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## Nevada Department of Education Responses to Suggested Amendments made to R108-15

*Comments by Washoe County School District:*

**Section 6.** Repeated testimony in legislative hearings and the State Board of Education meeting has referenced “chronically” underperforming schools being selected, but the regulations only mention a singular year of data being used. “Most Recent Year”. We suggest this is changed to multiple years and multiple measures or perhaps the “three consecutive most recent years”. And given the difficulty in our testing data, is this even possible? It doesn’t say the most recent “available” year so what data will be used for the initial selection and would using the most recent data available be a violation of the regulation? It has been stated publically that district efforts to improve turnaround schools like the Acceleration Zone in Washoe County will be taken into consideration in the selection of schools, but there is no mention of it in the regulations. We request the addition of language that would acknowledge district efforts and take them into consideration when selecting schools.

**Section 6 has been amended to note “most recently available” statewide accountability system data.**

**Section 9 (2) has been added articulating the responsibility of the State Board to consider historical data in reviewing the proposed list of schools eligible for conversion in a given year.**

**Section 7.** At no point was this discussed or vetted during AB448. Either the schools are selected or they aren’t. There doesn’t seem to be explicitly authority for this section in AB448? It sounds like schools can negotiate their way out of the ASD by agreeing to another state led plan? This was not discussed during AB448 or at any other time. We request this section be deleted.

**This section remains in place as the mechanism by which district efforts, such as the Acceleration Zone, may be honored, if schools are continuing to perform.**

**Section 9.** We recommend language to address how the ASD will consult with districts as required by Section 20, subsection 3c of AB448.

**Section 9, subsection 3** should include notifying the board of trustees or the district of the schools selected either instead of or in addition to the schools. Since the schools are currently district school, the district would like the opportunity to be part of notifying the schools about this designation in order to manage the questions and concerns of district staff.

**Consultation with the school district or local precinct has been added in Sections 7(1) and new Section 9(4).**

**Section 10, Subsection 4.** Request the Executive Director SHALL obtain assistance from independent reviewers.

**Amended to say that the Executive Director *shall endeavor to obtain assistance, given resource constraints.***

**Section 11, Subsection 3.** Define in the best interest of the students in the state? We suggest adding language to ensure the expansion would serve children from other low performing schools?

**Amended to reference expansion to serve students in schools pursuant to Section 6 of the regulation.**

**Section 14.** To be consistent with our policy to add language that says \$15,000 AND has a useful life of at least one year.

**The language ” ...and has a useful life of at least one year” has been added.**

**Section 16, subsection 2.** We suggest language to allow for annual reviews by the Executive Director to ensure proper transparency of the progress being made. – covered in section 17.

**This is addressed in current Section 17 (1).**

**Section 17, subsection 1.** We suggest a definition of performance review and who is engaged in this process. And then what happens if the contract is terminated? Should that process be outlined in the regulations?

**This is addressed in current Section 18(4).**

The Washoe County School District also respectfully requests language be added to this regulation to address:

- The explicit requirement that ASD schools must address the needs of ALL students currently at the school including special education, English language learners, students in poverty, gifted students, high disciplinary need students and all students regardless of their necessary level of support.

**It is the belief of the Nevada Department of Education that this is addressed in Section 22(4) in AB448 and is reiterated in Section 12(2) of this regulation. It is the intention of both the Nevada Department of Education and the Nevada Achievement School District that all students, means all students, regardless of need.**

- The prohibition of any exclusion or removal process for a CMO that may exclude students from attendance of the ASD school.

**It is the belief of the Nevada Department of Education and the leadership of the Nevada Achievement School District that CMOs and individuals who enter into a Performance Compact to operate an Achievement School, must agree not to exclude**

**eligible students from attendance. This will be addressed directly in the Performance Compact and reviewed during the annual review as outlined in Section 17(2) of this regulation.**

- The process by which a CMO and the district enter into any requested and or necessary fee-for-services for items like nutrition services, transportation, special education, and any other services.

**A new section —18(5) -- has been added to address that either the Executive Director or the charter management organization or individual that operates an achievement charter school may identify services and fees for the services that may be provided by the school district in which the achievement charter school is located.**

*Comments by Dr. Jeffrey Geihs, Assistant Chief Student Achievement Officer: CCSD Turnaround Zone*

We recommend that the Department add language [in Section 6 of this regulation] to consider current District efforts and processes when determining eligibility for conversion to an achievement charter school. Suggested language would be: When it is determined that a school is eligible for conversion to an achievement charter school, the Department will allow Districts the first opportunity to make improvements through their District-led turnaround process and efforts. If there is not a District turnaround process, the District determines they are unable to support the school, or after a specified period of time (three school years of data) the school fails to make or maintain necessary improvements after District-led efforts, then the school will remain eligible for conversion to an achievement charter school.

**The Nevada Department of Education believes the state and districts should have as many tools as possible to help transform underperforming schools. It would therefore be unwise to limit the authority of the Nevada Achievement School District in this manner. Additionally, we believe setting an arbitrary timeline to allow for district led turnaround efforts is not in the best interests of students who otherwise could have been served by an Achievement Charter School but were unable to access that high quality option because the school they were zoned for was under district led conversion. It is the belief of the Nevada Department of Education that the opportunity to honor successful, local District processes is made available through Section 7 of this regulation.**

*Craig Stevens, Director of Intergovernmental Relations, Clark County School District*  
I will first start with section 6. A few questions we have regarding the language that we believe need some clarifying language.

Section 6(1)(b) -- what is a "downward trend?"

**Section 9 (2) has been added articulating the responsibility of the State Board to consider historical data in reviewing the proposed list of schools eligible for conversion in a given year.**

Section 6(1)(c) -- what is an "identified subgroup?"

**Subgroups here refer to all subgroups measured via the Nevada School Performance Framework. The glossary can be found here: [NSPF Glossary](#).**

Regarding section 6, part d. When AB448 was passed during the last legislative session the bill stated 5% of lowest performing elementary and middle schools shall qualify and high schools with a graduation rate of 60% or less. By expanding the list beyond these parameters to all 2-star schools and for any school that has a matriculation pattern that feeds into more than 1, 1-star school, CCSD believes the proposed regulation goes well beyond the legislative intent of AB448. We understand the bill allows for the Department to determine additional qualifications for a school to enter into the ASD, CCSD believes the regulation, as written is not treating the ASD as an **action of last resort** and asks the regulation to be re-written with just the parameters for the ASD, as set by the 2015 Legislature.

**The Nevada Department of Education has utilized its authority under AB448 to determine additional qualifications that shall deem a school eligible for conversion under the Nevada Achievement School District via Section 6 of this regulation.**

Next, we wish for you to reconsider how section 7 of the regulations is written. This section allows for the Nevada Department of Education to enter into an MOU directly with a school of their choice. Nowhere in the regulation does it mention working with and having agreement with the local school district in which the school resides. While schools in Clark County are moving to more autonomous precincts, the Board of Trustees continue to be the legal entity for agreements and contracts, and this includes school facilities as well. Beyond just legal action, without any coordination with the local school district, the Nevada Department of Education could negatively affect neighboring schools, as service and accountability must be balanced on the needs of an entire area of schools instead of just a single school at a single location. In fact, one of the mantras heard through the reorganization process was, "No one school shall create harm to another." Also, what if the District or precinct plan conflicts with parts of MOU, which would trump the other? We would recommend adding language that the local school district, its trustees, and Superintendent must be involved in the improvement process of the MOU.

**Consultation with the school district or local precinct has been added in Sections 7(1).**

Regarding Section 8, part 3 – C, the Executive Director can take "any other measures" they deem appropriate to solicit input from parents and pupils before selecting a school for conversion or selecting a CMO/EMO. We would urge the state to add "reasonable measures" to that provision. Before conversion, those schools are still CCSD schools and we don't want the Executive Director or the Superintendent on the Executive Director's behalf, unreasonably interfering with school operations or disrupting the school year.

**The language in Section 8(3) has been amended to include the term “reasonable” measures.**

CCSD believes additional language needs to be included in section 9. Current NRS requires all charter schools to comply with laws regarding discrimination and civil rights. CCSD believes this should be made clear to any CMO/EMO looking to open an ASD school. This begins with the Executive Director and the selection of operators. In doing so, CCSD would suggest the following language to be added to section 9, ““In selecting a public school for conversion, the Executive Director must comply with all laws and regulations relating to equity, discrimination, and civil rights.”

**Given that current NRS requires all schools to comply with laws regarding discrimination, this amendment was deemed to be a restatement of existing law and therefore not included.**

Moving on, I would like to draw your attention to section 10 of the proposed regulations. This section covers the performance goals and qualifications of any incoming EMO or CMO that will eventually take over an ASD school. CCSD would recommend adding to section 10 part 2, that the CMO or EMO must have clearly demonstrated success either here in Nevada or in another state in rapidly improving academic results in a school where a student body has a comparable demographic profile. Without well-documented results, the state **should** be hesitant in investing taxpayer dollars in an unknown and unqualified entity. Especially when there is the opportunity for the school to enter into a local or state turnaround program where taxpayer dollars can be easily accounted for and there is a strong history, at least in CCSD, of positive results.

**The Nevada Department of Education believes this to be addressed in Section 10 (2)(a) with the language “Demonstrate a clear and high quality plan for the achievement charter school”. Additionally, the proposed language would limit the opportunity for qualified, local educators, community leaders and community organizers to form a committee to form an achievement charter school.**

Finally, I would like to discuss language in section 12, part 3 of the proposed regulation. This section speaks to the enrollment procedures of a school that has been converted into the ASD. The proposed regulation is seeking to allow ASD schools to enroll any student who wasn't originally zoned for the school by their own selection criteria. In doing so, language is being changed to give an ASD school authority to not follow the normal charter school lottery system that is currently in law. The concern here is that there will be an incentive for ASD schools to remove at-risk populations from their school either through expulsion, or through the judicial system, in order to self-select the students they wish to teach. This is by no means an assertion that the NDE or ASD intend to participate in such a lowly practice, however, seeing what has happened in other recovery districts such as New Orleans, their needs to be assurance that all incoming ASD CMOs and EMOs behave accordingly. CCSD suggests requiring ASD schools to enroll pupils in the same order of preferences prescribed for all charter schools.

**As outlined in Section 12, an achievement charter school must enroll all students enrolled in the school prior to conversion, until they age out as well as guarantee a spot for all students of eligible age who live within the school’s attendance zone.**

**It is the belief of the Nevada Department of Education and the leadership of the Nevada Achievement School District that CMOs and individuals who enter into a Performance Compact to operate an Achievement School, must agree not to exclude eligible students from attendance. This will be addressed directly in the Performance Compact and reviewed during the annual review as outlined in Section 17(2) of this regulation.**