

NEW JERSEY SCHOOL BOARDS ASSOCIATION

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**SEMIANNUAL DELEGATE ASSEMBLY
November 18, 2017**

**The following resolution was received from the
Bloomfield Board of Education (Essex):**

- WHEREAS, The Bloomfield Board of Education is in support of and is committed to providing the best educational experience to all of the special education students in the district; and
- WHEREAS, The Bloomfield Board of Education recognizes that costs dedicated to special education services represent the district's third single largest district expense, nearly 22% of the district's \$95 million 2016-2017 budget; and
- WHEREAS, the Bloomfield Board of Education understands that these costs are mandated by both the State and Federal governments for implementation of pupils' individualized education programs (IEP); and
- WHEREAS, The state and federal governments have never fully funded these mandated special education costs; and
- WHEREAS, The Bloomfield Board of Education is restricted to a 2% cap on the tax portion of the General Fund school budget while the 2% cap has never been applied to all providers of Special Education services resulting in an annual per student cost that has often risen in excess of \$100,000; and
- WHEREAS, When a student receiving special services in one district moves to another district after the October 15th Application for State School Aid (ASSA) Report, the money provided by the state and federal governments does not move with the student when he or she moves to another district; nor does the State provide additional funding to a district when a special needs child moves into the district after the October 15 ASSA Report; and
- WHEREAS, The Delegate Assembly is the official policymaking body of the New Jersey School Boards Association; and

WHEREAS, Education-related policies resulting from prior Delegate Assembly and Board of Directors actions are codified in the NJSBA's *Manual of Positions and Policies on Education*; now, therefore, be it

1 RESOLVED, That the Bloomfield Board of Education proposes the following **additional**
2 policy language for adoption by the Delegate Assembly and inclusion in
3 NJSBA's *Manual of Positions and Policies on Education*:
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5 **The NJSBA believes** that the state should fully fund special education
6 costs including Extraordinary Aid Costs and transportation costs and limit
7 the increases that all providers can charge to the same 2% cap imposed on
8 school districts, and that such funding follows the student when moving
9 into another district, and, be it further

10

11 RESOLVED, That the following resolution be placed on the agenda for consideration at the
12 November 18, 2017 Delegate Assembly.

Adopted at a regular meeting of the
Bloomfield Board of Education
on June 27, 2017

Mark Resnick
Board Secretary

RESOLUTION NO. 2

SYNOPSIS

Resolution No. 2 from the Bloomfield Board of Education (Essex County) proposes **new** policy language requiring that the state fully fund all special education costs on a current year basis and limit the increases of out-of-district providers to the two-percent tax levy cap.

BACKGROUND

The Bloomfield Board of Education spends approximately twenty-two percent of its \$95 million dollar budget on special education. The district understands that these costs are mandated at the state and federal levels and believes that both of these parties should pay the full-costs of special education. Further, the Bloomfield Board of Education seeks to limit district increases in cost to the two-percent tax levy cap.

Under the School Funding Reform Act (SFRA), districts are funded for special education based on the statewide average; currently 14.78% of the total population. Under the SFRA, special education is funded through a hybrid wealth-based, census-based formula. The formula enables each district, even if it does not qualify for equalization aid, to receive some funding to support programming for its disabled students. Through this process, two-thirds of the census amount is included in the district's Adequacy Budget and is covered by Equalization Aid in those districts that qualify for it. One-third is paid as categorical aid, that is, an amount per pupil. Districts are welcome to request reimbursement for extraordinary special education costs incurred, but historically this has been underfunded as well. The state currently defines extraordinary costs as anything over \$40,000, unless the student is in private placement, in which case the threshold is \$55,000. In such cases, the state will reimburse the district for 90 percent of the excessive costs if they are provided in- district. If the special education services are provided out of district, the reimbursement rate is 75 percent. However, the district is responsible for all costs under the threshold.

In recent years, the state budget has only provided \$170 million per year for the \$300+ million in requests. This past year, however, an additional \$25 million was included as part of the budget negotiations, meaning state coverage of extraordinary special education costs will rise from 55% to 64%. It is unclear if this is the beginning of a renewed commitment by the state to help defray special education costs, or a one-year anomaly.

If a special education student moves into Bloomfield mid-year, Bloomfield must absorb the costs of that student for the remainder of that year, despite not having received any current year aid to defray the costs of that student, as school aid is dependent on the October 15 student count. If a student moves into Bloomfield after that date, the district receives no aid for that student until the following October 15, when the student would be included in Bloomfield's count.

Thus, Bloomfield finds itself in a bind—too little aid supporting its special education students.

RELEVANT NJSBA POLICY

File Code 3100: Timelines for School Budget Process

E. The NJSBA believes that the following should be excluded from the budget caps/spending growth limitations:

1. State mandated programs, such as special education, bilingual education, at-risk, school lunch programs and transportation from the cap/spending growth limitations; Limitations should include only revenues necessary for regular education programs;

File Code 3220: State School Finance System

A. The NJSBA believes that New Jersey's system of financing public schools should enable all local school districts to provide an equal educational opportunity for all children in New Jersey to receive a thorough and efficient education.

B. The NJSBA believes that New Jersey's school finance system should:

1. Define the elements of and the resources necessary to provide a thorough and efficient education;
2. Provide funds to support and guarantee a thorough and efficient level of education to all public school children;
3. Provide that all constituents of the state—individuals, businesses and communities—be required to pay a fair share, but that no one would be required to pay more than a fair share;
4. Retain the principle that local school boards have the primary responsibility, with the assistance of the state, for ensuring that each child in the district obtains a thorough and efficient education, and permit a limited degree of local spending to fund a locally defined thorough and efficient education, with the state paying a share on an equalized basis;
5. Recognize the diversity, unique circumstances and community composition of each local school district;
6. Provide for equalized aid for capital expenditures and debt service, based on individual districts' ability to pay as defined by the School Funding Reform Act or its successor;
7. Provide state aid based on predictable statutory formulas which is predictable, transparent and capable of being re-calculated at the local district level;
8. Provide current-year funding of all state aid;
9. Provide state aid for the full excess cost of all mandated special education programs and services;
10. Provide state funding for the full cost of all state mandates;
11. Include a system of evaluation to ensure accountability in the allocation of state aid;
12. Promote efficiency in the use of tax dollars; and recognize that the geographically adjusted average of expenditures by regular school districts that have demonstrated an ability to provide a thorough and efficient education based on agreed-upon

outcomes is an appropriate benchmark for the funds needed by every district to provide a thorough and efficient education;

13. Be modified, as needed, through a comprehensive approach with input from NJSBA members;
14. Provide all regular public school students in New Jersey districts with fiscal equity.
15. Reward districts and schools that meet ambitious learning goals, prioritize resources, model fairness, transparency, predictability and equity, decrease achievement gaps and provide the opportunity for the development of local educators to manage resources effectively as needed.
16. Be sensitive to legitimate variations in school districts' capabilities to meet student needs, including, but not limited to, proficiency levels, demographics, socioeconomic status, geographical location and physical abilities.
17. Provide full funding for state-initiated programs designed to promote innovation and that the level of participation in such programs should be determined by the local school district. [Authority: DA 12/81-CR (Urban Education), DA 6/84-3, DA 42 6/85-CR (Proficiency Test), DA 12/91-CR (QEA), DA 6/93-2, BD 11/74 (Deleted as 3221.06- DA 6/93-SR), DA 12/76-15 (Deleted as 8211.3- DA 6/93-SR), DA 6/95-6, DA 11/95-CR School Finance, DA 5/96-CR (School Finance).DA 12/82-15. DA 11/96-CR (School Finance), DA 5/97-CR (School Finance), DA 11/01-SR, DA 11/06-CR (Ad Hoc School Funding Reform Committee), DA 11/06-SR DA 11/11-CR (Ad-Hoc School Finance Committee), DA 5/14 (Special Education Task Force), DA 5/14-1, DA 5/17-SR, DA 5/17-CR (School Finance)]

File Code 3230: Federal Education Program Aid

A. The NJSBA believes that the federal government has a responsibility to fund programs to address national issues and to meet the needs of special populations. Federal funds to the states and local districts should be adequate to provide quality programs.

B. The NJSBA believes that consolidation of federal programs may be beneficial and that local boards of education should have flexibility in program design and implementation. [Authority: BD 6/81, DA 5/96-SR, DA 5/97-CR (School Finance)]

File Code 6171.4: IDEA Funding

The NJSBA believes that 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.

[Authority: DA 12/80-2, DA 11/97-CR (Special Education), DA 11/02-SR, DA 11/07-SR, DA 11/12-SR]

Federal and State Funding

A. The NJSBA believes that 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.

B. The NJSBA believes that 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.

C. The NJSBA believes that State aid for special education should be calculated on a current year basis.

D. The NJSBA believes that State reimbursement for the actual cost of providing transportation for special education students should be provided on a current year basis.

E. The NJSBA believes that 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.

F. The NJSBA believes that 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 T&E education to all of its students.

G. The NJSBA believes that State aid should be available for extended academic year special education programs.

H. The NJSBA believes that the State should provide for a second child count date in the second semester of the school year.

DISCUSSION

The Bloomfield Board of Education finds itself in a position that is similar to many districts around the state-- they have a high population of special education students and many of the students have needs requiring placements outside the district or requiring costly services in district. When a student with extraordinary needs moves into the district midyear, Bloomfield is unable to receive state aid in the current year for that student.

NJSBA's *Manual of Positions and Policies in Education* addresses many of Bloomfield's concerns. For instance, Bloomfield's concern over having a special education student move in mid-year, is addressed by the Association's policy that the state provide for a second child count in the second semester of the year. Additionally, Bloomfield's concern about the state and federal governments picking up the costs of special education is addressed by the Association's policy that 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. NJSBA also believes that state aid for special education should be calculated on a current year basis and that 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.

Bloomfield’s resolution additionally asks for **new** policy language to be adopted NJSBA’s *Manual of Positions and Policies in Education*, the 2% tax levy cap and its effect on special education. The 2% tax levy cap on districts is a cap on their ability to raise local revenue from year-to-year. It is reasonable that if special education expenses exceed 2% each year, that a district would find itself in a further financial bind when the tax levy cap does not exceed 2%.

While most of the concerns raised by Bloomfield are already addressed by existing NJSBA policy, there is currently no policy on the 2% tax levy cap and its effect on special education students. Therefore, a policy that addresses the 2% tax levy cap and its effect on special education is warranted.

STATEMENT OF REASONS

1. Current NJSBA policy recognizes the need for a second student count during the school year to address those special education and general education students who move into a district after the current October 15 student count deadline.
2. Current NJSBA policy also already addresses the need to have the money “follow the child” so that the financial impact of costly special education placements on local districts can be addressed on a current year basis.
3. The 2% tax levy cap on districts’ ability to raise revenue puts a strain on local budgets when special education costs may be increasing faster than 2% per year.
4. Placing a cap on what local districts may be charged for outside services helps districts to manage their expenses from year to year.

RECOMMENDATION

The Resolutions Subcommittee recommends approval of this resolution with the following substitute resolved language which would create **additional** policy language at File Code: 6171.4, to be included in NJSBA’s *Manual of Positions and Policies on Education*:

The NJSBA believes special education providers should have the same cap on their ability to charge local districts for services as local districts have on their ability to raise revenue.