

Appendix F: Advocacy for Local Boards of Education

NJSBA advocates the interests of local school districts before the state Legislature, executive branch, the state Board of Education and the courts. Advocacy involves researching issues, addressing state and federal officials through direct outreach, testimony and participation as a “friend of the court” in litigation of statewide impact. Through direct contact with legislators and the executive branch, NJSBA remains dedicated to educating the state’s policymakers on how the decisions they make will impact local school districts, taxpayers, and students. NJSBA also promotes and facilitates local school board engagement with decision-makers with the goal of influencing the policymaking process.

Successful lobbying efforts have benefited local school boards’ finances and operations. Their positive impact is also cumulative. For example, over the past 20 years, NJSBA’s successful opposition to legislative proposals to restrict subcontracting of non-instructional services has saved school districts statewide tens of millions of dollars annually. Its arguments in a landmark state Supreme Court decision of the mid-1990s enabled local school boards to contain the cost of contract settlements by eliminating the requirement that they pay staff incremental raises in most situations when a collective bargaining agreement has expired and a new one has not been reached.

Below are examples of NJSBA’s successful advocacy efforts that are benefitting its members today.

Special Education Program Costs: In a 2007 complaint before the Council on Local Mandates, NJSBA successfully argued against a regulation that would have reduced the maximum age span in elementary school special education classes from four years to three. If the regulation remained in place, local school districts would have incurred additional expenses for new teachers, classrooms and supplies. *Based on one estimate, NJSBA’s advocacy in this matter has saved a single district \$200,000 annually over the past seven years.*

Sub-Contracting: In nearly every legislative session over the past 20 years, NJSBA has successfully pushed back union efforts to restrict a local school board’s ability to subcontract non-instructional services. In the current and previous sessions, NJSBA helped secure three absolute vetoes of legislation that would have hindered school district efficiency and limited boards’ ability to direct resources to the classroom by making subcontracting efforts expensive, onerous, and essentially unfeasible. *NJSBA’s most recent research on the subject, conducted in 2009, showed that school districts save \$34.3 million to \$38.8 million annually as a result of these efforts. That amount is equivalent to the annual salaries of up to 865 new teachers.*

Regionalization/Consolidation: NJSBA played an instrumental role in ensuring that, under the state’s most recent regionalization plan, a community’s voters – and not bureaucrats in Trenton – would have the final say on school district mergers. NJSBA continues to argue against any attempts to mandate school district consolidation while advocating for increased funding for feasibility studies and other costs associated with consolidation or regionalization efforts.

Criminal Background Checks for Board Members: In 2011, a new law required that all school board members—veteran and newly elected—undergo criminal history record checks. NJSBA successfully sought amendments that allow local school districts, rather than individual board members, who serve without compensation, to pay for the background checks. The amendments also extend the background checks to charter school trustees. The original bill had strong bi-partisan support and, without NJSBA’s intervention, would have posed a financial

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burden on individual board members. The amendments saved our state's volunteer school board members up to \$78 each.

School Construction Assessments: In FY2014, the State attempted to increase the amount that school districts pay toward the administrative costs of no-interest state-issued construction grants, some dating back 14 years. This would have negatively impacted over 200 local districts. NJSBA secured a hold-harmless provision in that year's budget, which ensured that districts would not have to pay more in SDA assessments than in the previous year. The provision was included in the FY2015 budget as well, **saving districts approximately \$14.8 million total over the course of two fiscal years.**

Expired Labor Agreements: NJSBA action as *amicus* before the state Supreme Court ended a long-term requirement that had forced school districts which had not yet settled contacts with their teachers to pay certain types of raises. The court decision changed the starting point for negotiating salaries, strengthened boards' positions at the bargaining table, and provided significant savings to local school boards over the past 20 years. NJSBA advocacy before the Legislature ensured that the spirit of the Supreme Court decisions was preserved in a 2014 law increasing the permissible labor contract length. The final version of that measure omitted an initial proposal to require the automatic payment of salary increments upon the expiration of a salary policy while a new collective bargaining agreement is being negotiated.

CURRENT *Amicus* – *County of Atlantic and FOP Lodge No. 34 and PBA Local No. 77* concerns whether there should be an automatic payment of salary increments after contract expiration. Given the two percent tax levy cap, compelling a sizable pay raise prior to negotiations, would force boards of education to explore other options to stay within its budgetary limits such as increased class size, layoffs or program cuts. It would be detrimental to education to be locked into an inflexible dynamic status quo as it would prevent boards from reacting to changes in the tax base, reductions in state aid, other economic factors, or changes in educational priorities. If NJSBA's argument is successful it would prevent significant pay raises being required prior to the parties sitting at the negotiating table. The automatic increment cost is typically more than one percent of the salary base and can often exceed 2 or even 3 percent.

Statewide Task Force Membership: Advocacy efforts have secured NJSBA representation on various statutorily established task forces, most recently the Task Force on Improving Special Education for Public School Students and the state's School Security Task Force. Representation on such bodies ensures that the priorities and concerns of local boards of education are given due consideration as the task forces formalize their findings and recommendations.

Maintaining Managerial Prerogatives: NJSBA has successfully opposed against union-backed legislation that would interfere with the basic responsibility of local boards of education to provide educational services in the most cost-efficient manner possible. In 2013, the NJSBA helped secure a veto of legislation that would have provided tenure-like protections to non-teaching staff. A 2010 measure would have severely undermined a board's ability to carry out this responsibility by eliminating the managerial prerogative to allocate money saved through wage concessions for any purpose that would serve the interests of students and taxpayers.

CURRENT *Amicus* – *Borough of Keyport/Belmar/Mt Laurel v. IUOE Local 68, et al.* Should the argument advanced by the NJSBA be accepted by the Supreme Court, boards of education throughout New Jersey stand to save not only vast amounts of

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money, but it will provide the necessary flexibility in staffing levels. Under previous decisions by PERC and the courts, it has been held the decision to reduce the hours of employees is a subject of mandatory negotiations, based upon the argument hours are a term and condition of employment. [See *Piscataway Tp. Bd. of Ed. v. Piscataway Principals Ass'n*, 164 N.J. Super. 98 (App. Div. 1978).] The position the NJSBA has taken in the current case is while the decision to reduce hours or the work year may affect terms and conditions, the preemptive nature of *N.J.S.A. 18A:28-9* has not been fully addressed within the meaning of the *Local 195* test, and when the test is applied, the statute permits the reduction without negotiation. Thus, if the positing of the NJSBA is accepted, boards of education would no longer need to negotiate when deciding to reduce the length of secretary or custodians work years from 12-months to 10-months. Similarly, 12-month administrative positions could likewise be reduced to 10-months without negotiations. The savings to boards of education are not fully known, but could be at least a 20% reduction in certain costs.

Opposing Unfunded Mandates: The NJSBA consistently opposes legislative initiatives that would require the expenditure of school district resources without the provision of adequate funding. A recent example involved a proposed requirement to install panic alarms in school buildings. In 2013, legislation was introduced requiring all schools in the state to be equipped with panic alarms and emergency lighting in the event of an attack. The Office of Legislative Services estimated this requirement would cost up to \$5,000 per school. Although supportive of the effort to provide better protection for our children, NJSBA expressed concern to the sponsor over the costs that would be incurred by the local districts. As a result, the bill was amended to ensure that, if it passed, the State would provide the funds necessary for compliance.

Local Control and Flexibility: NJSBA advocates for the preservation of local school district autonomy and flexibility. NJSBA supports lifting constraints that erode the authority of local boards of education to govern effectively, such as the administrative spending limitation and the superintendent salary cap, which constitute unnecessary infringements on local control.

Reining in Employee Benefit Costs: NJSBA consistently supports initiatives that ensure employees pay their fair share toward the cost of health care. NJSBA supported the 2011 overhaul of the public employee pension and benefits system, which requires all public employees to contribute toward the cost of health care benefits coverage based upon a percentage of the cost of coverage. The 2011 reforms have saved school districts millions of taxpayer dollars that have been re-directed to the classroom.

School Vouchers: NJSBA has led the fight in stopping the implementation of school vouchers that would take valuable funds away from public schools. This has included stopping a \$2 million pilot program in the Administration's proposed FY2014 budget and legislation calling for 10,000 "opportunity scholarships" to attend private schools with public funds.

Virtual Charter Schools: Recent *Amicus*: *Princeton Regional BOE v. Cerf* concerns whether Commissioner overstepped authority by authorizing cyber-charter schools. The Commissioner of Education authorized the opening of a statewide virtual or cyber-charter school to begin operation in September 2012. The charter school was granted an additional planning year by the Commissioner to begin operation in September 2013. NJSBA challenged the authority to grant a charter to a virtual school as the Charter School Program Act is silent on the issue of cyber-charters. Subsequently, the Commissioner denied the charter's application.