



New Jersey School Boards Association

413 West State Street • Trenton, NJ 08618 • Telephone: 609.695.7600 • Toll-Free: 888.88NJSBA • Fax: 609.695.0413

Current Issues in Public Education

July 2017



Presented to the New Jersey gubernatorial candidates to facilitate discussion about the goals of our state's local boards of education and the challenges they face

OUR MISSION:

The New Jersey School Boards Association, a federation of boards of education, provides training, advocacy and support to advance public education and promote the achievement of all students through effective governance.

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ADVANCING STUDENT ACHIEVEMENT

At the heart of the New Jersey School Boards Association's mission is the advancement of student achievement. The goal serves as the foundation of the Association's positions on educational issues.

The Importance of Every Child

In 2013, the NJSBA senior staff established the following statement to further express the purpose of the organization:

Effective public education governance requires a full understanding of, and commitment to, student achievement. Recognizing the importance of every child, NJSBA provides training, advocacy, resources, and guidance to empower boards of education to advance student achievement.

2017 NJSBA Report

In March 2017, NJSBA published a report, following a year-long study by its Task Force on Student Achievement (www.njsba.org/student-achievement2017). The report focused on strategies to close the achievement gap, the local board of education's influence on student achievement, and areas such as social-emotional learning, labor-management collaboration, and the role of the schools and the juvenile justice system.

New Jersey Student Learning Standards

Critical to advancing student achievement is state education policy that establishes academic standards and determines how students' progress toward those standards is measured.

New Jersey has subscribed to standards-based education since the mid-1990s. NJSBA strongly supports the concept of standards that express what we expect all New Jersey students to know and be able to do at various grade levels and upon graduation. Continual review and improvement of the standards must be an essential part of the process.

- Core Curriculum Content Standards—In 1996, the State Board of Education first established Core Curriculum Content Standards through regulation. The standards undergo public comment and, under current procedures governing administrative regulations, are scheduled for review every seven years.
- Common Core State Standards—In 2010, as part of the review process, the State Board of Education approved the Common Core State Standards, an initiative of a consortium of states

sponsored by the National Governors Association and the Council of Chief State School Officers, as New Jersey's academic standards in mathematics and language arts. They place emphasis on problem-solving, critical thinking and analytical skills.

- New Jersey Student Learning Standards—In May 2016, the State Board of Education adopted a revised version of academic standards for the state's schools following a review requested by the governor. The revised standards, the New Jersey Student Learning Standards, will go into effect in September 2017. They retain most components of the Common Core State Standards.

Assessment of (Testing) Student Progress

NJSBA believes that a statewide test or an alternative method should be used to determine student progress toward state academic standards.

The state testing program should provide educators with the information they need to advance students' academic achievement. Such data should be provided on a timely basis, so that educators can make decisions on student placement and the design of curriculum. Test administration time should not adversely affect the educational program.

In addition to the state's current instrument, the PARCC assessment, local school boards should have the discretion to use other measures to determine student progress toward the standards, including college aptitude tests, such as the SAT, the ACT and the Accuplacer, as well as the Armed Services Vocational Aptitude Battery.

FUNDING OUR SCHOOLS

The School Funding Reform Act of 2008

New Jersey's current school finance system, the School Funding Reform Act of 2008 (*P.L. 2007, c.260*), was heralded as a solution to more than a quarter century of court challenges to the constitutionality of the state's school funding allocation method. In fact, the New Jersey Supreme Court held the School Funding Reform Act (SFRA) to be constitutional, *provided that it is fully funded*.

Following are key components of the SFRA:

- Adequacy Budget—The SFRA funding formula begins with a per-pupil adequacy amount for each student at the elementary school level (currently, \$11,009). That base amount is subsequently adjusted by factors reflecting whether or not the student is at a higher grade level (i.e., middle school or high school), as well as the educational needs of the individual student. Weighting factors include adjustments for students who live at or below the poverty level, are English language learners, have special learning needs, etc.

The district's *adequacy budget* is determined by adding together the adjusted per pupil adequacy amounts for each of its students.

- Equalization Aid/Local Fair Share— Public school revenue comes from three sources: the local property tax; state aid, and federal funding. *Equalization aid* is the major category of funding under the SFRA formula.

To determine a district's equalization aid, the formula first calculates the local fair share contribution—which represents the district's ability to pay—toward the adequacy budget. The fair share is derived from the district's assessed property valuation and its per capita income. The fair share contribution is then subtracted from the adequacy budget, with the difference equaling the district's state aid allocation. Thus, the formula generally distributes state aid on a sliding scale, with the wealthiest districts receiving the least aid and the poorest districts getting the largest amounts.

The local fair share toward the adequacy budget is funded by the local school property tax levy.

Of the state's 581 school districts, approximately 57 percent spend more than their adequacy budgets. Spending above adequacy is funded exclusively through local property taxes, with no matching funds provided by the state.

- Special Education Aid—The SFRA funds two-thirds of special education funding on a wealth-equalized basis and one-third on a categorical basis. For each district, the formula first multiplies the statewide average special education classification rate (14.69%) by the district's total enrollment. It then multiplies the product by the statewide excess per pupil special education cost (i.e., the amount in excess of general education costs). Two-thirds of the result is wealth equalized, i.e., the amount of special education aid is provided based on the district's ability to pay. The full amount of the other third is provided to the district.

State law also provides funding to help districts pay for extraordinary special education costs to help school boards pay for placements of students in special schools and programs outside of the district. Under current law, the state is supposed to provide for the 85% of costs in excess of \$40,000 for placements in public settings and above \$55,000 for out-of-district private placements. The State has rarely funded more than 50% of these extraordinary special education costs.

- Hold-Harmless/Enrollment Growth Limit—To expedite legislative approval, the SFRA was revised shortly before enactment to include a provision or adjustment (hold-harmless) aid, which would guarantee that no district would receive less funding under the new law than it had received in the prior year.

To fund this hold-harmless provision, the Act limited the amount available to districts that experienced substantial enrollment increases. The legislature's intention was to phase out the adjustment aid and phase in new funds to account for enrollment growth. This did not occur.

The Current School Funding Situation

Today, the estimated underfunding of the SFRA is at least \$1.5 billion. This estimate is based on current enrollment data and updated "local fair share" efforts.

- Cause of Under-Funding—For several years, the amount of state aid to education has been insufficient to cover the full cost of enrollment growth. Additionally, funding has been disbursed with a requirement that no district receive less aid than allocated in the prior year. The situation is compounded by the fact that, on several occasions dating back to the early 2000s, the state did not run the previous school funding formula. As a result, districts with substantial enrollment increases have never received adjustments in state aid as intended by the school finance system.

- 2% Tax Levy Cap—The persistent underfunding of the SFRA is compounded by the local property tax levy cap (P.L. 2010, c.44). It limits the allowable increase in the annual school tax levy to no more than 2% above the previous year’s amount and does not provide adjustments for areas, such as special education costs, over which districts have no control.

The cap limits the ability of many local boards to offset underfunding of state aid in the face of increasing costs.

- 2017-2018 State Budget—New Jersey’s 2017-2018 budget includes \$150 million in new school funding, while diverting \$31 million in adjustment aid from districts considered to be “overfunded” to those that have been chronically underfunded.

The new funding consists of \$100 million in new equalization aid; a \$25 million increase in extraordinary special education cost aid; and an additional \$25 million to expand pre-school education aid. The budget also diverts \$31 million in adjustment aid from “over-funded” districts to “under-funded districts.”

- NJSBA Position—The Association supports the increases in special education and pre-school funding, as well as the additional aid for under-funded school districts. Increased state funding is vital to school districts that have experienced increases in enrollment and must expand their programming to meet the educational needs of their students. NJSBA, however, could not support a reduction in state aid to school districts particularly one that has taken place so late in the local school district budget cycle. No child should be penalized by a sudden reduction in state funding.

NJSBA Policy and Positions on School Finance

A state school funding system must recognize a community’s ability to pay and the educational needs of students. The following points are key NJSBA positions on school funding topics:

- Special Education Cap Adjustment—The 2% property tax levy cap was adopted in 2010, two years after the SFRA’s enactment. It has created an additional impediment for school districts and compounds the difficulties created by the underfunding of the SFRA.

In addition, growing special education costs continue to strain school district budgets, particularly in light of limited state and federal funding. NJSBA supports an adjustment to the 2 percent tax levy cap to accommodate growth in special education costs.

- Property Tax Reform—NJSBA believes that the state should pay at least 50% of the statewide total cost of public elementary and secondary education in order to relieve the overreliance on local property taxes. Current state aid comprises approximately 37% of all K-12 education costs.
- Underfunded State Mandates—Well-intentioned, but underfunded, state mandates have placed a burden on school districts. A 2016 NJSBA report (www.njsba.org/mandates-2016) identified the Anti-Bullying Bill of Rights, the AchieveNJ educator evaluation system, and the implementation of the PARCC assessment as recent examples.
- Administrative Spending Limit—Not only do unfunded and under-funded mandates pose additional costs to local school districts, but they can also increase the administrative burden. Current state law limits administrative spending growth to approximately 2.5% annually.

NJSBA believes the state should lift this restriction to give local school boards financial latitude in accommodating the additional administrative requirements created by these programs.

Our state's public schools are far from administratively top-heavy. Among the 50 states, New Jersey has the fifth-lowest expenditure (as a percentage of total current expenditures) on school and district administration, according to the U.S. Department of Education.

SCHOOL FACILITIES

Financing School Construction

The Educational Facilities Construction and Finance Act of 2000 provided significant property tax relief to regular operating districts (non-Abbott districts), while helping them expand and improve facilities. Following are key components of the school construction, current challenges and NJSBA's positions:

- 40% State Funding—The 2000 facilities act provides state funding to regular operating (non-Abbott) districts, equaling at least 40% of eligible school construction costs. The act provided the funds either through direct state grants, administered by the state's Schools Development Authority, or debt service aid, appropriated annually by the Legislature. (The grants were underwritten by bonds issued by the Economic Development Authority.)
- Grant Funds Depleted—The fund balance for the state grants is near depletion. At the Senate Budget hearing in early May the SDA's chief executive officer testified that roughly \$200 million remains in the grant fund from the multiple billions of dollars issued by the state's Economic Development Authority over the last 20 years. However, the remaining funds are technically committed.
- NJSBA Position—The state should explore options to provide financial support for needed school construction in regular operating districts, while ensuring that the state Supreme Court's directive for construction in SDA (Abbott) districts is met. For non-Abbott districts, funding options can include replenishing the grant program and ensuring full funding of debt service aid.

SDA Assessment: \$34 Million per Year

In 2011, the state began charging an assessment to regular operating districts that received construction grants through the Educational Facilities Construction and Financing Act of 2000. The assessment was applied to districts that received grants prior to 2011. It totals approximately \$34 million per year statewide.

- Not Legislature's Intention—While the 2000 construction act authorizes the state to assess grant recipients for administrative and organization costs, it was not the legislature's intention to charge districts back for principal and interest, which is reflected in the assessments.

Called "SDA assessments," these charges run contrary to the stated goals of the construction act, which is to provide regular operating districts with up-front grants to reduce the long-term debt incurred by local property taxpayers to support school construction and renovations.

- NJSBA Position—Although the Association has been successful in advocating a freeze in the growth of the assessment, it objects to the very existence of the assessments. ROD districts are charged an assessment they never agreed to when they sought the grants.

Safe Drinking Water

After the discovery of high levels of lead in drinking water in several school districts in 2015, the state required testing of all school water outlets.

- State Funding for Lead Testing—The 2016-2017 state budget made \$10 million available for school districts to test drinking water in schools for lead contamination, an initiative the NJSBA supported.
- NJSBA Seeks Funds for Remediation—Little discussion has occurred at the state level about resources for the actual water infrastructure remediation costs. The NJSBA urges the state to make funds available to address remediation.

SCHOOL SECURITY/STUDENT SAFETY

NJSBA Study

As part of the heightened emphasis on school security following the 2012 tragedy in Newtown, Connecticut, NJSBA conducted a year-long study of school security and student safety (www.njsba.org/school-security2014). The final report addressed factors ranging from security personnel and the relationship with local law enforcement to building alterations and alert systems.

- Findings of NJSBA Study
 - New Jersey has very strong school safety procedures in place, including requirements for 10 security drills per year, emergency plans and procedures, and agreements between school districts and local law enforcement.
 - Security needs in areas such as building alterations to secure entries and vestibules, emergency alert systems and use of security personnel vary among school districts.
 - School climate is a critical element to a safe learning environment and can be a major factor in student success.
 - While state support is needed to help school districts implement strategies in these areas, local boards of education, working with law enforcement agencies and the community, are in the best position to determine specific security improvements.
 - A School Resource Officer (SRO), an active member of the local police department who receives special training in working with students, can provide a critical safety factor and valuable counseling and support services. The employment of SROs is the “preferred” model for a law enforcement presence in a school building. However, it may be cost-prohibitive for many school districts.
- Class III Special Law Enforcement Officer—As a result of its research, NJSBA strongly supported the recent creation of a Class III level of special law enforcement officers, which reflected a recommendation of its school security study. Class III Officers are retired policemen and policewomen who receive training similar to SROs. The authorizing statute, enacted in November 2016, gives school districts a lower-cost option in employing trained security personnel.

PUBLIC EMPLOYEE BENEFITS

NJSBA supports efforts that reduce the overall cost of public employee benefits while it remains cognizant of the need to provide compensation packages needed to recruit and retain highly qualified staff.

Health Benefits

NJSBA consistently supports initiatives that reduce the overall cost of providing health care benefits to district staff and ensure employees pay their fair share toward the cost of coverage.

- Chapter 78—NJSBA supported the 2011 overhaul (“Chapter 78”) of the public employee pension and benefits system, which requires all public employees to contribute a fair share toward the cost of health care benefits coverage. The 2011 reforms have saved school districts millions of taxpayer dollars that have been re-directed to the classroom.
- Make Contribution Levels Permanent—NJSBA would support legislation making the current, or substantially similar, employee contribution requirements dictated under Chapter 78 permanent.

Pension and Post-Retirement Medical Benefits

- Solvency—NJSBA is willing to work with all interested stakeholders on a comprehensive approach to ensure the long-term solvency of the state public employee retirement programs, without placing an excessive burden on school district budgets or endangering educational programming.

The NJSBA supported the 2011 pension and health benefits reform act (“Chapter 78”), which aimed to restore solvency to, and avoid future default of, the state’s retirement programs.

- State Payment of Employer’s Share of Pensions
 - More than 50 years ago, the state agreed to pay the employer’s cost of teachers’ pensions.
 - Post-retirement medical benefits were granted to members of the Teachers’ Pension and Annuity Fund in the late 1980s by the state, not by local school districts
- NJSBA Position—The TPAF and any new retirement program for certificated school district staff must be funded and administered by the state. Transferring payment of the employer’s contributions to the teacher retirement plan from the state to local school districts would have a negative financial impact on school districts, including cuts in educational programming and increases in local property taxes.

There is also a compelling public policy rationale for state payment of teachers’ pension costs: *The state, not local school districts, determines the level of benefits and any changes or alterations to these programs.*

Similarly, it would be inappropriate and unfair to require local districts to fund post-retirement medical benefits—a multi-billion dollar commitment that was made by the state and not by local school districts.

Federal Health Care Reform

- ACA Excise Tax—Local school districts and their taxpayers should not bear the financial burden of any fees or surcharges imposed through the Affordable Care Act or other federal health care legislation, including the excise tax on expensive health care plans.
- Flexibility Needed—Boards of education should be given explicit legal authority to mitigate the potential consequences of the “Cadillac Tax” (effective January 1, 2020) by shifting to less expensive health benefit plans, passing on the costs to beneficiaries, or any other actions as necessary to reduce the tax’s impact.

PUBLIC SCHOOL EMPLOYMENT

Tenure Reform/Evaluation

- TEACH NJ—NJSBA supported the enactment of the “TEACH NJ” Act in 2012. The new law marked the most comprehensive reform of New Jersey’s system educator evaluation and tenure reform in a century.

The law placed a significant emphasis on teacher performance and improvement, established an evaluation system focused on student achievement, reduced the time and expense involved in tenure proceedings, and required an additional year before a school employee can earn tenure.

Seniority

- LIFO (Last In, First Out)—The seniority statute, regulations and case law thwart school management’s ability to operate efficiently and in the best interests of students. It makes years of service the controlling factor when determining whom a school district retains during a reduction in force.

A school board should be able to rely upon criteria, such as staff member’s teaching experience and job performance, when determining whom it will retain on staff after a reduction in force.

- NJSBA Position—LIFO should be replaced with a statutory framework that authorizes local boards of education to consider teacher performance, not just length of service, when they engage in a reduction in force.

Collective Bargaining

- Critical Balance—Collective bargaining in the public schools must balance employees’ interest in fair compensation with students’ rights to a thorough and efficient education and the public’s interest in cost efficiency.

Scope of Negotiations

- Limited Scope—NJSBA supports a limited scope of negotiations, which protects public employers’ responsibility to establish and implement public policy.
- Public Interest—Matters of educational policy, such as class size and text book selection, should be discussed in the sunshine of open public meetings by officials who are accountable to the citizens.
- Non-Certificated Staff—Decisions concerning the hiring, renewal and nonrenewal of non-certificated school employees should not be the subject of negotiations and should not be submitted to binding arbitration.

Restrictive Laws/Regulations

NJSBA opposes laws and regulations that unfairly tie the hands of local school boards in providing educational services in the most cost-efficient manner as possible, or which otherwise intrude on the employee-employer relationship. Examples include the following:

- Superintendent Salary Cap—This restriction places limits on superintendents’ salaries primarily based on district enrollment. It is an unnecessary “cap within a cap” in light of the state’s 2 percent tax levy cap, as well statutory administrative spending limits.

The state made adjustments to the salary cap regulations last year. However, NJSBA maintains that the compensation package for the district’s chief education officer should be the purview of the local school board, which is responsible for the local governance of public education.

- Workers’ Compensation Full Salary Requirement— Current statute (*N.J.S.A. 18A:30-2.1*) requires that school boards pay a school employee full salary for up to one year when the staff member is absent from work due to an employment-related injury. The full-salary requirement is unique to school districts. Other New Jersey employers are required only to provide employees with 70% of their salary, pursuant to the New Jersey Labor and Workers Compensation Act.
- Prevailing Wage Threshold—Currently, school districts have a lower threshold than other entities to determine when they must pay the prevailing wage. Long-standing NJSBA policy supports increasing the prevailing wage threshold. For many boards of education, the lower threshold creates difficulty in securing contractors for capital improvements of relatively small amounts, and also increases costs.

Subcontracting

- Option Needed—Boards of education must continue to have the non-negotiable managerial prerogative to enter into subcontracting agreements to advance the educational and financial interests of the school district and its students
- Substantial Savings—Past NJSBA research indicates that school districts save over \$34 million annually through the subcontracting of transportation, cafeteria, maintenance and other services. The savings have been directed to the classroom or property tax relief. Without the option to subcontract, districts may have to use other methods to balance their budgets, such as program cuts, teacher layoffs and possibly tax increases.

SPECIAL EDUCATION

NJSBA Research (2000 and 2007)

Special education is a federally required and state-required service. The New Jersey School Boards Association has engaged in extensive research on special education, resulting in policies that are supportive of this vital service, but which also seek cost-efficiency and effective implementation.

- A 2007 NJSBA study found that the majority of special education funding is provided by local school districts in spite of its federally mandated status.
- NJSBA supports state funding of the full excess cost of special education, including state payment of out-of-district placements (extraordinary costs), and fulfillment of the federal government’s commitment under the Individuals with Disabilities Education Act.

2014 NJSBA Report

In 2014, NJSBA concluded a year-long study of special education in New Jersey, with a focus on controlling costs without diminishing services (www.njsba.org/special-education2014).

Findings and recommendation of NJSBA's 2014 study include the following:

- Early Intervention—Develop support systems to address over-classification in general and the disproportional classification of minority students. Approaches can include Response to Intervention, which identifies students with learning needs at an early stage and implements strategies within the general education setting. (Legislation establishing a response to intervention unit in the New Jersey Department of Education was enacted in September 2016.)
- Shared Services—Coordinate voluntary regionalized special education services with county special services school districts, educational services commissions and jointure commissions. Efforts could address placement of diagnostic functions at the regional or county levels, transportation, professional development and other practices.
- Due Process—Amend a current state law which places the burden of proof in disputes over individual education programs on the school district, rather than the party bringing the complaint (the usual standard in legal proceedings).

In November 2005, the U.S. Supreme Court determined in *Schaffer v. Weast* that the burden of proof in special education disputes rests with the party bringing the action, which in most cases is the parent or guardian of the special education student. The Court noted that the Individuals with Disabilities Education Act (IDEA) already obligates schools to safeguard the procedural rights of parents and to share information with them.

However, the decision did not prohibit a state from enacting a law to place the burden of proof exclusively on the school district. In 2008, New Jersey enacted such legislation. Of concern are increases in legal costs, since school districts must prove why their placements are most appropriate, diverting resources from the education program to the courtroom. NJSBA is not aware of other litigation where the defendant has the burden to prove why its choices are correct.

- Funding of Medical Needs—Adjust federal law so that the cost of some related services for special education students are considered “medical,” rather than educational. The cost of these services diverts resources that should be available for special education programming. By appropriately classifying certain services as medical, school districts would be able to obtain reimbursement from health insurers.
- Funding of Extraordinary Costs—Insulate local school districts and taxpayers from the financial impact of high-cost out-of-district placements by providing adequate Extraordinary Special Education Cost aid.

Out-of-District Placement

The cost of out-of-district placements, which are required by a student's individual education program, continues to be a major concern among school districts throughout the state. Required out-of-district placements can have a negative impact on the resources available for other education purposes.

The expansion of the state extraordinary special education cost aid category in 2002 initially assisted districts in meeting these costs. However, the aid has been limited in recent years.

The 2017-2018 state budget increased extraordinary special education cost aid by \$25 million. In 2016-17, the state reimbursed \$170 million of the approximately \$306.1 million requested by districts; a rate of 55%. This additional revenue will make \$195 million available for reimbursement, an amount that should cover 64% of the expected reimbursement requests.

NJSBA Policy Special Education

- Federal and State Funding

- The federal Individuals with Disabilities Education Act (IDEA) should be fully funded at its authorized threshold of 40 percent of the cost of special education.
- New Jersey’s system of financing public education should enable all local school districts to provide appropriate public educational opportunities for all of New Jersey’s educationally disabled students without unduly burdening local taxpayers.
- The State should fund 100 percent of the costs of all required special education services in excess of a district’s regular education per pupil amount. Excess cost funding for special education should be excluded from the spending growth limitation calculation. The State’s excess cost system for State aid for special education should include prior approval procedures and appropriate monitoring.
- State aid for special education should be calculated on a current-year basis.
- State reimbursement for the actual cost of providing transportation for special education students should be provided on a current-year basis.
- State aid for special education should “follow the student” to whatever school district is required to provide special education services for that student. In the alternative, the school district receiving State aid for special education services for a student shall reimburse the school district providing such services. If State aid for special education cannot “follow the student,” the State should provide the additional funds necessary to provide special education services.
- The State should provide an emergency interest-free loan fund to which school districts may apply when unanticipated special education costs threaten a district’s ability to provide a thorough and efficient education to all of its students.
- State aid should be available for extended academic year special education programs.
- The State should provide for a second child count date in the second semester of the school year.
- The State should provide funding for the identification and provision of programs and services for children with educational disabilities ages 3-5.

- All New Jersey educationally disabled students should be provided an appropriate public education within New Jersey and, where possible, within the regular school environment. When residential placements of educationally disabled students are necessary: (1) The State should assume all non-instructional costs for students placed in residential facilities; (2) A school district’s residential placement instructional cost responsibility should be limited to no more than two times the district-wide per pupil costs for the preceding school year; (3) The State should assume full financial responsibility for the residential costs of court-mandated institutionalizations.
- Federal and state law should specifically prohibit any court, administrative body or other entity from requiring a school board or state located within the United States to provide for a child’s education, residential cost or the cost of any other service provided outside the United States.
- Tuition Costs
 - The district responsible for paying the special education costs for pupils placed by the state Division of Developmental Disabilities in any alternate living arrangement to be the district of residence of the parents or legal guardian until the pupil reaches the age of 21.
 - A school district that receives special education students from another school district should be able to set its tuition rate as accurately as possible, without unnecessary state bureaucratic limitations.
 - Public schools should receive fair consideration in determining their special education tuition rates. Private schools for the disabled should have the same tuition rate calculations and procedures and non-allowable costs as do public schools
- Medicaid Reimbursement
 - Medicaid reimbursement split between the State of New Jersey and local school districts should not be skewed toward the State.
- Shared Services
 - Interagency programming and collaboration should be encouraged to meet the diverse needs of educationally disabled students. Health and other special service agencies should bear the costs of non-education-related services.
 - School districts should have the flexibility to contract with each other, intermediate units and private providers in an effort to provide child study team services in the most efficient manner possible.
- Regulatory Equivalency and Waiver
 - School districts should have flexibility in meeting special education requirements. Flexibility should be available as either a waiver or equivalency to a specific rules and regulations so that school districts can provide effective and efficient special education programs.
- Transportation of Special Education Pupils
 - School districts that provide inter-district transportation to educationally disabled children should have the flexibility to solicit bids for that transportation in a manner that

is most cost-efficient to the school district, including but not limited to a per pupil, per vehicle or per mileage basis.

- Interscholastic Competition - Disabled Students
 - The New Jersey State Interscholastic Athletic Association (NJSIAA) is in the best position to determine how to provide interscholastic competition for disabled students on a local, regional and/or statewide basis, consistent with legal mandates of the Americans with Disabilities Act and congruent with the financial restrictions on local school districts.
- Private Schools for Students with Disabilities
 - The owners, boards of directors and administrators of Private Schools for Students with Disabilities should be subject to the same standards of accountability as local school board members and chief school administrators including, but not limited to, those standards concerning anti-nepotism, criminal background checks, and filing of School Ethics Act disclosure statements.

SCHOOL CHOICE

- Choice within Public Sector—NJSBA believes in local determination of choice within the public schools. Options could include intra-district choice, such as magnet schools, public charter schools, and inter-district school choice agreed upon by the school districts involved.
- Non-Public Schools—The Association believes that public funds should not be used to fund non-public schools, and opposes the use of public funds for vouchers or tuition tax credits for attendance at private or religious schools.

Charter Schools: Associate Membership Program

In 1998, NJSBA established an associate membership program for charter schools, based on its mission to advance effective governance to benefit the education of all public school students. The majority of the state's operating charter schools are associate members of NJSBA. (In 2016-2017, eighty-eight public charter schools operated in New Jersey. The state has closed four of those schools, and has tentatively approved the opening of five new charters, which would bring the total to 89 in September.)

The Associate Membership Program enables charter school boards of trustees to receive governance training, policy and labor relations services, information on school law, and services for annual administration evaluation, which is required by law.

Charter Schools: Concerns

Major issues related to charter schools involve funding, authorization and expansion.

- New Jersey's method of funding charter schools requires a local school district to pay 90% of the cost per pupil (excluding certain types of state aid) for each resident student who attends a charter school. This has been a major point of concern for local boards of education. NJSBA believes that no funds for charter schools should come from, or be funneled through, the local school district budget.

- The New Jersey Department of Education is the sole authorizer of charter schools. While the local board of education can make a recommendation concerning a charter school application, it has no substantial role in the approval process. NJSBA believes that the local board of education should have the authority to approve or disapprove a charter school application, with an appeal process to the Department of Education.
- Many school districts have concerns about the expansion of existing charter schools and the resulting impact on programs and finances in traditional public schools. Such expansion could involve increased enrollment in charter schools, additional grade levels, establishment of satellite campuses, and permission to draw students beyond the charter schools' approved districts or regions of residence. In March 2017, the New Jersey Department of Education approved the expansion of 22 existing charter schools: seven through their five-year charter renewal applications, and 15 through an amendment process that allows the schools to expand outside of their renewal period.

NJSBA Policy on Charter Schools

NJSBA policies on charter schools result from action by its Delegate Assembly. Many of the policies reflect recommendations of a 2012 study committee, which included representation from charter school boards of trustees.

- Funding
 - NJSBA opposes efforts that would place traditional public schools at a financial disadvantage to accommodate charters.
 - An entity other than a local board of education should be able to establish and/or operate charter schools only if there is no requirement placed on public school districts to provide financial or other support to the charter schools or their students, and no funds for charter schools or their students shall come from or be funneled through a public school district's budget.
 - For purposes of calculating a district's spending on a per-pupil (adequacy) basis the students for whom the sending district provides a transfer payment to a charter school shall be counted as part of the district's enrollment for adequacy spending calculations. This will ensure that the sending district's per pupil adequacy amount reflects the true budget of the sending district.
- Application/Authorization
 - Prior to the formal charter school application being submitted to the state, the local board of education, following a public hearing, should approve or disapprove of the proposed charter school. A denial of a charter school by the board of education may be appealed to the New Jersey Department of Education.
 - In the absence of a process for board of education approval, NJSBA believes local voters or the board of school estimate should have approval rights, prior to the establishment of a charter school, as well as additional steps to incorporate local voter and elected school board opinion into chartering decisions.
 - A financial impact report should be part of the charter school application process, projecting the economic impact and tax consequences to the district and community over

a five-year period. This report should take into consideration the cumulative impact of any charter schools already operating within the district.

- Charter school applications should be prioritized so that districts with failing schools are given first preference. Ultimately statewide criteria should be devised establishing districts' performance as the primary consideration for charter school(s) approval.
- The charter school approval process should be consistent with the local district's budget process. An approved charter school should be required to notify the local school board and should document a committed student count to the district no later than January 1st of the year it is scheduled to open.
- Upon a roll call majority vote of its full membership, the board of education of a public school district should have the authority to establish and operate charter schools.
- Accountability
 - NJSBA supports current law that requires charter schools to provide annual performance, financial, and operational data to the local board of education, the county superintendent of schools, and the commissioner of education. The law also requires that these reports be made available to the parents or guardians of enrolled students.
 - Charter schools should be held to the same ethics and accountability standards as traditional public school districts.

FEDERAL EVERY STUDENT SUCCEEDS ACT

The Every Student Succeeds Act (ESSA) is the 2015 reauthorization of the federal Elementary and Secondary Education Act. It replaced the No Child Left Behind Act (NCLB) of 2001. There are minimal implications for federal funding in the transition from NCLB to ESSA. (A May 2017 report by the National Education Association indicates that federal funding constitutes only 3.8% of public school revenue in New Jersey. Only Connecticut receives a smaller proportion of funding from the federal government.)

For New Jersey the most significant impact thus far is the requirement for the state to develop a new set of accountability standards to measure district performance as a prerequisite for the allocation of federal funding for Title I and other federal programs.

State Implementation Plan

NJSBA participated extensively with the New Jersey Department of Education's ESSA Team. The Association contributed to the goals of the proposed plan to implement ESSA in New Jersey. The plan includes the following components incorporated into a statewide accountability framework:

- Ensure that all students have equal access to high-quality educators and educational experiences.

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- Identify instances where historically disadvantaged students are not making the progress they need to graduate high school.
- The focus of the plan should pertain to students becoming college and career ready and to ensure that ESSA funds be available for the explicit purpose of closing these gaps.
- This is consistent with NJSBA's mission statement to support the advancement of public education and promote the achievement of all students through effective governance.

Concerns about State Plan

- NJSBA has expressed concern that the ESSA school accountability participation rates will unfairly penalize otherwise high performing districts.
- The PARCC testing provision assumes a minimum 95% participation rate in every district. Proposed penalties will be concerning to local board members who may be unfairly held accountable when a district's performance rating declines due to lack of participation.
- The New Jersey Assembly has already approved a joint resolution that would stop the state from requiring students to pass the PARCC tests for Algebra I and for 10th grade language arts to graduate. While we understand the federal requirement for states to penalize districts that fail to achieve the required participation rate, this provision may actually increase grass roots opposition to the state's current assessment regime.
- There are also concerns about the use of chronic absenteeism being used as a district performance indicator. Therefore, statutory clarification of the definition of "chronic absenteeism" is warranted.