

State of Rhode Island and Providence Plantations
DEPARTMENT OF EDUCATION
Shepard Building
255 Westminster Street
Providence, Rhode Island 02903-3400

Deborah A. Gist
Commissioner

October 20, 2009

Re: Basic Education Program Regulations and Seniority-Based Teacher Assignments

Dear Colleagues:

As you may know, my highest priority for transforming Rhode Island education is ensuring that every student has highly effective teachers. To meet this priority, we must be sure that:

- districts select and retain only the most highly effective staff; and
- districts base teacher and administrator assignments on student need.

These two essential principles are part of the new Basic Education Program (BEP) regulations that the Board of Regents approved in June and that go into effect next July 1st. As superintendent, you must ensure that your school district complies with all provisions of federal and state law, including the full implementation of the BEP. In order to be in compliance with the new BEP, you may need to take some immediate actions.

The overarching goal of the BEP is clear: continuous improvement of student learning must be the primary reference point for *all* decision-making, including personnel assignment and evaluation.

To that end, the BEP requires an effective human-capital management system, specifically stating that “each LEA shall maintain control of its ability to recruit, hire, manage, evaluate, and assign its personnel.”¹

There are four required components for a legally compliant human-capital management system:

1. Policies and Procedures to Recruit, Support, and Retain Highly Effective Staff
2. Ongoing Supports to Staff
3. Cohesive System of Professional Development
4. Evaluation of Personnel Performance

Implementation of component 1: Policies and Procedures to Recruit, Support, and Retain Highly Effective Staff, requires the following:

The LEA shall establish a set of policies and an array of strategies to recruit, hire, and retain highly effective district and school personnel; said policies and strategies shall align to district needs, focus on screening methods for determining candidate knowledge and skills to match the needs of the LEA, promote early identification of openings, use research-based protocols and incentives to address LEA related factors affecting retention and its impact on mobility trends, and address staffing low performing schools with highly effective and experienced staff.

¹ BEP, G-15-2.2(a), Board of Regents Regulations.

In sum, the new BEP requires that the system of management, professional training, evaluation, and assignment of instructional staff ensures that highly effective educators work with classrooms of students who have significant achievement gaps. *In my view, no system that bases teacher assignments solely on seniority can comply with this regulation.*

The Board of Regents has explicitly found that management of your human-capital system according to the requirements of the BEP is "essential to the mission of implementing a statewide system of public education." BEP, G-15-1.2(c), Board of Regents Regulations. As the chief administrative officer of your local education agency, you must establish a human-capital management system that meets the standards set forth in the BEP.

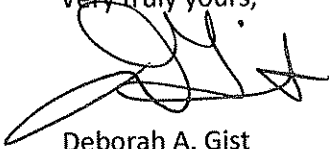
On July 1, 2010, the BEP will become law in the state of Rhode Island. As such, the requirements of the BEP will effectively be read into every collective-bargaining agreement entered into after that date. Contract language cannot conflict with existing state law, including regulations, and contract language that conflicts with existing law may be unenforceable.² Therefore, *as your collective-bargaining agreements come up for renewal, you must address any language in the contract that prevents you from meeting the BEP regulations on highly effective staff.*

I am writing to you today to provide you with sufficient time to work with your respective bargaining units to ensure that you have a system in place for ensuring faculty stability and for assigning highly effective teachers and teaching assistants according to student needs. Many of you have collective-bargaining agreements that either have expired or will expire during the next year. Now is the time to ensure that nothing in any collective-bargaining agreement prevents your district from assigning staff based on a set of performance criteria and on student need rather than by strict seniority. I understand that this may well have implications for personnel decisions you make prior to March 1 deadline for layoff notices.

At a later date, I will ask you to submit a status report explaining how you revised your human-capital system to meet the requirements of the BEP. Over the next several months, RIDE staff members will be available to provide whatever technical assistance you may need to implement these changes.

Thank you for your help and understanding, as we work to transform our education system and make decisions that are in the best interest of our students.

Very truly yours,



Deborah A. Gist
Commissioner

² See, e.g., State v. Rhode Island Alliance of Social Service Employees, Local 580, SEIU, 747 A.2d 465, 469 (R.I. 2000).