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Memo

To: Senator Dan Hughes, Chairperson
Executive Board of the Legislative Council

From: Amy Rhone, Administrator – Nebraska Department of Education
Tammy Barry, Legal Counsel – Nebraska Department of Education

CC: Dr. Matt Blomstedt, Commissioner – Nebraska Department of Education

Dr. Deb Frison and Brian Halstead, Deputy Commissioners – Nebraska Department of Education

Janice Satra, Legal Counsel to the Executive Board, Nebraska Legislature

Date: 7/14/22

Re: LB 1014 Required Compliance Report for funds appropriated to NDE

The Nebraska Department of Education has outlined how the appropriation by the Legislature to the department of federal Coronavirus State & Local Fiscal Recovery Funds (CSFRF) will be used exclusively for programs and interpreters that provide services to students who are deaf or hard of hearing. The guidelines for the use of the funds have been set up to meet the requirements set forth in Legislative Bill 1014 (2022) and the final federal rule for the use of such funds and can be found at <https://www.education.ne.gov/sped/>.

Under the CSFRF category of Responding to Public Health and Economic Impacts of COVID-19, the final rule asks that recipients (1) identify a COVID-19 public health or economic impact on an individual or class and (2) design a program that responds to that impact. The rule goes on to enumerate uses of funds that are presumed to be consistent with the final rule. Assistance to address the impact of learning loss for K-

12 students and services to address educational disparities are two of the enumerated uses.

The CSFRF funds provided by LB 1014 will allow the department to support growth in statewide educational access to students who are deaf or hard of hearing with \$300,000 for services, \$300,000 for equipment, and \$400,000 for improved training and mentoring for educational interpreters. The plan as prescribed in the linked guidelines will also fulfill the requirements for the response to be related and reasonably proportional to the impact of COVID-19 on the students and to be reasonably designed for their benefit.

During the COVID-19 pandemic and when mask protocols were in place, students who are deaf or hard of hearing had particularly difficult time accessing educational opportunities, which has resulted in disproportionate learning losses for these students during the pandemic. Equipment needs were not always met as shifting classroom-based equipment to remote instruction support was not always possible and did not provide the same level of accessibility. In addition, mask protocols and a continued decrease in the number of Educational Interpreters resulted in students with disabilities who are deaf or hard of hearing experiencing even greater educational communication setbacks.

The needs of children and youth who are deaf or hard of hearing are diverse, ranging from a need for access supports to highly specialized instruction. For all children, and especially children who are deaf or hard of hearing, there are windows of opportunity for learning that should be maximized. When children, along with their families, are supported with appropriate language and learning opportunities that address the nuances of their hearing status, most will thrive and achieve their chosen educational and occupational aspirations.

Appropriate and quality learning opportunities should exist for all children. The education of students who are deaf or hard of hearing requires specialized programs, and appropriately certified personnel with effective communication skills. Appropriate and quality learning experiences for children who are deaf or hard of hearing should accommodate not only their disabilities but should also recognize and build on their unique strengths and learning styles. The communication and language environments for children who are deaf or hard of hearing must be varied and rich. The individual communication and language needs of children who are deaf or hard of hearing may present special challenges during naturally occurring interactions. All communication modes and languages are to be provided for and respected, whether oral/aural language or manual language, whether American Sign Language or English signing systems,

regardless of the type or use of hearing assistive technology (i.e. cochlear implant, hearing aids, etc.). Early identification followed by timely and appropriate intervention must form a safety net of support around all programs and services if quality and equity are to be made a reality for all. The state system is a distinct yet fluid network of connected options that allow students to move to appropriate programs and receive services as needs and circumstances change, all of which are determined by the student's IFSP or IEP team.

In addition to demonstrating how the plan fits within the eligible uses by responding to COVID-19 learning losses, it is also important to note that the funds will not be used for any of the prohibited uses, which include offsetting a reduction in net tax revenue, making deposits into pension funds, paying off debt, replenishing reserves, satisfying a settlement or judgment, contravening the purposes of the American Rescue Plan Act, or undermining COVID-19 mitigation practices. The department is prepared to comply with Treasury's Compliance and Reporting Guidance, which includes submitting mandatory periodic reports to Treasury. Because the appropriation for equipment is under the \$1 million threshold, the department will not need to provide written justification for the capital expenditures.

During the COVID-19 pandemic, all students were affected by access to educational opportunities, however, students who are deaf or hard of hearing and educators of students who are deaf or hard of hearing had an even more difficult time accessing educational services, equipment, and educational interpreter training and mentoring/support. Using CSFRF funds to address learning losses for disproportionately impacted Deaf and hard of hearing students pursuant to the guidelines established by the department will fulfill the requirements set out by state and federal law.