and administration of Turnaround Schools, provides for possible incentives to support hiring at the school, and changes the conditions and rules under which personnel are involuntarily transferred and reduced in force.

Turnaround Schools: Section 4.2

1. Subsection 1(a): Will the Board review the performance of the principal? On what will the performance review be based? (Evaluations? Assessment data? Graduation rate?)
2. Subsection 1(b)(1): Will the principal review the performance of each employee? On what will the performance review be based? (Evaluations? Classroom observations? Assessment data?) Does this include all employees; i.e., support staff?
3. Subsection 1(c)(2 and 3): Can there be flexible schedules that allow for professional development and/or pursuing other education? Can Turnaround Schools pay for this? (Example: A teacher works at a Turnaround School and makes a commitment to continue working in Turnaround Schools. Can some/all of his or her continuing education be paid for/supplemented as an incentive to continue working in Turnaround Schools?)

Incentive Allocation

1. With regard to the requirement to provide hiring and retention incentives in Turnaround Schools, how do these incentives interact with and/or overlap with provisions relative to SB511, and relative to AB 483? Specifically, may the incentive or performance amount paid to any one individual exceed the 10 percent cap noted in AB 483? For example, a teacher in Year 2 of the incentives paid through SB511 may be eligible for the second year of the hiring incentive, the first year of the pay for performance plan, as well as a Turnaround School incentive.

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Reassignment/"Mutual Consent": Section 20

1. What is the definition of "teacher" with regard to mutual consent? Does this apply to all licensed staff? Or does this apply only to teachers assigned to classrooms of students ("teacher of record")?
2. Section 20.4 provides for mutual consent hiring only for teachers and administrators evaluated as "ineffective" or "minimally effective" and does so exclusively from the provisions of any collective bargaining agreement. Is it accurate to assume that teachers evaluated as "effective" or "highly effective" would be involuntarily transferred according to the current bargaining provisions?
3. Section 20.4 refers to any teacher or administrator "who has received an evaluation..." There appears to be no time provision related to the evaluation.
 - a. Is it the most recent evaluation?
 - b. If the individual is probationary, is it the most recent observation if he/she has yet to receive an evaluation?
4. Section 20.4(a) indicates that the teacher may be assigned to "a school within the district." Would this include daily assignments to various schools as a substitute teacher, while the plan indicated in 20.6 is being implemented with the teacher?
5. Section 20.4 indicates that if the receiving administrator does not consent to receive the individual, the Board of Trustees may assign that individual to the school anyway. How are the provisions of 20.4, which prevent such reassignment to be interpreted relative to the provisions of 20.4(b), which allow such reassignment?
6. Section 20.6 refers to a plan for the assignment of such individuals, but does not specifically exclude development of the plan from collective bargaining. Is it the opinion of the NDE that the plan does not need to be bargained?

Since Senate Bill 92 has an effective date of July 1, 2015, a response to the questions above is requested by July 1, 2015, to ensure compliance in our fall licensed surplus process. Without this vital information and clarification of these questions, it will be extremely difficult to be ready for full implementation.

We appreciate your immediate attention to this request. Our team is ready and willing to meet with individuals or teams from the Department to work through these questions. I cannot overstate the sense of urgency that the diligent staff of the Clark County School District feels at this critical time.

Sincerely,



Pat Skorkowsky
Superintendent of Schools

"Every student in every classroom, without exceptions, without excuses"

cc: Clark County School District Board of Trustees
Elaine Wynn, president, Nevada State Board of Education
Members, Nevada State Board of Education
Nevada Association of School Superintendents