



# **Assembly Bill (AB) 469**

## **National Non-Compliance Policy Examples and Proposed Regulatory Language**

State Board of Education Meeting – April 21, 2022

# Presentation Outcomes

AB 469 Subcommittee Members will:

- Receive a presentation regarding national non-compliance policies and practices related to state takeovers and review possible regulatory language regarding non-compliance consequences
- Review possible regulatory language related to an additional appeal process, mandatory training, and definition of “other staff under the direct supervision of the principal”

# What is a State Takeover?

In general, a [state takeover](#) occurs when a state removes control of a district or school from the local education agency and turns it over to the state education agency or a receiver. Within states' policies, there is significant variation in the circumstances under which states are permitted to takeover a school or district.

School performance remains the top reason to initiate a school or district takeover. In states that do have compliance requirements or need to address non-compliance, there are generally two areas of focus: non-compliance with state statute/regulation or financial malfeasance.

# Statute, Regulation, and Financial Compliance

While state takeover strategies are often discussed within the context of academic improvement, several states allow state takeovers for financial insolvency or mismanagement.

According to a 2011 review of state takeover policies conducted by the Education Commission of the States, 33 states permit a state takeover of a school district for either academic or financial reasons and 17 states authorize a takeover due to a district fiscal crisis.

# Arizona Example

Pursuant to [Title 15 Education § 15-103](#), the Arizona State Board of Education may place a school district in **receivership** if the state board determines that the school district is insolvent or has grossly mismanaged its finances. The appointed receiver may override any decisions of the school district's governing board or the school district superintendent, or both, concerning the management and operation of the school district. Additionally, the receiver has the authority to place on extended leave, suspend or terminate for cause the school district's superintendent or chief financial officer, or both.

# Iowa Example

The Iowa State Board of Education is required ([Iowa Code Ann. § 256.11](#)) to establish an accreditation, monitoring, and enforcement process for school districts. The process requires **different phases of monitoring**, including school and district takeovers. The first phase of monitoring, prior to any takeover process, requires compliance with policies and regulations, including accreditation standards and fiscal responsibilities, among others.

# Michigan Example

The Michigan Department of Education provides **liaisons** from the Office of Partnership Districts to support schools and districts in navigating compliance with the state rules and requirements.

An October 2020 report by the [Education Policy Innovation Collaborative](#) found that districts believed the liaisons helpful in navigating the compliance requirements (page 55). Michigan's liaison program was viewed as a balance between holding districts accountable for their decisions and performance and supporting them in their efforts.

# New Mexico Example

Statute ([N.M. Stat. Ann. § 22-2-2](#)) requires the New Mexico Department of Education to take over the control and management of a public school or school district that fails to meet requirements of the law or the state's rules or standards. The powers and duties of the local school board and local superintendent are suspended until the requirements of the law, standards or rules have been met and compliance is ensured.



# New York Example

Pursuant to [Education Law §211-b and 211-c](#) and the New York Commissioner's Regulations §100.16 and 100.17, a **Distinguished Educator** is appointed by the Commissioner (State Superintendent) when such district or a school within such district has failed to achieve adequate yearly progress for four or more years.

Additionally, New York law authorizes the Commissioner to appoint up to three **Monitors** to focus on academic or fiscal oversight of a school district.

# Texas Example

Pursuant to [Education Code Chapter 39A](#), the Texas Education Agency (TEA) has the ability to take over a school district or charter school due to insufficient performance. When the TEA discovers that a school district is in need of assistance, the Commissioner of Education normally appoints a monitor. The monitor could then be elevated to a **conservator** if conditions do not improve. The Commissioner of Education may also appoint a **management team** and a **board of managers**.

# Current Nevada State Superintendent Authority

NRS 385.175 (6) - The Superintendent of Public Instruction shall:

6. Request a plan of corrective action from the board of trustees of a school district or the governing body of a charter school if the Superintendent of Public Instruction determines that the school district or charter school, or any other entity which provides education to a pupil with a disability for a school district or charter school, has not complied with a requirement of this title or any other statute or regulation governing K-12 public education. The plan of corrective action must provide a timeline approved by the Superintendent of Public Instruction for compliance with the statute or regulation.

# Current Nevada State Superintendent Authority, cont.

Nevada Revised Statute (NRS) 388G.580 - Superintendent of Public Instruction to ensure reorganization of large school district; cooperation of large school districts required.

1. The Superintendent of Public Instruction shall take such actions as deemed necessary and appropriate to ensure that each large school district carries out the reorganization of the school district in accordance with NRS 388G.500 to 388G.810, inclusive, and any regulations adopted pursuant thereto.

# Possible Regulatory Language

*Nevada Administrative Code (NAC) 388G.XXX*

- 1. The Powers of the Superintendent of Public Instruction to ensure the reorganization of the large school district include, but are not limited to:*
  - (a) Issuance of a Notice of Non-Compliance describing any deficiencies in the reorganization of the large school district to the Board of Trustees of a large school district and the Superintendent of Schools.*
  - (b) At any time after the issuance of a Notice of Non-Compliance, require the development and implementation of a Plan of Corrective Action within forty-five days of receipt of the requirement to develop and implement a Plan of Corrective Action, subject to the approval of the Superintendent of Public Instruction, to address the deficiencies noted in the Notice of Non-Compliance.*

# Possible Regulatory Language (cont. 2)

*(c) At any time after the issuance of a Notice of Non-Compliance, appoint a ~~Distinguished Educator~~ Compliance Monitor to assess reorganization including, but not limited to, the deficiencies noted in the Notice of Non-Compliance and provide recommendations for improvement. A ~~Distinguished Educator~~ Compliance Monitor must:*

- (1) ~~Be licensed as an educator and administrator in Nevada with not less than ten (10) years of combined experience as an educator and administrator~~ Have requisite skills that align to the deficiencies.*
- (2) Assess the reorganization and any deficiencies noted by the Superintendent of Public Instruction and review or provide assistance in the development and implementation of any Plan of Corrective Action required by the Superintendent of Public Instruction.*

# Possible Regulatory Language (cont. 3)

*(3) Provide written reports to the board of trustees, no less than quarterly, on their assessment of the reorganization.*

~~*(4) Be compensated by the large school district commensurate with their qualifications and experience, as determined by the Superintendent of Public Instruction, as well as reimbursed for any reasonable and necessary expenses incurred in performing the duties of the distinguished educator.*~~

*(4) Provide monthly reports and additional reports as requested to the Superintendent of Public Instruction.*

# Possible Regulatory Language (cont. 4)

*(d) At any time after the issuance of a Notice of Non-Compliance, and after a **Distinguished Educator-Compliance Monitor** has been appointed to assess the reorganization, **require** the Superintendent of Schools of the large district and the school district Board of Trustees **must to**:*

- (1) Place the assessment of the reorganization report on the Board of Trustees agenda, no less than once monthly, of its regular meeting.*
- (2) Provide the **Distinguished Educator-Compliance Monitor** with access to attend any and all meetings including, but not limited to, board of trustee meetings, executive or cabinet level meetings, principal meetings, and stakeholder meetings.*



# Possible Regulatory Language (cont. 5)

- (3) Compensate the Compliance Monitor commensurate with their qualifications and experience, as determined by the Superintendent of Public Instruction, as well as reimburse for any reasonable and necessary expenses incurred in performing the duties of the distinguished educator.*
- (4) Provide the Compliance Monitor with complete executive level employee access as outlined in any employment agreement or contract, the terms of which are subject to the approval of the Superintendent of Public Instruction.*

## Possible Regulatory Language (cont. 6)

*(e) Not less than one hundred eighty calendar days after the Issuance of Notice of Non-Compliance, and if the large school district is still not in compliance with NRS 388G.500 through 388G.810, order a hearing to be held before the State Board of Education, inclusive of the Compliance Monitor, at which the Superintendent of Schools of the large district and the president of the board of trustees of the large district shall appear to explain the district's continued non-compliance; and at the conclusion of the hearing, the State Board of Education shall make a recommendation to the Superintendent of Public Instruction if the large school district should be placed in a partial or full receivership.*

# Possible Regulatory Language (cont. 7)

*(e)(f) At any time after receiving the State Board's recommendation may place a large school district in ~~either partial or full~~ receivership. The Superintendent of Public Instruction shall then appoint a receiver, whose power, authority and duties shall be effective on the date of the receiver's appointment by the Superintendent of Public Instruction. Subject to the terms of the receivership as decided by the Superintendent of Public Instruction, once appointed, the receiver may perform any of the following actions:*

- (1) Override any decisions of the Superintendent of Schools of a large school district or the Board of Trustees, or both, concerning the areas subject to receivership as determined by the Superintendent of Public Instruction, and initiate and make decisions concerning the areas subject to receivership as determined by the Superintendent of Public Instruction.*

# Possible Regulatory Language (cont. 8)

- (2) Attend any and all meetings of the large school district including, but not limited to, board of trustee meetings, executive or cabinet level meetings, principal meetings, and stakeholder meetings.*
- (3) Supervise **any related** ~~the~~ day-to-day activities of the large school district's staff, including reassigning the duties and responsibilities of personnel in a manner that, in the determination of the receiver, best suits the needs of the large school district to **achieve compliance**.*
- (4) Provide progress reports to the Superintendent of Public Schools and other reports as required by the Superintendent of Public Instruction.*

# Possible Regulatory Language (cont. 9)

- (5) Reorganize the large school district to bring it into compliance with NRS 388G.500 through 388G.810. This includes, but is not limited to, reorganizing policies and regulations, management, budgetary systems, departments, divisions, and any other areas needed to bring the large school district into compliance.*
- (6) Negotiate or renegotiate employment contracts to bring them into compliance with NRS 388G.500 through 388G.810, including but not limited to, with recognized bargaining units.*
- (7) Provide monthly reports and additional reports as requested to the Superintendent of Public Instruction.*

# Possible Regulatory Language (cont. 10)

- (g) Following the appointment of a receiver by the Superintendent of Public Instruction, the large school district shall:*
- (1) Compensate the receiver and any staff hired or appointed by the receiver commensurate with their qualifications and experience, as determined by the Superintendent of Public Instruction, as well as reimburse them for any reasonable and necessary expenses incurred in performing their duties.*
  - (2) Indemnify the receiver and any staff hired or appointed by the receiver who is made or threatened to be made a party to any litigation by reason of their status under this Title if the receiver or staff acted in good faith and in a manner that the receiver or staff reasonably believed to be consistent with the best interest of the large school district and if the receiver or staff had no reasonable cause to believe that the conduct was unlawful.*

# Possible Regulatory Language (cont. 11)

- (3) Place the assessment of the reorganization report on the Board of Trustees agenda, no less than once monthly, of its regular meeting.*
- (4) Provide the receiver with complete executive level employee access as outlined in any employment agreement or contract, the terms of which are subject to the approval of the Superintendent of Public Instruction.*

# Possible Regulatory Language (cont. 12)

- (h) Remove the large school district from receivership and dismiss the receiver and dismiss any staff appointed or hired by the receiver thirty days after the large school district is in compliance with NRS 388G.500 through 388G.810.*
- (i) At any time after removal from receivership, may reinstate the receivership if the large school district does not maintain compliance of the items of deficiency outlined in the initial Notice of Non-Compliance.*



# Other Proposed Regulatory Language

**NAC 388G.100 Establishment of dispute resolution process to address issues relating to member of organizational team; requirements for process; submission of dispute to Department. ([NRS 388G.590](#))**

1. The board of trustees of a large school district shall establish a dispute resolution process for issues relating to retaliation and reprisal as a result of the performance of duties as a member of an organizational team for a local school precinct established pursuant to [NRS 388G.700](#), *and for any disputes relating to the development and implementation of service level agreements pursuant related to NRS 388G.500 through 388G.810 and any regulations thereof.*

*7. The actual cost of dispute resolution, including, but not limited to, the expense of and compensation for hearing officers selected pursuant to subsections 5 and 6 of this section, shall be the sole responsibility of the large school district.*

*10. Any cost or financial burden related to consequences imposed for non-compliance with the provisions of NRS 388G.500 through 388G.810, inclusive, or for noncompliance with any of the provisions of chapter 388G of NAC, shall be the sole responsibility of the large school district.*

# Other Proposed Regulatory Language (cont. 2)

## *NAC 388G.XXX*

*1. A large school district shall, at least annually, provide mandatory training on the provisions of NRS 388G.500 through 388G.810, inclusive, and on the provisions of chapter 388G of NAC, to:*

- (a) All voting members of the Board of Trustees of the school district;*
- (b) The Superintendent of Schools of the large school district;*
- (c) All members of the Superintendent of School's Cabinet;*
- (d) All principal supervisors;*
- (e) All principals employed by the large school district; and*
- (f) Any person who is a member of a school organizational team within the school district.*

*2. The training provided pursuant to subsection 1 must be approved by the State Superintendent of Public Instruction or designee prior to delivery ~~and~~, upon approval, make any training materials available on the large school district's website.*

# Other Proposed Regulatory Language (cont. 3)

*1. As used in this subsection and for purposes of the implementation of subsection 2 of NRS 388G.610:*

*(a) “Other staff who work under the direct supervision of the principal” shall mean any ~~support-staff~~ employee that is assigned to the local school precinct, is evaluated by the principal or any member of the principal’s ~~administrative~~ staff and is not a member of the staff of central services.*

# Possible Motion

The State Board of Education may move to send any or all of the following draft regulations to a regulation workshop:

1. NAC 388G.XXX - Non-Compliance Policy/Consequences
2. NAC 388G.100 - Dispute Resolution Revision
3. NAC 388G.XXX - Training
4. NAC 388G.XXX – Other Staff Under the Direct Supervision of the Principal Definition



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