December 19, 2011

MEMORANDUM

TO: CITY AND COUNTY SUPERINTENDENTS
   CHIEF SCHOOL FINANCIAL OFFICERS

FROM: WARREN CRAIG FOUNCH
       DEPUTY STATE SUPERINTENDENT OF EDUCATION

RE: H.B. 56 - ALABAMA IMMIGRATION LAW COMPLIANCE

Effective January 1, 2012, H.B. 56 (the “Act”) imposes certain requirements on local school boards “as a condition for the award of any contract, grant, or incentive by the State of Alabama, any political subdivision thereof, or any state-funded entity to a business entity or employer that employs one or more employees [working in the State of Alabama].”

As you are aware, enrollment in the Federal E-Verify program by local school boards is now mandated.

Additionally, local school boards have an obligation to obtain from its Contractors an affidavit of immigration compliance. Accordingly, included with this Memorandum is a suggested AFFIDAVIT OF IMMIGRATION COMPLIANCE—BOARD that you will need to complete, have notarized, and return to the Alabama Department of Education.

For your convenience, we will shortly post on our website a customizable suggested memorandum and affidavit to be sent by the local board of education to its Contractors, to be completed and notarized by the Contractors, and kept at the local board office. Your Contractors may in turn provide a copy of the same memorandum and suggested subcontractor affidavit to their subcontractors and maintain the notarized affidavits at their offices. We will also post a suggested memorandum and affidavit for Grantees. To minimize Contractor, Subcontractor and Grantee confusion, their affidavits will be drafted so that once executed and notarized they may be accepted by any local school board and the State Department of Education. We are informed that a sampling of these documents will be subject to audit by the Alabama Examiners of Public Accounts.

In addition, you will shortly find posted on our website a customizable suggested NOTICE OF ALABAMA IMMIGRATION LAW COMPLIANCE REQUIREMENTS TO ALL CONTRACTORS (“CONTRACTORS”) OF LOCAL BOARD OF EDUCATION which contains the contractual language between a local board of education and its Contractors. To the extent that there is no formal written contract between the local school board and its Contractors, such as where business is conducted by purchase order, this document shall serve as the Alabama Immigration Compliance Contract. You should also incorporate this language into your contractual agreements.

We sincerely regret any inconvenience that the implementation of the Act may cause you and we hope that you understand our need to comply with the law.

1 ALA. CODE § 31-13-9 (a) and (b). See http://www.ago.state.al.us/File-Immigration-Al-Law-2011-535. The law is now codified in ALA. CODE §§ 31-13-1 to 31-13-30 as well as § 32-6-9. (the “Act”)

2 A Contractor is defined broadly in the Act as “A person, employer, or business entity that enters into an agreement to perform any service or work or to provide a certain product in exchange for valuable consideration. This designation shall include, but not be limited to, a general contractor, subcontractor, independent contractor, contract employee, project manager, or a recruiting or staffing entity.” ALA. CODE §§ 31-13-3 (3).

3 MEMORANDUM TO ALL CONTRACTORS OF SCHOOL BOARDS IN THE STATE OF ALABAMA and AFFIDAVIT OF IMMIGRATION COMPLIANCE—CONTRACTOR, to be posted on our website.

4 MEMORANDUM AND AFFIDAVIT OF IMMIGRATION COMPLIANCE—SUBCONTRACTOR, to be posted on our website.

5 MEMORANDUM AND AFFIDAVIT OF IMMIGRATION COMPLIANCE—GRANTEE, to be posted on our website.

WCP/JW

FY12-3022
AFFIDAVIT OF ALABAMA IMMIGRATION COMPLIANCE
BY A LOCAL SCHOOL BOARD IN THE STATE OF ALABAMA

In compliance with SECTIONS 9 (a) and (b) BEASON-HAMMON ALABAMA TAXPAYER AND CITIZEN PROTECTION ACT (the "Act"); CODE OF ALABAMA, SECTIONS 31-13-9 (a) and (b), this Affidavit of Alabama Immigration Compliance is to be completed and signed by an official of a local school board in the State of Alabama, and notarized, as a condition for the award of any contract, grant or incentive by the State of Alabama Department of Education to a local school board ("the Board") as an employer that employs one or more employees in the State of Alabama. Additionally, because the local school board contracts with various Contractors, [defined broadly in the Act as "A person, employer, or business entity that enters into an agreement to perform any service or work or to provide a certain product in exchange for valuable consideration. This designation shall include, but not be limited to, a general contractor, subcontractor, independent contractor, contract employee, project manager, or a recruiting or staffing entity." ALA. CODE §§ 31-13-3 (3)]. The Board is to provide notice of the Contractors Alabama Immigration Compliance obligations to the Board. Grantees, or those the Board provides an incentive to, are to be provided a similar notice.

State of Alabama:
County of __________________________________________________________:

Before me, a notary public, personally appeared __________________________ (print name) who, is duly authorized by the Board, being sworn, says as follows:

As an entity under the supervision of the State Board of Education, as condition for the award of any contract, grant, or incentive by the State of Alabama Department of Education to a business entity or employer that employs one or more employees in the State of Alabama, I hereby attest that in my capacity as __________________________ (local board position) for ______________________ (name of local school board "the Board") that said Board does not knowingly employ, hire for employment, or continue to employ an unauthorized alien. The Board will be providing notice to its Contractors and its Grantees, or those it provides an incentive to, of their Alabama Immigration Compliance obligations to the Board.

I further attest that said Board is enrolled in the E-Verify program and attached to this Affidavit is our E-Verify Memorandum of Understanding confirming such program enrollment. I have read this Affidavit and swear and affirm that it is true and correct.

________________________________________
Signature of Affiant

Sworn to and subscribed before me this __________ day of __________, 20__.
I certify that the affiant is known (or made known) to me to be the identical party he or she claims to be.

________________________________________
Signature and Seal of Notary Public

Return to Dr. Warren Craig Pouncey, Deputy State Superintendent of Education at the State Department of Education, P.O. Box 302101, Montgomery, AL 36130-2101.