

PSEA Advisory on Race to the Top Prepared by the PSEA Legal and Field Divisions

Caution: This information is based on information current as of this date. The situation is evolving and locals should keep in contact with their UniServ representatives for the latest information and advice.

Introduction

This Advisory addresses some of the questions that have been raised regarding the Race to the Top (RTTT) federal grant program. PSEA will circulate additional details on RTTT and its ramifications as more information becomes available. In the meantime, it is critical that you are aware of RTTT efforts in your area, and if you discover that your district is planning to participate in RTTT, contact your UniServ representative immediately. Updated information is available at www.psea.org/RTTT.

What is RTTT?

RTTT is a \$4.35 billion dollar education reform program enacted as part of the American Recovery and Reinvestment Act. The U.S. Department of Education will award RTTT grants to states through a competitive application process. RTTT awards will be made in two rounds, with the first set of awards in April 2010 and the second set of awards in September 2010. A limited number of states (perhaps 10 in each round) are expected to receive awards. All interested states must submit their applications for the first round by January 19, 2010. If a state does not apply, it will not receive any RTTT funding.

Pennsylvania intends to apply for the first round of RTTT funds. *The decision to apply for RTTT funding may have bargaining ramifications for local associations.*

How does the application process work?

Pennsylvania, through its Department of Education (PDE), must submit an application with a comprehensive reform plan that addresses four key areas (each of which is worth up to a specific number of points on the application):

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1. Developing and adopting common standards and aligned assessments (70 points);
2. Adopting a statewide longitudinal data system to improve instruction (47 points);
3. Improving teacher and principal quality by expanding certification avenues, developing annual evaluation systems that include student growth as one of multiple measures of teacher and principal performance, linking those evaluations to key personnel decisions (certification, retention, dismissal, and compensation), and ensuring the equitable distribution of effective teachers and principals (138 points);
4. Turning around the lowest performing schools (50 points).

Applications will be graded on a 500 point scale. In addition to the points above, a state can receive up to 125 points for demonstrating certain state success factors; 55 points for general eligibility requirements; and 15 points for having a strong emphasis on science, technology, engineering, and mathematics. Up to 260 of the 500 points are allocated based on the state's past efforts.

For more information on the RTTT guidelines and application, see <http://www.ed.gov/programs/racetothetop/index.html>.

How does this affect districts?

In order to secure the most points for its application, Pennsylvania needs to show support from districts and local stakeholders, including unions. To this end, PDE sent a letter to all superintendents on December 4, 2009, inviting all districts to participate in the RTTT application.

If Pennsylvania's application is accepted, participating districts will be eligible for portions of the funding if they implement the RTTT reforms.

How much money could be awarded to Pennsylvania and participating districts?

If selected, Pennsylvania expects to receive \$200 million to \$400 million. Fifty percent of the funds must be allocated to participating districts on a per student basis. The state has flexibility to spend the remaining 50 percent on state-level activities, disbursements to districts, and other purposes as the state may propose in its plan.

What is the RTTT timeline?

Because Pennsylvania is applying for the first round of grants, there are immediate deadlines. PDE has tentatively indicated that districts wishing to participate must provide a preliminary letter of intent by December 18, 2009. Interested districts must send a Memorandum of Understanding to PDE by January 13, 2010. The state application is due January 19, 2010. If Pennsylvania is not selected in the first round, it could reapply in the second round.

What reforms are considered in RTTT?

Districts with the 5 percent lowest performing school buildings in the state must implement one of four interventions for the building. PDE has identified 31 districts (including Philadelphia and Pittsburgh) with 150 schools that fall onto this list. The interventions all implicate mandatory subjects of bargaining and are as follows:

Turnaround – includes replacing the principal and replacing at least 50 percent of the existing staff with highly effective teachers.

Restart – converting the school to a charter school or using an education management organization.

Closing the school – transferring all students to other schools in the district.

Transformation – includes all of the following (as preliminarily identified by PDE in its December 4 correspondence):

- Hiring a Chief Turnaround Officer to support the principal;
- Implementing a rigorous, research-based curricula;
- Increasing learning time;
- Using student data to inform and differentiate instruction;
- Providing appropriate socio-emotional supports;
- Evaluating teachers using a multi-measure evaluation tool;
- Rewarding school leaders, teachers, and staff who have increased student achievement and removing those who have not.

The December 4 correspondence from PDE sets out PDE's additional clarifications regarding the transformation intervention. They include: include multi-measure evaluations and compensation tied in part to test scores; career ladders for promotion; compensation and advancement of teachers based on responsibility and other factors including student growth, increased length of school day and year, additional professional development and mentoring; transfers of staff; additional planning time and flexible schedules; signing bonuses (optional); and summer school. The RTTT application will contain the final details. These reforms will raise bargaining and contractual issues.

What reforms are intended for districts *without* low performing schools?

PDE has tentatively identified reforms that are less extensive but must include multi-measure evaluations that factor in student growth as a measure for informing teacher compensation, retention and removal decisions. Also included is the option of adopting a career matrix for promotion and advancement of teachers with compensation based on responsibility. (See the December 4 PDE letter). The RTTT application will contain the final details. These reforms will raise bargaining and contractual issues as well.

What are the implications for local associations?

Districts wishing to participate must sign a model Memorandum of Understanding (MOU) and may ask locals to sign as well. The significance of a local union's signature is that it shows support to implement the district level reform. The state may earn up to an unspecified number of points (probably 15) for local union signatures; in addition, union signatures may demonstrate stakeholder support counting for up to 10 more points.

Under the federal RTTT regulations, local associations are not required to sign MOUs. If the local association does not sign the MOU, the district can still join in the state's application but the application will not receive as many points. In its December 4 letter, PDE asked that all MOUs have the local association's signoff, and has not clarified whether it will accept MOUs without local association support.

PSEA believes that if a local association signs the model MOU, the local is not required to make any changes in its collective bargaining agreements and is not waiving its rights to bargain about any changes the district desires to make to implement the MOU, should Pennsylvania's grant be approved. But there is a potential that some districts could claim that by signing the MOU, the local has automatically agreed to make contract changes needed to implement the reforms and has waived its rights to bargain over such changes. In order to avoid this, PSEA is suggesting that all MOUs contain language protecting the contract and preserving bargaining rights. PSEA is in the process of preparing such language for use with the MOU. ***No local should sign an MOU without first speaking to its PSEA UniServ representative and region attorney and ensuring that protective language is included.***

If a local signs the MOU (with protective language) and Pennsylvania's application is approved, the local and district will then engage in good faith bargaining regarding the reforms. For this reason, local associations should not sign the MOU unless they (i) understand what aspects of the state's plan the district is agreeing to implement; (ii) are willing to bargain over those aspects of the plan; and (iii) are willing to reopen and rebargain any contract provisions that need to be changed.

When must the locals and districts complete bargaining?

Participating districts will have up to 90 days to complete detailed work plans that include specific goals, activities, timelines, budgets, key personnel, and annual targets for key performance measures. We believe that participating districts and local associations will have up to 90 days after the grant is awarded to finalize any contract language. If the parties bargain in good faith and cannot reach agreement, then the reforms are not implemented. This may result in the district not receiving RTTT funds.

What are the next steps for local associations?

Locals should ask their districts if they intend to participate in Pennsylvania's RTTT application. If the answer is yes, the local should ask for copies of any responses sent to PDE, and for details regarding the specific reforms the district wishes to implement. The local should immediately communicate this information to its UniServ representative. With the help of the UniServ, the local should review the district's proposed reforms to identify those that are mandatory subjects of bargaining, those that require changes to existing contract language, and those that require meet and discuss. The local should meet with its UniServ representative to discuss whether it wishes to sign the MOU (assuming that protective language is included).

What support will PSEA provide?

This situation is continually evolving, and PSEA staff from Government Relations, Education Services, Research, Legal, and Field are working together to identify questions, obtain answers, and better understand the application and grant process, and its impact on districts and our members. We will provide strategy assistance and support local associations in whatever decision they make regarding whether or not to sign the MOU. In the event Pennsylvania's application is approved, we will provide bargaining assistance and recommended bargaining language regarding reforms where needed. Since the period of time allotted for bargaining is so compact, we believe that any local going to the table will need to have a good idea, well in advance of negotiations, as to what members are willing to consider and what reforms their members may support. PSEA suggests that the time between January and April be used to educate members and develop proposals, rationale and an overall bargaining strategy in case Pennsylvania's application is approved. This process will also provide an opportunity for locals to develop positive proposals that actually will help improve student performance.