

AB 469 Legal Presentation

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History

- ▶ During the 78th (2015) Session, the Nevada legislature approved AB 394. This bill tasked a group of legislators (the Advisory Committee) to create a plan to reorganize the Clark County School District. The Advisory Committee was aided in this by the Technical Advisory Committee, which included members from local governments, CCSD, the State Board of Education, local businesses, and educational appointees.
- ▶ The Advisory Committee approved a plan to reorganize CCSD in August 2016. It was then approved by the State Board of Education on September 1, 2016, and finally by the Legislative Commission on September 9, 2016.
- ▶ On March 2, 2017, CCSD sued to overturn the approved plan.
- ▶ CCSD's lawsuit was stayed on April 10, 2017, at the request of the parties, due to the legislature working on AB 469.

History Cont.

- ▶ During the 79th (2017) Session, AB 469 was approved by the Nevada Legislature. The Assembly voted 40-2 in favor and the Senate voted 21-0 in favor. It was signed by the Governor on May 8, 2017.
- ▶ After the passage of AB 469, CCSD stipulated to dismiss their lawsuit on May 17, 2017.
- ▶ In 2018, the Department of Education entered into a Joint Implementation Plan with CCSD to ensure the implementation of AB 469.
- ▶ This Plan required CCSD to “ensure that employee contracts executed after the authorization of AB 469 comply with the following criteria.
 - ▶ Principals have the authority to select all staff for their school.
 - ▶ No portion of any employee agreement allows for the placement of an employee into the school, under the supervision of the principal, without the principal having selected that employee.”

Attorney General's Opinion

- ▶ On February 15, 2018, an attorney general opinion was issued per the request of the then State Superintendent.
- ▶ QUESTION: Whether a large school district could assign a teacher to a local school precinct without its consent.
- ▶ ANSWER: Nevada law “does not allow a district to assign a teacher to a local school precinct without the consent of the local school precinct”, and
- ▶ “Any provision in a collective bargaining agreement executed after the effective date of AB 469 which would waive or modify a local school precinct’s authority to select teachers for assignment to the precinct would be unenforceable against the precinct.”

EMRB Order

- ▶ On December 7, 2020, a Declaratory Order was issued by the Government Employee-Management Relations Board. (Case No. 2020-008)
- ▶ QUESTION: “Whether NRS 288.150(2)(u) allows CCSD to assign an employee in a school without the school’s consent in light of NRS 388G.610.”
- ▶ CONTEXT: EMRB stated that it “does not have the jurisdiction to find a violation of NRS Chapter 388G, breach of contract/collective bargaining agreement, or determine if NRS 388G.610 impacted the parties’ negotiated agreements.”
- ▶ ANSWER: EMRB stated that the policies for the transfer and reassignment of employees are mandatory subjects of bargaining and as NRS 388G.610(2)(1) was not exempted, it must be collectively bargained, and suggested that “local school precincts could be included in the collective bargaining process so their ability to select under NRS 388G remains intact.”

CCASAPE v. CCSD

- ▶ On October 8, 2020, a petition for writ of prohibition was filed by the Clark County Association of School Administrators and Professional-Technical Employees (CCASAPE) asking the Court to prohibit CCSD “from selecting teachers for local school precincts.” (A-20-822704-P)
- ▶ On May 20, 2021, the Court dismissed the writ of prohibition as CCASAPE failed to show that the extraordinary remedy of a writ of prohibition was necessary, but it allowed CCASAPE to file a complaint for declaratory relief and/or injunctive relief, if it so chooses. This was formalized in an order issued on June 18, 2021.
- ▶ Further, the Court found that while local school precincts were given the authority to select their staff, they must select staff from a list provided by the Superintendent of CCSD per NRS 388G.700(2).
- ▶ Finally, the Court found that the authority to select staff by a local school precinct is only that authority possessed by the superintendent of CCSD at the time it was transferred.

Service Level Agreements

- ▶ As outlined in NRS 388G.610, subsection 7, authority may include the authority to carry out any of the responsibilities listed in subsection 3 which is not prohibited by law, other than the responsibility for capital projects, if it is determined that transferring the authority will serve the best interests of the pupils.
- ▶ If authority is transferred to a local school precinct pursuant to NRS 388G.610, and the precinct wants the district itself to carry out that responsibility, then the school district and the precinct must enter into a service level agreement.
- ▶ Requirements of Service Level Agreements were adopted via regulation in 2018 by the State Board of Education and can be found in NAC 388G.110-130

Service Level Agreements

- ▶ A service level agreement must include: the purpose of the responsibility, the legal requirements applicable to the responsibility, the requirements that the local school precinct must follow, a description of the scope of the responsibility including how the quality of services will be evaluated, and what the local school precinct can do if not satisfied with how the school district performs. NAC 388G.120
- ▶ It must also include the amount of money the school district will charge to carry out the responsibility, not provide central services with supervisory authority over the principal of the local school precinct, and also not provide principals with supervisory authority over central staff members.
- ▶ Before finalizing a draft of a service level agreement, principals are allowed to comment. Then, once they have been finalized by the Superintendent and on or before January 15, the school district must publish and make available to the principals of each precinct drafts of each service level agreement for the next school year.
- ▶ Principals of a precinct can negotiate the specific terms of the service level agreement.

Questions?