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December 15, 2020

Jhone M. Ebert
Superintendent of Public Instruction
State of Nevada Department of Education
700 East Fifth Street
Carson City, Nevada 89701

Dear Superintendent Ebert:

Thank you for your letter dated December 4, 2020, related to the implementation of Assembly Bill (AB) 469, currently Nevada Revised Statutes (NRS) 388G.500 – 388G.810. As requested, the Clark County School District (CCSD or the District) has provided responses to the requested information.

1) Placement of Licensed and Qualified Teachers in Vacant Classrooms

Claims:

- CCSD's Teacher Lottery during the Involuntary Transfer/Surplus Process and CCSD's resulting forced placements of the Unselected Teachers at local school precincts are not permitted under AB 469/NRS 388G.610 and CCSD has yet to meaningfully transfer site-based decision-making authority to local schools.
- Principals allege that the District is failing to honor their right to hire staff as specified by NRS 388G.610.
- It is alleged that vacant positions in CCSD are being filled by substitutes instead of qualified licensed teachers.
- It is alleged that a practice is underway that discriminates against older licensed educators and, in some cases, against minority educators.

Please provide the following information:

- Provide a written description of the Teacher Lottery process that was utilized during the most-recent fall period of the Licensed Involuntary Transfer/Surplus process. Explain how this process conforms to requirements set forth by AB 469/NRS 388G.610. Submit written justification explaining why a lottery is being utilized in this way to place teachers or any other employees.

Response –

The Teacher Lottery process that was utilized is captured in the attached memo dated October 19, 2020, and titled "Licensed Post-Surplus Timelines". (Attachment 1) To summarize, the Negotiated Agreement was followed as it relates to who was surplus, the surplus meeting, and initial processes. If principals notified the

Human Resources Division that they did not wish to accept the teacher who selected their school or wished to interview them first, they were allowed to do so. Teachers who ultimately were not selected at all were a part of the Teacher Lottery Process. This involved running a randomized report of the vacancies matching the areas of licensure of the teachers needing placement. If there were multiple teachers, principals had a choice within that and could interview and select. If the principal did not select or if there were not multiple teachers to select from, the teachers were assigned to the schools that appeared first on the randomized list of applicable vacancies.

The District did everything possible to allow principals to select teachers in accordance with AB 469/NRS 388G.610. NRS 388G.610 also states that *“to the greatest extent possible, the principal of a local school precinct shall select teachers who are licensed and in good standing before selecting substitutes to teach”*. As a result, the District’s position is that placing teachers in vacant positions where substitute guest teachers were in place was in compliance with NRS 388G.610.

The lottery was utilized in this way (random selection) as a fair and unbiased way of determining which schools would receive the teacher placements.

As an update, on December 7, 2020, the Government Employee-Management Relations Board (“EMRB”) entered a Declaratory Order which stated that the EMRB did not have jurisdiction to enforce NRS 388G.500 through 388G.810 (“AB 469”). The EMRB further stated that the provisions of AB 469 could be read in harmony with the negotiation obligations set forth in NRS 288.

In essence, the EMRB stated that when the Superintendent of the Clark County School Districts “transferred” the authority to the local school precincts to select employees, the local school precincts “could be included in the collective bargaining process so their ability to select under NRS 388G remains intact.” While this Order provides some guidance, the question of how to impose the statutory requirements of AB 469 is still a matter of debate and continuing litigation.

- Specify how many licensed educator vacancies existed at the close of the most recent Licensed Involuntary Transfer/Surplus process. Provide a written list identifying each of these vacancies.

Response –

At the close of the fall 2020 Licensed Involuntary Transfer/Surplus Process, there were 249 licensed vacancies. As requested, this information is attached and titled: Licensed Vacancies Post Surplus.2020. (Attachment 2)

- Were there any teachers that were not selected and had to be placed in the Teacher Lottery following the most recent surplus process?

Response –

Yes.

- If so, how many teachers were not selected and had to be placed in the Teacher Lottery? Provide a demographic breakdown of the teachers not selected or placed in the Teacher

Lottery for placement at school precincts. Identify the names of each of these teachers and subject areas.

Response –

There were 11 teachers that were not selected and had to be placed as part of the Teacher Lottery. As requested, this information (including demographic information) is attached and titled: Placed.Lottery.Fall.2020. (Attachment 3)

- How many long-term/vacancy substitutes are currently employed in CCSD schools?

Response –

As of December 7th, 2020, there are 128 substitutes in long-term assignments and 470 in vacancy assignments. (For clarification, long-term substitutes are in a substitute position for more than 10 days, but if there is a teacher hired and in the position, they are just in need of a substitute long-term. Vacancy substitutes are utilized when there is not a licensed teacher hired into the position.*)**

- Provide a list of all long-term/vacancy substitute assignments by school, effective as of the date of this letter.

Response –

A list of all long-term substitute assignments as of 12/7/2020 is attached and listed by school. The document is titled: Long-Term Substitute Assignments 12.07.20. (Attachment 4)

A separate list of all vacancy substitute assignments as of 12/7/2020 is attached and listed by school. The document is titled: Vacancy Substitute Assignments 12.07.20. (Attachment 5)

- How many of the long-term/vacancy substitutes are in Title I schools? Supply a list showing each.

Response –

- **93 of the 128 long-term substitutes are in Title I schools.**
- **411 of the 470 vacancy substitutes are in Title I schools.**
- **The 2 substitute assignment lists provided include information indicating which schools are Title I schools.**

- Are principals permitted to hire a long-term/vacancy substitute if there is a licensed and qualified teacher available?

Response –

Principals are not permitted to hire a vacancy substitute if there is a licensed and qualified teacher available.

- If so, describe the circumstances under which this is permitted. If principals are not permitted, describe why principals are not permitted.

Response –

Because AB 469/NRS 388G indicates to the greatest extent possible, “the principal of a local school precinct shall select teachers who are licensed and in good standing before selecting substitutes to teach,” principals are not permitted to hire a vacancy substitute in lieu of a licensed teacher.

- What changes were made to each employee association collective bargaining agreement to conform to AB 469 as outlined in the 2018 Plan for the Implementation of Actions to Finalize Compliance with Assembly Bill 469 (2017)?

Response –

The Negotiated Agreement between CCSD and CCASAPE includes Article 33 “School Principal Staffing Autonomy” which was created to ensure that school staffing (as it relates to administrators) is in strict compliance with AB 469.

- If no changes have been made to any of the employee association collective bargaining agreements to conform to AB 469, please provide a justification as to why the changes have not been made, a status of negotiations, and any related timelines.

Response –

There were no changes made to the CCSD negotiated agreements with CCEA or ESEA. In both cases, compliance with AB 469 was discussed, however, the parties did not reach agreement. Continued discussions regarding the application of AB 469 were placed on hold while the parties sought the opinion of the Government Employee-Management Relations Board on AB 469 and participate in litigation in the Eighth Judicial District Court.

- Has CCSD received and investigated any formal complaints regarding principals and discriminatory hiring practices related to any employee group during the surplus process? If so, please indicate how many complaints were filed and how they were resolved and/or addressed. Provide a list identifying each complaint including a description of the complainant age, gender, and the date each complaint was filed with the District.

Response –

CCSD has not received or investigated any formal complaints regarding principals and discriminatory hiring practices related to any employee group during the surplus process.

- For all open teaching positions, how many qualified licensed applicants are available, specific to only the open teaching positions?

Response –

The CCSD talent acquisition system has 629 unique teacher applicants for our open teaching positions. We are unable to report on their qualifications or licensure status because they are at various stages of vetting.

- Please provide a demographic description of the pool of available qualified licensed candidates, including gender, age, and race-ethnicity.

Response –

The requested demographic information of the current “pool” of 629 teacher applicants is attached and titled: Ethnicity, Gender, and Age of Applicants. We are unable to report on their qualifications or licensure status because they are at various stages of vetting. (Attachment 6)

1) Purchase of Equipment, Services, and Supplies Available from the District by Schools

Claims:

- Despite legal requirements under NRS, on or before January 15, 2020, the CCSD Superintendent did not first consult with the principals, school associate superintendents, and organizational teams of each local school precinct before determining the need for any additional authority that is not listed in NRS 388G.610, subsection 2, related to a data dashboard; further, if the CCSD Superintendent did make such a determination, the CCSD Superintendent did not disseminate notice of that determination to affected principals, school associate superintendents, and organizational teams of each local school precinct that was affected.
- CCSD did not notify local school precincts by January 15, 2020, of a service, specifically a data dashboard, that a local school precinct may obtain from the large school district using the money allocated to the local school precinct and the cost for such equipment, services and supplies.
- CCSD notified local school precincts on September 4, 2020, of a service, specifically a data dashboard, that a local school precinct may obtain from the large school district.

Please provide the following information:

- Did the CCSD Superintendent, on or before January 15, 2020, determine, in consultation with the principals, school associate superintendents and organizational teams of each local school precinct, any additional authority specific to a data dashboard? If so, what was the "additional authority?"

Response –

The CCSD Superintendent did not determine any additional authority specific to information technology services or a data dashboard; therefore, there was no transfer of authority to one or more local school precincts submitted for approval by the Board of School Trustees related to a data dashboard.

- Additionally, was there a recommendation to transfer authority to one or more local school precincts submitted for approval by the board of trustees of the large school district related to a data dashboard? If so, what did the recommendation say and when was it submitted to the Board of School Trustees?

Response –

As noted in the prior response, there was no transfer of authority submitted for approval.

- Did CCSD, on or before January 15, 2020, make public a list of equipment, services, and supplies that a principal and local school precinct may obtain from the large school district using the money allocated to the local school precinct and the cost for such equipment, services, and supplies?

Response –

- **The District utilizes an SAP solution “SAP Ariba Catalog” for principals to utilize for the purchase of equipment and supplies, which is available for all local school precincts and principals. The catalog lists all approved equipment and supplies that can be obtained using the money allocated to the local school precinct, and the catalog includes the costs for such equipment and supplies. The catalog is available at any time for review.**
- **The District provided services for local school precincts are included in Service Level Agreements (SLA), which were provided and reviewed by principals prior to the implementation of the agreements in 2018. The SLAs are published on the District website at guide.ccsd.net and are available for review at any time by the local school precincts and principals. For the 2020-2021 school year, there were no additional services added to this list from the prior year. Additionally, the “Spring Allocation” of budgets to local school precincts include the list of SLAs and their related costs. This information was published and provided to local school precincts by January 15, 2020. The District has attached an example of the local school precinct budget that was provided in this process for your review. (Attachment 7)**

- If so, where and when was the list published? Please provide the list.

Response –

Please refer to the prior response and the attachment “NDE Request Response #2 – Service Level Agreement List Example”

- Did CCSD, on or before January 15, 2020, notify principals and the local school precincts of a District-provided service, specifically a data dashboard, and make public that a local school precinct may obtain a data dashboard from the large school district using the money allocated to the local school precinct and the cost for such equipment, services and/or supplies?

Response –

Please refer to the response above related to transfer of authority for a data dashboard. Due to the fact, there was no transfer of authority or the use of money allocated to the local school precinct, there was no notification required.

- If so, please provide a copy of the notification. If the notification was after January 15, 2020, please provide the notification sent to principals and the local school precincts and identify the date the notification was sent and the manner by which the District provided the notification to principals.

Response –

Please refer to the response above.

2) School Carry Forward of Year-end Balance

Claims:

- CCSD schools recorded a total of approximately \$67 million in carryover funds in 2018-2019 and a total of approximately \$142 million in carryover funds in 2019-2020.
- The major source of carryover dollars is salary savings.
- The District decision to carry forward funds and the management of the funds (\$67 million in 2018-2019 and \$142 million in 2019-2020) are in conflict with statutory requirements and legislative intent.
- Money should be spent on student instruction and support.

Please provide the following information:

- Of the approximate \$142 million of fiscal year 2020 (FY20) reported carryover dollars, how much of this amount has been committed (will be spent) by schools in FY21?

Response –

All of the \$142 million of FY 2020 reported carryover dollars were included in the “Fall Allocation” to local school precinct budgets as of December 4, 2020. Additionally, all of this money is committed within the budgets of the local school precincts for FY 2021.

- How is CCSD accounting for any such amount that is carried forward as a restricted fund balance?

Response –

CCSD accounts for the amount that is carried forward as a restricted fund balance within our General Operating Fund balance sheet. The funds are restricted at the end of each fiscal year and then allocated to the local school precincts in the following fiscal year.

- Provide each school's FY20 carryover amount and their plan to spend the carryover dollars in FY21.

Response –

Please see attached the list of each school’s FY 2020 carryover amount titled “Strategic Budget Schools Carryover FY 20 to FY 21”. Each local school precinct submits a budget, which includes the use of the carryover funds; however, no designation is utilized related to the specific use of carryover funds. The carryover amounts are included in the local school precinct budgets for the local school precinct to utilize. (Attachment 8)

- Why is the carryover money made available to schools in the Fall and why is carryover money not made available to schools in late spring/early summer?

Response –

Due to the fact that the amount of carryover is not determined until the end of the prior fiscal year, the earliest time that the District can allocate these funds is during the “Fall Allocation”. The District is working on a solution to estimate potential carryover funds in an effort to provide this information during the “Spring Allocation” made by January 15, but there is no acceptable solution at this time.

- If carryover money is not made available until the fall, does this impact the ability for schools to spend it on staffing or needed resources to support instruction for the current school year? Please explain.

Response –

Due to the requirements in NRS 388G that require a preliminary estimate of budgets to local school precincts be provided by January 15 of the year prior to the budget year, the information related to the amount of carryover is not yet known. The District understands the challenges this might create related to staffing and needed resources; however, the need to ensure accurate funding of schools prevents the District from providing carryover funds to local school precincts before the fiscal year is completed.

- Is any of the carryover attributed to COVID-19?

Response –

The District believes that the move to a distance learning model in the spring of 2020 reduced spending and contributed to the growth of the carryover funds in FY 2020; however, the specific amount related to the new learning model is unknown.

- If so, please explain and provide details.

Response –

Please refer to the response above.

- Is there any evidence of a principal or principals intentionally holding positions and/or employing long-term/vacancy substitutes so that school carryover dollars can be expanded?

Response –

There is no evidence of a principal or principals intentionally holding positions and/or employing long-term/vacancy substitutes so that school carryover dollars can be expanded.

- If so, please explain and provide details of how the District is addressing this.

Response –

Please refer to the response above.

- If so, explain why this practice is problematic.

Response –

Please refer to the response above.

3) Other concerns and questions raised by State Board Members during the November 12, 2020 meeting include:

Some schools have not posted current School Organization Team (SOT) agendas, minutes, and School Plans of Operation on school websites.

- Please provide a list of schools that have not posted current SOT agendas, minutes, and

School Plans of Operation on school websites.

Response –

An audit of school websites is underway and is expected to conclude on December 18, 2020. Results of the audit will be shared when completed. School plans of operation are also available publicly for all schools at reorg.ccsd.net (Reports and Information > School Plans of Operation). SOT meeting materials are also publicly available for all schools at reorg.ccsd.net (SOT Agendas and Minutes).

- How does the CCSD Superintendent determine the extent of SOT operation and the degree of SOT engagement?

Response –

- Principals and SOTs generally operate according to the demands of their individual school communities. Principals are provided with resources and materials to guide the implementation of NRS 388G as it relates to School Organizational Teams (SOTs) and are held accountable for the specific requirements outlined in the law. Resources and materials provided to principals include:
 - Coordination of staff data between schools and the employee bargaining units responsible for conducting SOT elections.
 - Guidance in the election of parent and student members.
 - Training materials in both print and video, many of which were most recently updated in 2019, related to both requirements of and best practices for SOTs, including how SOTs function, consensus building, involvement in the principal selection process, using data to inform school planning, strategic budgets, climate and culture, and customer service.
 - Principals are held accountable for specific requirements related to SOTs. Confirmatory evidence for NEPF School Administrator Professional Responsibility Standards is sought to confirm:
 - SOT agendas and minutes are posted both on the school website and centrally at reorg.ccsd.net.
 - The school plan of operation is posted on the school website.
 - SOT agendas and minutes provide evidence of SOT advice and assistance in the development of the school plan of operation and public presentation of the school plan of operation.

Sincerely,



Jesus F. Jara
Superintendent of Schools

By email

Attachments