SUPERINTENDENT OF PUBLIC INSTRUCTION

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Dear Superintendents:

As you know, I communicated directly to legislators on July 26 with concerns I have related to the "*McCleary* solution," and specifically E2SSB 6362 (2018). My communication focused on two main points: A) Legislative salary language for 2018–19 was not clear; and B) The new funding model creates disparate opportunities for districts to raise compensation in 2018–19 and beyond.

Following communication with our legal counsel, the Public Employment Relations Commission (PERC), and the State Auditor's Office, please consider the following as formal guidance from the Office of Superintendent of Public Instruction (OSPI) as you proceed with your work to implement provisions of EHB 2242 (2017) and E2SSB 6362 (2018), the "*McCleary* bills."

Concerning Salary Limitations for 2018–19

Earlier this summer, PERC received a request to make a legal determination about salary limitations for 2018–19. On August 2, PERC denied this request for declaratory judgment because all of the necessary parties did not consent to the determination of the matter.

With no judgment by PERC, we engaged in further discussions with legal counsel, and we continue to believe that the 3.1% salary limitation, cited by some legal opinions that you may have received, is not clearly articulated in E2SSB 6362. The statutory language is ambiguous. As E2SSB 6362 moved through the Legislature, each version added additional flexibility for districts to increase their average total salary for instructional staff (CIS) and classified (CLS) school employees in addition to the 3.1% inflation adjustment.

Your practical limitation on collective bargaining is your ability to fund compensation increases in the short-term AND your ability to sustain those increases. **Not every district will have an equal opportunity to provide compensation increases with double-digit percentages.**

Risk Factors

We analyzed several variables and we believe there are some school districts with financial limitations on their ability to provide salary increases consistent with various settled collective bargaining agreements (CBAs). These districts have four things in common:

1) They were already paying average CIS salaries very near, or above, the new state average salary allocation.

2) Their average 2018–19 state allocation for CIS salaries is less than the average CIS salary paid for 2017–18.
3) They did not get an experience factor increase for the 2019–20 year.
4) They are losing 50% or more of their local voter-approved levy capacity when the new levy thresholds kick in for calendar year 2019.

There are unique factors that affect each district, so these criteria are not the only variables, but they do give us some indication of where there is more long-term financial risk to a particular district.

Role of the State Auditor

We will maintain a constant dialogue with the State Auditor's Office as we implement the complex provisions of the *McCleary* bills. The Auditor will continue to audit school district expenditures, including expenditures on compensation and enrichment activities, in accordance with the guidance OSPI provides in its Accounting Manual, related bulletins, and other communications, including this guidance.

OSPI's Role in School District Financial Accountability

As you move forward with collective bargaining and district budgeting, please note that OSPI has three new or amended statutory mandates to ensure compliance with the new laws and long-term fiscal health:

1) RCW 84.52.053(4)(b) requires school districts to "receive approval of an enrichment levy expenditure plan from the superintendent of public instruction under RCW 28A.505.240 before submission of the proposition to the voters."

   We sent guidance related to pre-ballot approval on May 30, 2018, and we are already receiving levy proposals for February 2019 ballot issues.

2) The Legislature now requires that you produce four-year budget plans and submit those to your local educational service district (ESD) and OSPI for review and comment. RCW 28A.505.040(1) states that "[t]he four year budget plan must include an estimate of funding necessary to maintain the continuing costs of program and service levels and any existing supplemental contract obligations." Our fiscal staff sent four-year budget plan guidance to business officers at the educational service districts (ESDs) on June 6, 2018. We will begin reviewing plans this fall to comply with our financial health indicator work as described in #3.

3) RCW 28A.505.040(3)(c) requires OSPI to consider information provided in the four-year budget plans when determining school district financial health rankings.

   We are reviewing the factors OSPI currently uses in determining those rankings. We are likely to add criteria consistent with four-year sustainability to our financial health rankings. We will continue to collaborate with the State Auditor's Office on this work so our levy reviews; four-year budget reviews; and financial health indicator work is consistent, clear, and easily interpreted by you and the Auditor's Office for their work.

The Bottom Line

- The 2018–19 salary language in E2SSB 6362 is ambiguous, and we do not believe salary increases are limited to 3.1%.
- You are limited by what you can afford and what you can sustain.
- Due to the new financial model passed by the Legislature in 2017 and amended in 2018, several districts have less financial opportunities to provide the large percentage increases for salaries that we have seen thus far.
- The State Auditor will continue to audit to OSPI guidance and our Accounting Manual;
- OSPI will review pre-ballot levy plans and four-year budget plans; and
- We are likely to consider additional criteria in the four-year budget plans when we produce financial health rankings each year.

I know you are working hard with your boards and your local education associations, and these are very uncertain times related to school finance. As we move into the fall and prepare for the legislative session, I look forward to working with superintendents and education stakeholders to put new solutions in front of the Legislature that address some of the inequities of the new system and make additional progress on competitive salaries for educators in every part of the state. I will send additional communication about our operating and capital budget requests as we make further progress and prepare for submission to the Governor and Legislature.

As always, email or call me directly if you have questions or want further clarification. We will send this message to your business officers and other education stakeholders to ensure full transparency of our guidance.

Chris P.S. Reykdal

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