

Bill Keim

From: Chris Reykdal <Chris.Reykdal@k12.wa.us>
Sent: Wednesday, October 25, 2017 4:00 PM
To: DL Superintendents; 'danderson@esd113.org'; 'Darcy Weisner'; 'glynch@oesd114.org'; 'John Welch'; 'kevin.chase@esd105.org'; Larry Francois; 'michellep@ncesd.org'; mdunn@esd101.net; Tim Merlino; Bill Keim; Andy Wolf
Subject: Enrichment Levy Preliminary Guidance

Good evening Superintendents,

I strongly encourage you to read this entire email and to pass it along to your executive teams. You may want to forward to your board members and education association representatives to ensure everybody is working from the same set of assumptions.

On October 24th, the State Supreme Court heard a new round of oral arguments in the McCleary case. The justices are expected to deliver their next ruling sometime closer to the New Year. Our work to implement [EHB-2242](#) (the “McCleary bill”) continues.

In previous communications, I made two things clear:

- 1) Special Education expenditures will be an allowable use of local levy dollars, and
- 2) The Office of Superintendent of Public Instruction will not begin our formal pre-ballot review process until fall of 2018 for levy ballots that will go before voters in 2019, that will be collected in 2020.

However, some districts have sought general guidance as you consider levies for 2018 and 2019. This email serves as preliminary guidance. As more information is learned and as statutes are further interpreted and/or amended, this guidance may be modified.

Flexible Use of Local Levy Money

I will begin with the critical language of Section 501(2)(a):

“Enrichment activities are permitted under this section if they provide supplementation beyond the state” program of basic education.

This allows districts to use local levy dollars with substantial flexibility (I will discuss one new limiting factor contained in Section 103 later in this message). The Legislature goes on to specifically detail examples of the allowable uses:

- 1) Hours beyond the minimum instructional offerings;
- 2) Additional staff for class-size reduction beyond the class-size allocated in the prototypical model;
- 3) Additional program offerings;
- 4) Professional learning for staff;
- 5) Extracurricular activities, extended school days, or any extended school year;
- 6) Additional course offerings beyond the minimum instructional program;
- 7) Early learning activities;

- 8) Any additional salary costs attributable to the activities listed above; and
- 9) “Additional activities or enhancements that the office of the superintendent of public instruction determines to be a documented and demonstrated enrichment of the State’s statutory program of basic education...”

A New Limit on Local Levy Uses

While the Legislature has provided flexibility to districts and to my office, Section 103 of the new law is the one place where the Legislature clearly attempted to add limits to local levy uses. The Legislature amends the underlying law related to certificated instructional staff salaries (RCW 28A.400.200), specifically local bargaining as it relates to additional time, responsibilities, and incentives (TRI). Let me be clear, additional compensation for TRI is still a permitted use, but critical new language in the bill explicitly establishes the legislative intent to eliminate “deemed done” contract language.

Section 103(4)(b) adds the following language to the bargaining statutes:

“Beginning September 1, 2019, supplemental contracts for certificated instructional staff are subject to the following additional restrictions: school districts may enter into supplemental contracts only for enrichment activities as defined in and subject to the limitations of section 501 of this act. The rate the district pays under a supplemental contract may not exceed the hourly rate provided to that same instructional staff for services under the basic education salary identified pursuant to subsection (3)(a)(iii) of this section.”

Subsection (3)(a)(iii) now requires districts to “annually identify the actual salary paid to each certificated instructional staff for services rendered as part of the state’s program of basic education.”

The Bottom Line

Districts will need to start calculating the actual basic education salary paid to each certificated staff member. Any additional compensation provided to that staff member in local bargaining for TRI must be for additional time, responsibilities, and incentives. You will need to establish clear procedures for documenting additional time so that the supplemental contract paid to staff does not exceed the hourly rate paid in the base contract. The effect of this is to eliminate supplemental contracts that provide additional pay without the corresponding additional work associated with that pay. Not all incentives and responsibilities can be easily quantified using a time basis. My office will work with business officers and other stakeholders on additional guidance that is consistent with the intent of the statute.

I do not anticipate court guidance that would specifically impact this new legislative requirement because it relates to supplemental contracts above basic education. This preliminary guidance I am providing you today is the result of the plain language adopted by the Legislature. At OSPI, it is our responsibility to follow that language and give you as much constructive guidance as we can so you can remain in compliance with the law and still exercise the flexibility provided to you within the constraints of the law. We will develop additional guidance as we learn more about the legislative intent, the specific interests of districts, and of course any changes that may arise from actions in the 2018 Legislative Session.

OSPI’s Efforts

My office has several efforts underway to shore up EHB-2242 and to support your work in the districts:

- 1) OSPI submitted our supplemental budget request to the Governor where we ask for a very ambitious \$131 million next year for special education (roughly \$500 million more over four years);
- 2) We will continue to advance policy changes that restore more local levy authority by:
 - a. Pushing out the timeline by which local levies must be reduced;
 - b. Allowing you to pick the optimal amount of local levy between \$1.50/\$1,000 assessed value and \$2,500 per student. Current law says you must pick the lesser; and/or
 - c. Increasing those thresholds to something like \$2.00/\$1,000 assessed value or \$3,000 per student or possibly higher based on feedback from the districts.
- 3) We are about to hold our first meeting of the Model Salary Grid Technical Workgroup (October 30th). This group was established in law to develop at least one model salary grid for consideration by districts, as we transition away from a statewide salary schedule. Whatever this group produces will be guidance only and not a binding requirement for districts to follow. OSPI is required to submit a report to the Legislature by December 1, 2017.

This is a dynamic time in education finance, largely because EHB-2242 changes the rules more significantly than we have seen in decades. With uncertainty comes the imperative to maintain effective relationships and to renew our commitment to student success. Everything we want to achieve for our students is guided by the steady hand of local board policy, executive leadership, and educators doing the hard work of teaching and learning. Let's stay committed to our shared interests of student success, ample resources, and local control. Given the national mood, I challenge all of us to focus on student success by working together to effect the things we can change. Most of the answers to our hardest questions are found in the solutions that exist in our local communities when we work together on our shared interests.

Please reach out if you have questions!

Chris

360-790-3151

[It is an honor to serve the people of Washington State. Please let me know if OSPI can provide you with additional information or better service.](#)