

## POSITIONS AND POLICIES ON EDUCATION

### Special Education

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, DA 11/17-SR, DA 11/22-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.
- I. **The NJSBA believes** that the State should provide funding for the identification and provision of programs and services for children with educational disabilities ages 3-5.

- J. **The NJSBA believes** that 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. *[Authority: DA 12/68-21, DA 12/72-CR (Urban Education), DA 12/72-CR (Special Education), DA 5/73-CR (Special Education), BD 11/74, DA 6/78-20, DA 1/79-10, DA 1/80-23,25, DA 12/81-CR (Urban Education), DA 12/83-17, DA 6/84-12, DA 12/88-5,5A,6, DA 12/90-11, BD 10/91, DA 12/91-3, DA 12/91-CR(QEA), DA 6/92-4, DA 12/94-5, DA 11/97-CR (Special Education), DA 11/99-4, DA 5/00-CR (Joint Committee)]*
- K. **The NJSBA believes** that 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. *[Authority: DA 11/03-4, DA 11/02-SR, DA 11/07-SR, DA 11/12-SR, DA 11/17-SR]*
- L. **The NJSBA believes** special education providers should have a similar cap on their ability to charge local districts for services as local districts have on their ability to raise revenue. *[Authority: DA 11/17-2, DA 11/22-SR]*

#### Tuition Costs

- A. **The NJSBA believes** the district responsible for paying the special education costs for pupils placed by the Division of Developmental Disabilities (DDD) 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.
- B. **The NJSBA believes** that 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.
- C. **The NJSBA believes** that 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. *[Authority: DA 6/87-13, DA 11/97-CR (Special Education), DA 11/97-SR, DA 5/98-9, DA 5/02-SR, DA 11/02-SR, DA 11/07-SR, DA 11/12-SR, DA 11/17-SR, DA 11/22-SR]*

#### Medicaid Reimbursement

**The NJSBA believes** that the Medicaid reimbursement split between the State of New Jersey and local school districts should not be skewed toward the State. *[Authority: DA 12/94-12, DA 11/97-CR (Special Education), DA 11/02-SR, DA 11/07-SR, DA 11/12-SR, DA 11/17-SR]*

#### Shared Services

- A. **The NJSBA believes** 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.

- B. **The NJSBA believes** that 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. *[Authority: DA 11/95-CR (Shared Services), DA 11/97-CR (Special Education), DA 5/01-SR, DA 11/02-SR, DA 11/07-SR, DA 11/12-SR, DA 11/17-SR, DA 11/22-SR]*

### Teacher Certification and Professional Development

- A. **The NJSBA believes** that, prior to certification, all teachers should complete an appropriate educational program on understanding the nature and needs of students eligible for special education and related services.
- B. **The NJSBA believes** the State should require that teacher preparation programs have, as part of their curriculum, content in adapting curriculum, instruction, and assessment to meet the needs of all learners in the inclusive classroom. Pre-service teachers should have ample opportunity to learn and apply the instructional methods associated with multiple intelligences, multi-sensory instruction, differentiated instruction, intensive instruction, Universal Design for Learning, curriculum-based assessment, and assistive technology. Pre-service teachers should be equipped to establish learning environments that maximize attention and learning through the careful application of positive behavior supports and effective communication. Further, teacher preparation programs for pre-service teachers earning the Pre-Kindergarten through 3<sup>rd</sup> grade or the elementary education (K-6) certifications should include content in teaching students with reading disabilities. *[Authority: DA 5/14 (Special Education Task Force)]*
- C. **The NJSBA believes** that all currently certified teachers should be required, as part of their continuing professional development, to participate in in-service programs related to special education students and programs. *[Authority: DA 12/75-CR (Special Education), DA 11/97-4, DA 11/97-CR (Special Education), DA 11/02-SR, DA 11/07-SR, DA 11/12-SR, DA 11/17-SR, DA 11/22-SR]*

### Regulatory Equivalency and Waiver for Special Education Rules and Regulations

**The NJSBA believes** that school districts should have flexibility in meeting special education requirements. Flexibility should be available as either a waiver or equivalency to a specific rule so that school districts can provide effective and efficient special education programs. *[Authority: DA 12/84-A, DA 11/97-CR (Special Education), DA 11/02-SR, DA 11/07-SR, DA 11/12-SR, DA 11/17-SR, DA 11/22-SR]*

### Transportation of Special Education Pupils

**The NJSBA believes** that 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. *[Authority: DA 12/83-15, DA 11/97-CR (Special Education), DA 11/02-SR, DA 11/07-SR, DA 11/12-SR, DA 11/17-SR, DA 11/22-SR]*

### Records of Educationally Disabled Students

**The NJSBA believes** that records of educationally disabled students should be maintained, accessed, transferred and destroyed in the same fashion as those of non-disabled students. *[Authority: DA 12/86-8, DA 11/97-CR (Special Education), DA 11/02-SR, DA 11/07-SR, DA 11/12-SR, DA 11/17-SR, DA 11/22-SR]*

### Early Identification/Intervention

**The NJSBA believes** that early identification and provision of suitable educational programs for educationally disabled children, age birth to five, reduces educational deficiencies and permits earlier and easier transfer into the regular classroom setting. *[Authority: DA 12/68-21, DA 5/73-CR (Special Education), BD 11/74, DA 1/80-25, DA 12/81-CR (Urban Education), DA 6/89-CR (Early Childhood Education), DA 11/97-CR (Special Education), DA 11/02-SR, DA 11/07-SR, DA 11/12-SR, DA 11/17-SR, DA 11/22-SR]*

### Awareness of Needs of Educationally Disabled

**The NJSBA believes** in the importance of increasing awareness of the needs of educationally disabled students and their parents at all levels; state, county and local. *[Authority: DA 12/85-CR ESC Study, DA 11/97-CR (Special Education), DA 11/12-SR, DA 11/17-SR, DA 11/22-SR]*

### Parental Involvement

**The NJSBA believes** in the importance of parental involvement. All special education delivery agencies--including local and special purpose school districts, intermediate units and operational arrangements--should establish policies, bylaws, rules or operational guidelines creating advisory councils or other appropriate mechanisms designed to foster parental participation in agency affairs. *[Authority: DA 12/85-CR (ESC Study), DA 11/97-CR (Special Education), DA 11/12-SR, DA 11/17-SR, DA 11/22-SR]*

### Interscholastic Competition - Disabled Students

**The NJSBA believes** that 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. *[Authority: DA 12/93-4, DA 11/97-CR (Special Education), DA 11/12-SR, DA 11/17-SR, DA 11/22-SR]*

### Private Schools for Students with Disabilities

**The NJSBA believes** that 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. *[Authority: DA 5/14-CR (Special Education), DA 11/17-SR, DA 11/22-SR]*

### Burden of Proof

**The NJSBA believes** that the burden of proof and the burden of production in special education disputes should be placed on the party initiating the litigation. *[Authority: DA 12/16-1, DA 11/17-SR, DA 11/22-SR]*

### Parent Advocates

**The NJSBA believes** that trained non-lawyer parent advocates provide a valuable service to parents and students. Mandatory training of non-lawyer parent advocates is essential to protect the interests of parents, students and districts. Training for parent advocates should result in an understanding of the appropriate role of a parent advocate as well as the requirements of federal and state special education laws and regulations, IEP development, and conflict resolution. Training should be ongoing. The state should provide funding for

such training. *[Authority: DA 5/21-2 (CR-Special Education), DA 11/22-SR]*

<b>Cross References:</b>	1400	Relations between other governmental agencies and the district
	1430	State and national units
	3220	State funds
	3230	Federal funds
	3240	Tuition income
	3324.1	Contracts
	3541.1	Transportation routes and services
	4112.2	Certification
	4131.1	Inservice education/visitations/conferences
	5020	Role of parents/guardians
	5118	Nonresidents
	5125	Pupil records
	5131	Conduct/discipline
	6111	School calendar
	6141.1	Experimental/innovative programs
	6142.12	Career education
	6145.2	Interscholastic competition
	6178	Early childhood education/preschool

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