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NSBA and AASA Urge Federal Officials to Eliminate Burdensome Regulations

The National School Boards Association (NSBA) is urging Secretary of Education Arne Duncan to give schools relief from unnecessary and duplicative federal regulations.

NSBA and the American Association of School Administrators (AASA) have launched a petition drive pleading with Congress to encourage Secretary Duncan to remove burdensome regulatory and reporting requirements of No Child Left Behind, the American Recovery and Reinvestment Act of 2009 (ARRA), and other federal programs. School boards and administrators are encouraged to sign the petition—worded as a resolution—and forward it to their congressional delegation and Secretary Duncan. You can access the petition resolution and other information regarding this issue at: www.nsba.org and click on “Sign the nationwide petition for regulatory relief.”

The entire education community is concerned that, without reauthorization of the Elementary and Secondary Education Act (ESEA) before start of the 2011-12 school year, districts will be bound by regulations and sanctions in

the current No Child Left Behind (NCLB) law. Another year of unrealistic AYP expectations and increasing number of schools facing expensive sanctions is unacceptable. Secretary Duncan, Congress, and President Obama all agree NCLB must be totally revamped. However, reauthorization is three years overdue and Congress shows no sign of progress this summer.



The resolution petition highlights needed relief in two major areas:

Removal of the mandatory 20 percent set aside of local Title I funds for school choice and supplemental services for schools identified as “needing improvement” under NCLB. Neither of these interventions has been broadly sought nor have they demonstrated effectiveness and, therefore, do not justify a universal, top-down mandate for the large set-

aside. As NSBA Executive Director Anne Bryant put it, “There is no valid research or data to support these two strategies as universally improving student achievement. We demand that Secretary Duncan allow the flexibility to use Title I funding and funding for other programs as they were intended—to advance the academic achievement of low-income children.”

Data and reporting requirements need to be broadly examined to eliminate duplication and requirements that are not directly tied to advancing student achievement, equity, or prudent fiscal accountability—especially if that information is not even used by federal officials. This would apply not only to content of the data/reporting requirements but also to its frequency. NSBA’s Bryant states, “State and local education budgets (and federal funding) are being cut while the federal government continues to mandate unnecessary standards and sanctions under ESEA (NCLB) and ARRA’s demands for data. Are we supposed to lay off teachers and hire data collectors?”

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NDSBA Service Award Program

NDSBA recognizes board members for their professional development, service, and participation. Awards are made in two categories based on a point system: **Veteran Board Members** (100 points) and **Master Board Members** (200 points). Members who have participated in National School Boards Association events receive their award “with distinction.” Awards are presented at NDSBA’s Annual Convention.

Business managers should maintain the scoring forms

for board members and send a copy to NDSBA **only** when 100 and 200 points have been earned. Forms are available at www.ndsba.org under the “Services” link. If you have questions about the point categories, call the NDSBA office.

A copy of the qualifying board member’s form must be received by NDSBA no later than **September 16**.



by Tiffany Johnson, NDSBA Associate Legal Counsel



Health Care Reform Act Impact on School Districts

On March 23, 2010, President Obama signed into law the health care reform bill, the Patient Protection and Affordable Care Act (PPACA). This legislation, along with the Health Care and Education Reconciliation Act of 2010, makes sweeping changes to the U.S. health care system. These changes will be implemented over the next several years.

Lately, we have had several questions regarding what requirements under the health care reform law apply to school districts' group health plans.

Whether certain provisions of the health care reform law will apply to a group health plan depends on whether the plan is considered a "grandfathered plan." A grandfathered plan is one that was in existence on March 23, 2010, the day the main legislation was passed.

Grandfathered health plans will be

able to make routine changes to their policies and maintain their status. These routine changes include cost adjustments to keep pace with medical inflation, adding new benefits, making modest adjustments to existing benefits, voluntarily adopting new consumer protections under the new law, or making changes to comply with state or other federal laws. Premium changes are not taken into account when determining whether or not a plan is grandfathered.

Plans will lose their grandfathered status if they choose to make significant changes (compared to the plan in effect on March 23, 2010) that reduce benefits or increase costs to consumers. You should check with your accountant or attorney before making significant changes to your plan to determine if the change will jeopardize the plan's grandfather status.

A plan maintained pursuant to a negotiated agreement is considered a grandfathered plan until the negotiated agreement in effect on March 23, 2010, terminates. At that time, the plan will continue to retain grandfathered status as long as there are no significant changes compared to the plan that was in effect on March 23, 2010.

Grandfathered and non-grandfathered health plans must comply with the following:

- **Lifetime Limits.** No lifetime limits on the dollar value of certain "essential" health benefits.
- **Coverage Rescissions.** Restrictions on coverage rescissions, unless fraud or intentional misrepresentation by the enrollee.
- **Pre-Existing Exclusions.** No pre-existing condition exclusions on enrollees under the age of 19.
- **Dependent Coverage.** Extension of coverage of adult children to age 26 (but not applicable if the adult child is eligible for employer coverage before January 1, 2014).

Certain health care reform provisions do not apply to grandfathered plans, such as:

- Appeals Procedures PHSA § 2719.
- Nondiscrimination Requirements PHSA § 2716.
- Emergency Services PHSA § 2719A.
- Primary Care Provider PHSA § 2719A.
- Preventative Care PHSA § 2713.

School districts with non-grandfathered plans may have difficulty complying with the Nondiscrimination Requirements because they frequently contribute more to health insurance premiums of certain employees. However, compliance with the Nondiscrimination Requirements has been suspended until the IRS and other government entities are able to provide additional guidance.

To assist them in providing guidance, the IRS requested comments from the public. The deadline for submitting comments was March 11, 2011. To this date, they have not issued final guidance.

The National School Boards Association (NSBA) submitted comments to the IRS. NSBA requested that school districts and other government entities be totally exempted from application of the nondiscrimination rules. In the event they are not completely exempted, NSBA asked them to do any/all of the following: exclude premiums from the definition of "benefit"; change the definition of an HCE to exclude middle class workers; adopt a reasonable "safe harbor"; conclude the availability of coverage means compliance with the nondiscrimination rules; allow highly qualified employees to pay a tax on excess benefits instead of fining employers; exclude union employees and retirees from testing; and postpone the effective date of the regulations until all existing collective bargaining agreements and employment contracts expire.

The Departments of Health and Human Services, Labor, and Treasury have authority to enforce the provisions of the health care reform laws. Failure to comply could result in significant fines. Contact your attorney if you have a question regarding whether or not you are in compliance.

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Update from the North Dakota High School Activities Association

by Sherm Sylling, NDHSAA
Executive Secretary

The NDHSAA is grateful to the North Dakota School Boards Association for taking an active role by providing membership to the Board of Directors. Ben Auch has been appointed to the NDHSAA Board and will serve for the next four years. Mr. Auch finished out the term for Phil Eastgate and has a good understanding of the functions of NDHSAA.

This article touches on a few issues being addressed by the NDHSAA.

There still seems to be confusion regarding open enrollment and student eligibility. Students choosing to open enroll to another school are considered

transfer students and the rule as explained below applies. When a student open enrolls to a high school as a beginning ninth grader, he/she is immediately eligible for varsity competition. Any other time a transfer occurs without a corresponding “lock, stock, and barrel” move of the parents, a student becomes ineligible for varsity competition for 180 school days but is immediately eligible for sub-varsity competition.



Sherm Sylling

The NDHSAA Board has interpreted that “If a high school building closes, as a result of a school district’s decision to become a non-operating district, a dissolved district or a reorganized district, students who were attending the high school at the time it closed would become immediately eligible in the North Dakota high school they elected to attend—the same as any ninth grade student.” This has been addressed due to an increase in the closure of North Dakota high schools.

Another topic of interest discussed by the NDHSAA Board of Directors is the need to promote the development of a NDHSAA Coaches Education Program. This topic did not surface just because we felt our schools needed additional responsibilities but because of a trend to hire coaches removed from the educational setting. Traditionally, schools were able to secure coaches from the educational staff. However, in recent years, schools have had to secure coaches from the community who have not had educational training. These coaches are usually good people who love the activity they coach, understand x’s and o’s of the game, but have no educationally based training. A mandated Coaches Education Program could help our member schools maintain educationally based activities programs. If activity programs are not educationally based and are not considered extensions of the classroom, they will become more difficult to defend when challenged by patrons who are only concerned with wins and losses.

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■ ELIMINATE REGULATIONS

After announcement of the petition drive, Secretary Duncan indicated he will provide regulatory relief through a waiver process for states. Waivers will require a commitment to reform plans to improve academic performance of students in their local school districts. Comments by the Secretary indicate that those “reform” efforts will likely be consistent with the Department’s Race to the Top (RTTT) priorities. This is a far cry from automatic waivers requested in the petition and will only cause a whole new set of difficulties for state and local districts.

NSBA Associate Executive Director Michael Resnick expressed several concerns with this type of “relief”:

- States may be forced to make policy and program commitments similar to those required for RTTT grants in order to receive such waivers; however, they would have to institute the programs without RTTT funding. In addition, the timeline for an application that requires state policy changes cannot be met by the start of school when, among other factors, contracts for school choice and supplemental services will have to be signed.
- The result of this process may go in a different direction than Congress’s ultimate

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reauthorization of ESEA, which can result in major switches in future priorities and requirements at the local level.

- This process may not include automatic waivers, such as relieving schools in improvement status from the mandatory Title I set-aside for choice/supplemental services.

Resnick said, “We do not want the price of deregulation of ESEA to result in converting Title I and other ESEA Titles into a more Education Department dominated program.”

For North Dakota schools, there will be no relief if waivers are not automatic. Since significant policy changes in state law can’t be made without legislative approval and our legislature does not meet again until 2013, it is unlikely that we would be able to meet RTTT-type requirements for a waiver application.

On June 10, the NDSBA Board of Directors voted to support the resolution petition and authorized its executive director to sign on their behalf and forward the petition to North Dakota’s Congressional Delegation and to Education Secretary Duncan. NDSBA encourages school boards throughout the state to sign the petition and communicate their grass roots support by sending it to Senators Conrad and Hoeven, Congressman Berg, and Secretary Duncan.

DEADLINE ALERTS

Resolutions must be received in the NDSBA office no later than 4:00 p.m. on Monday, August 15.

Members interested in serving on one of the NDSBA Annual Convention committees should submit their name by August 1.

NDSBA dues should be received by July 29.

Service Award forms must be submitted by September 16.

■ NDHSAA UPDATE

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A committee of representatives from the NDHSAA Board and member schools recommended that the Board approve a mandated Coaches Education Program. Prior to Board action, the plan was sent out to member schools for feedback. Because of the negative feedback received, the Board changed the word “mandated” to “strongly encouraged.”

Mandated coaches education will resurface, either through another push from NDHSAA or the legislature. NDHSAA has been contacted by some legislators and asked to send all coaches education information that we have on file. I believe it is better for our schools to have ownership in the development of a Coaches Education Program than to have one authored by the state legislature. This could become the next concussion bill during the 2013 legislative session.

Education programs for coaches became more critical with passage of SB2281 since schools are now required to have a Concussion Management Plan. In response to a change in National Federation playing rules, NDHSAA had originally developed a grade 7-12 plan for schools. The legislature chose to have additional and more specific requirements. The Concussion Management Plan:

1. Must include students in all grades;
2. Must contain language that clearly states signs and symptoms of a concussion;
3. Must require an official, coach, or athletic trainer to remove a student from competition if there are signs or symptoms of a concussion;
4. Must require that any student who is removed from a contest be examined by a licensed, registered health care provider whose scope of practice includes the diagnosis and treatment of concussion;
5. Will not allow a student to return to practice or competition until the student or student's parent obtains written authorization from a licensed, registered health care provider whose scope of practice includes the diagnosis and treatment of concussion;
6. Must require that each official, coach, and athletic trainer receive biennial training regarding the nature and risk of concussion;
7. Must require the student and parent to document that they have viewed information regarding concussion incurred by students participating in athletic activities. The school is responsible to provide the required information either in printed form or in a verifiable electronic format.

Officials registered with NDHSAA will

receive required information regarding recognition of signs and symptoms of concussion. However, for contests that do not require registered officials, such as elementary basketball, schools will be responsible for the proper training of officials.

The NDHSAA Board of Directors continues to emphasize the importance of developing good sportsmanship in school activities.

Having school boards and administrators expect good sportsmanship in their schools and demand positive behavior from players, coaches, and fans is crucial to the improvement of sportsmanship in schools. It is also very important for school boards to support their administrators as they administer sportsmanship expectations. The North Dakota High School Activities Association appreciates every effort made by our member schools in promotion of good sportsmanship.



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