

Assembly Bill 469 (2017) Implementation Update

Presentation to the State Board of Education and the
Clark County School District Board of Trustees
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AB 469 Background

- In 2015, the Nevada Legislature passed Assembly Bill (AB) 394 reorganizing the Clark County School District (CCSD or District), providing principals with increased control over schools and budgets
- Through some operational challenges, political and legal actions, and finally the passage of AB 469, CCSD continued to work on the reorganization
- AB 469 required implementation of the reorganization for the 2017-18 school year
- The State Superintendent of Public Instruction was given specific authority over monitoring the implementation of the reorganization

AB 469 Background Continued

- Following the passage of AB 469, the State Superintendent of Public Instruction deemed it necessary and appropriate to require a joint development of an implementation plan that attended to specific sections of AB 469
- State Superintendent of Public Instruction Steve Canavero identified six sections of AB 469 to be addressed by CCSD:
 - Authority to select school staff
 - Assignment of central staff to schools
 - Allocation funds to schools
 - Purchase of equipment, services, and supplies available from the district by schools
 - School carry forward of year-end balance
 - Weighted per-pupil funding
- On April 3, 2018, CCSD released its 2018 [Plan for the Implementation of Actions to Finalize Compliance with AB 469](#)

Initial Implementation Concerns

- Placement of licensed and qualified teachers in vacant classrooms, specifically the authority to select staff
- Purchasing of equipment, services, and supplies available from the District by schools
- School carry forward of year-end balances

Placement of Licensed and Qualified Teachers in Vacant Classrooms

Two conflicting 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 are citing their right to hire staff under NRS 388G.610, vacant positions are being filled by substitutes, and there is an alleged emerging practice that discriminates against older licensed educators and, in some cases minority educators.

Authority to Select Staff

AB 469 Section 16.2/NRS 388G.610, Subsection 2

“The [CCSD] Superintendent shall transfer to each local school precinct the authority to carry out the following responsibilities: (a) select for the local school precinct the: (1) Teachers; (2) Administrators other than the principal; and (3) Other staff who work under the direct supervision of the principal.”

State Superintendent of Public Instruction Findings (2018)

“Current collective bargaining agreements are inconsistent with the law and the collective bargaining agreement(s) being negotiated with the District now will need to remedy the inconsistencies.”

Authority to Select Staff Continued

Attorney General Opinion (2018)

“...Nevada’s statutes do not allow a district to assign a teacher to a local school precinct without the consent of the local school precinct. AB 469 delegates to local school precincts the authority to select teachers for assignment to those precincts, and large school districts have no ability to bargain that authority away. 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 at the precinct.”

NRS 388G.610, Subsection 4

“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 at the local school precinct. The principal, in consultation with the organizational team, shall make every effort to ensure that effective licensed teachers are employed at the local school precinct.”

Authority to Select Staff

NDE Findings

- No evidence of an emerging practice that discriminates against older licensed educators and, in some cases minority educators, was found related to the teacher surplus process
- CCSD does not have a process to track if qualified licensed teachers are not being hired by principals due to limitations of the Human Resources system
- The majority of long-term or vacancy substitutes are in Title I schools

Authority to Select Staff Continued

NDE Findings

On December 7, 2020, the Employee-Management Relations Board filed an order indicating that current negotiated agreements are to be followed

- **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.”

Authority to Select Staff Continued

NDE Findings

On October 8, 2020, the Clark County Association of School Administrators and Professional Technical Employees (CCASAPE) submitted a Petition for Writ of Prohibition against CCSD in the Eighth Judicial District Court

- 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.
- CCASAPE filed an appeal with the Supreme Court on September 4, 2021. On September 15, 2021, CCASAPE received notice from the Nevada Supreme Court that the CCASAPE appeal had been assigned to the court's Settlement Program. Each of the parties has 14 days to submit a confidential settlement statement directly to the Settlement Judge.

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

Claims:

- On or before January 15, 2020, the superintendent did not determine, in consultation with the principals, school associate superintendents and organizational teams of each local school precinct, any additional authority that is not listed in subsection 2 related to a data dashboard.
- 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.

Authority for Purchasing of Equipment, Services, and Supplies Available from the District by Schools

AB 469 Section 17.1/NRS 388G.650, Subsection 1

“On or before January 15 of each year, to assist the local school precincts in preparing their budgets for the next school year, the [CCSD] superintendent shall establish and make public:

(b) A list of equipment, services and supplies 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. The cost of such equipment, services, and supplies must not exceed the actual cost to the large school district to provide the equipment, services and supplies to the local school precinct.”

Authority for Purchasing of Equipment, Services, and Supplies Available from the District by Schools Continued

NRS 388G.610, Subsection 7

“On or before January 15 of each year, the [CCSD] superintendent shall determine, in consultation with the principals, school associate superintendents and organizational teams of each local school precinct, any additional authority that is not listed in subsection 2 to recommend transferring to one or more local school precincts. Such 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. The recommendation to transfer authority to one or more local school precincts must be submitted for approval by the board of trustees of the large school district. The board of trustees of the large school district shall consider such a recommendation and determine whether to approve the transfer of additional authority at its next regularly scheduled meeting if submitted within 5 working days before the next regularly scheduled meeting and otherwise the recommendation shall be considered at the following meeting.”

Authority for Purchasing of Equipment, Services, and Supplies Available from the District by Schools

NDE Findings

- CCSD did not determine any additional authority to transfer to local precincts specific to information technology services or a data dashboard pursuant to NRS 388G.650 (1) and NRS 388G.610 (7).
- CCSD denied local school precincts from purchasing services related to a data dashboard pursuant to NAC 388G.140.

NAC 388G.140 Use of certain money allocated to local school precinct; conditions under which money deemed allocated to local school precinct. ([NRS 388G.590](#))

1. *The principal of a local school precinct may, in accordance with a plan of operation developed pursuant to [NRS 388G.700](#), determine the manner in which to use money allocated to the local school precinct pursuant to [NRS 388G.660](#), including, without limitation, whether to use the money allocated to carry out a responsibility for which the local school precinct has been transferred authority or use the money allocated in another way.*
2. *Money shall be deemed allocated to a local school precinct pursuant to [NRS 388G.660](#) only when the money is included in the portion of the budget for the local school precinct over which the local school precinct has control and discretion with respect to the manner in which the money is used.*

School Carry Forward of Year-End Balance

Claims:

- CCSD schools forwarded \$67 million in 2018-2019 and \$142 million in 2019-2020.
- The major source of carryover dollars is salary savings.
- Carrying forward \$67 million in 2018-2019 and \$142 million in 2019-2020 is not what the law intended.
- Money should be spent on student instruction and support.

Authority for School Carry Forward of Year-End Balance

AB 469 Section 17.2/NRS 388G.650, Section 2

“Each local school precinct must carry forward its year-end balance to the next school year for use by the local school precinct. The large school district must account for any such amount that is carried forward as a restricted fund balance.”

Superintendent of Public Instruction Findings (2018)

“The District released Strategic Budget Workbooks for the 2018-2019 school year on January 16, 2018. The District did not include any restricted fund balance resulting from previous year staff vacancies in Strategic Budget Workbooks. Furthermore, District officials have indicated, in the media and elsewhere, that the District intends to start the practice required by Section 17.2 of the law in the 2018-2019 budget cycle so that the effects can be felt on school budgets in the 2019-2020 school year.”

Authority for School Carry Forward of Year-End Balance

NDE Findings

- CCSD provided school carry over plans of 20 randomly selected schools
- NDE surveyed 15 schools that carried balances ranging from \$800,000 to \$1.9M
- Principals reported that CCSD does not determine and communicate carry forward balances until the Fall Allocation; therefore, principals are unable to use carry forward funds to hire additional teachers/staff and purchase educational materials/services.
- On June 3, 2021, CCSD reported to the State Board of Education that carry forward fund estimates will be included in the January 2022 (FY23) Preliminary School Strategic Budgets.

State Board of Education Review

- Principals are reporting they are not being provided with authority as outlined in [NAC 388G.110-140](#) related to Service Level Agreements or the option/ability to carry out transferred responsibilities.
- The definition of “to the greatest extent possible.”
- The definition of “in good standing.”

Implementation Items to Be Resolved

1. Placement of Licensed and Qualified Teachers and authority to select staff.
2. Negotiating collective bargaining agreements with Clark County Education Association and Education Support Employees Association that are consistent with the law.
3. Addressing the Service Level Agreement (SLA) process in order to provide principals and SOTs with true authority to carry out responsibilities as outlined in NAC 388G.110-140.
4. Authority for purchasing of equipment, services, and supplies.
5. Defining “to the greatest extent possible” and “in good standing.”

State Authority

State Board of Education

Under NRS 388G.590 states, the State Board shall adopt such regulations as it deems necessary and appropriate to carry out the provisions of [NRS388G.500](#) to [388G.810](#), inclusive.

State Superintendent

Under NRS 388G. 580, 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](#).

QUESTIONS

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