

## Chapter 23A, Fiscal Accountability, Efficiency and Budgeting Procedures

Comments Presented by the

### **New Jersey Association of School Business Officials**

As Chapter 23A of the New Jersey Administrative Code is up for re-adoption in November, 2016, the New Jersey Association of School Business Officials respectfully submits the following comments.

We urge the Department to update the regulations to be consistent with current statutory and regulatory provisions.

#### **Subchapter 1. Purpose, Scope and Definitions**

Consistent with our recommendation to follow with respect to subchapter 3 and the county office review of administrator contracts, we recommend the elimination of the following definitions:

1. Additional district salary increment – not sufficient for amount of work; should be left to local control as this is dependent upon the needs of each district which could vary greatly from district to district. This is also counterproductive to shared services. Could be designed with more flexibility. Also this is an example of a cap within a cap, as this falls under the 2% tax levy cap and the administrative cap limit.
2. High school salary increment – “same as comments in #1 above.
3. Maximum salary amount – The salary cap, as defined has resulted in the exit or premature retirement of many of our talented educational leaders. Many districts find it extremely difficult to maintain persons in these positions and to replace their district leadership when vacancies occur.

In addition, other definitions (i.e., “net budget”) that are no longer relevant and consistent with our current funding laws, should be eliminated.

#### **Subchapter 2. Executive County Superintendent of Schools**

**6A:23A-2.2 School District regionalization and consolidation of services advisory committee**

**6A:23A-2.3 Consolidation and sharing of services; joint and cooperative purchasing**

**6A:23A-2.4 Elimination of school districts that are not operating schools**

**6A:23A-2.5 Plan for district Consolidation to create regional school districts**

**6A:23A-2.6 Transportation efficiency study**

**6A:23A-2.7 Shared special education services**

The above sections of Subchapter 2 require county offices to complete studies relative to various operational aspects of New Jersey School Districts. Although statutes are in place that recognize these

topics as important issues worth consideration, the statutes are not specific in requiring the degree of study as required in these citations of code. We recognize that lack of resources is most likely the reason that county office have not advanced these code responsibilities. We recommend that the Department eliminate the requirement to study these issues but “recognize”, consistent with statute, the importance of these issue for efficient school district operation.

### **Subchapter 3. Administrator and Board Member Accountability**

**6A:23A-3.1 Review of employment contracts for superintendents, assistant superintendents and school business administrators** - 3.1 (e) 1 & 2, these sections of the code clearly provides for “additional” standards, not found within statute, that shall be considered when reviewing administrator contracts. These standards have been inconsistently applied throughout the state and have resulted in the premature exit or retirement of many of New Jersey’s talented educational leaders.

Boards of education have found it difficult to maintain and attract chief school administrators because the regulations have stripped them of their right to fully negotiate terms and conditions of employment for certain administrators. These “additional” standards were in place prior to the existence of our current 2% levy cap. With the 2% budget spending limit in place, as well as the administrative spending cap, there is no longer the need to deny locally elected officials their right to negotiate terms and conditions of employment, especially salaries, for their central office personnel.

We do recommend that 6A:23A-3.1 (e) 1, 2, 10 and 11 be eliminated as well as pertinent definitions that we cite in Subchapter 1. We do not believe that the application of current code has served the best interest of public education in this State. We believe in the right of all individuals to negotiate reasonable terms and conditions of employment without the imposition of arbitrary standards not supported by law. We also believe that we should return the right of local control back to locally elected officials when deciding terms of agreement for all of their employees. We believe that if the maximum salary caps are eliminated, and salaries determined at the local level, then the merit goals should be eliminated

We recognize that certain sections of this subchapter are consistent with law and we make no recommendation relative to: 6A:23A-3.1 (e) 3, 4, 5, 6, 7, 8, 9, 13, 14, and 15.

**6A23A-3.3 Certification review under certain conditions** - We recommend that the wording here be changed from “shall recommend” to “may recommend” when requested by the Commissioner of Education. This is consistent with the Task Force recommendation.

**6A:23A-3.4 Noncompliance with GAAP, review of certification of a SBA** - We recommend the wording here be changed from “shall recommend” to “may recommend”.

### **Subchapter 4. School District Fiscal Accountability**

No comments

## **Subchapter 5. Additional Measures to Ensure Effective and Efficient Expenditures of District Funds**

**6A:23A-5.2 Public relations and professional services; board policies; efficiency** - 5.2 (a) Keep first sentence and eliminate the remaining parts. Remove 5.2 (c) in its entirety. These sections are overly prescriptive and should be governed by local policy. This is consistent with the Task Force recommendation.

**6A:23A-5.3 Failure to maximize Special Education Medicaid Initiative (SEMI)** – This entire section is overly prescriptive and should focus on the revenue, as the revenue received by the district should exceed the costs incurred by a district to participate. Also, the requirement for a corrective action plan if the district fails to meet participation but does meet and or exceeds their revenue projection is not efficient operation. We recommend this section be rewritten and focus on the revenue.

**6A:23A-5.4 (a) Violation of public school contract law** – We agree with the Task Force recommendation to provide that the Commissioner “may” withhold state funds for failure to comply with procurement laws.

**6A:23A-5.5 Expenditure and internal control auditing** – We recommend this section be eliminated. This should and can be done at the discretion of the DOE.

**6A:23A-5.6 District response to Office of Fiscal Accountability and compliance (OFAC)** – We recommend this section be eliminated as it is standard practice and there is no need to regulate.

**6A:23A-5.7 Verification of payroll check distribution** – We recommend this section be eliminated as there is no statutory basis for this requirement; and believe it should be part of a district’s internal controls review and therefore left to the local district’s discretion. The Commissioner can always direct this process if warranted.

**6A:23A-5.8 Board of Education expenditures for non-employee activities, meals and refreshments** – We recommend in 5.8 (c) change the word from “board shall,” to “board may,” and eliminate “at a minimum”. 5.8 (e), we recommend this section be eliminated as it is overly prescriptive.

**6A:23A-5.9 Out of State and high cost travel events** – We recommend 5.9 (b) be eliminated as it is arbitrary. We recommend 5.9 (c) be eliminated as this should be left to the local district’s discretion.

## **Subchapter 6. Condition for the Receipt of State Aid**

**6A:23A-6.1(b)2 Conditions precedent to disbursement of State Aid** – We recommend that language be added, “unless the school district can demonstrate to the Commissioner a more efficient method of securing these services. As this is written, a district “must” participate in the programs mentioned in this section.

**6A:23A-6.3 Contributions to board members and contract awards** – 6.3 (a) 1. We recommend that language be changed from “school board” to “district”; and that this section would not be applicable if the contract was based on a fair & open process, including quoting and public bidding. We recommend that the first sentence be rewritten to read, “No school board, in the absence of employing a fair and open process, will vote upon or award any contract in the amount of \$17,500.

**6A:23A-6.7 Financial and human resource management systems, access controls** – We recommend eliminating 6.7 (b) as it is no longer applicable as the referenced time period has passed. We recommend that 6.7 (c) be eliminated as it has not been done and would be difficult to achieve as district needs vary from district to district. We recommend that 6.7 (d) be eliminated as it is overly prescriptive; and is part of a district’s internal controls. The Commissioner may have the option of ordering these controls as part of increased state oversight.

**6A:23A-6.8 Personnel tracking and accounting** – We recommend eliminating 6.8(a)3.iii(4)iv, v & vi as these are difficult and impractical to accomplish.

**6A:23A-6.9 Facilities maintenance and repair scheduling and accounting** – We recommend that this section be eliminated as it is micromanaging, burdensome and overly prescriptive.

**6A:23A-6.10 Approval of amounts paid in excess of approved purchase orders; board policy** – We recommend eliminating 6.10 (b) & (c) as it is micromanaging a district and is part of the district’s internal control which is reviewed by the auditors during the annual audit.

**6A:23A-6.11 Vehicle tracking, maintenance and accounting** - We recommend this section be eliminated as it is overly prescriptive, and most of this information is required to be maintained for insurance purposes.

**6A:23A-6.12 District vehicle assignment and use policy** – We recommend this section be eliminated as it is overly prescriptive and burdensome. This is consistent with the Task Force Report.

## **Subchapter 7. School District Travel Policies and Procedures**

**6A:23A-7.3(b)1 – Maximum travel budget** – We recommend that the annual maximum travel amount per employee be increased to \$3,000 from the current amount of \$1,500, which has been in place since the adoption of the regulations almost ten years ago.

**6A:23A-7.3(b)2 – Maximum travel budget** – We recommend that the current registration fee not requiring board approval be increased to \$300 from the current amount of \$150, which has been in place since the adoption of the regulations almost ten years ago.

**6A:23A-7.8(a) 7 – Prohibited travel reimbursements** – We recommend the following (*example: CPE credits to maintain a CPA license if the employee is not required to be a CPA for continued school district employment*) be eliminated. The example is not clear, has caused confusion and is unnecessary.

**6A:23A-7.9(c) 3 ii, iii, and iv – Travel Methods** – We recommend eliminating these three sections as it is already stated in (c) 3 i “the most economical scheduling of rail travel shall be utilized...”.

**6A:23A-7.11(d) – Subsistence allowance – overnight travel** – This section prohibits reimbursement for approved overnight travel for individuals whose home to the convention commute is less than 50 miles. We recommend the elimination of this restriction. State conferences provide a unique opportunity for board members and staff to come together and share professional experiences. This experience is unique as it offers the chance to interact with other board members, colleagues, and professionals in an informal setting beyond formal presentations and workshops. We do not believe this would be a material cost for school districts. Further, we believe local school district policy should determine whether respective employees and board members should attend overnight conventions approved by the Commissioner of Education and not be denied the same opportunity as their colleagues because of the personal residence. Please note that school district employees and board members are the only individuals to have this restriction; municipal employees that hold overnight conferences have no such limitation.

**6A:23A-7.12(f) 5 – Meal allowance – special conditions – and allowable incidental travel expenditures** – We recommend this section be eliminated as it is not practical and most charities will not take food that has been opened. We believe this to be overly prescriptive. This is consistent with the Task Force Report.

## **Subchapter 8. Annual Budget Development and Submission**

**6A:23A-8.2(b) – Public notice and inspection** - We recommend this section be eliminated as the Department has not run the adequacy numbers rendering this section not applicable.

**6A:23A-8.7 – Tuition rate adjustment by district receiving preschool expansion aid or education opportunity aid in the 2007-08 school year** – We recommend this section be eliminated as it is no longer applicable.

## **Subchapter 9. Executive County Superintendent Budget Review Procedures**

**6A:23A-9.3 (c) 3 – Efficiency standards for review of administrative and non-instructional expenditures and efficient business practices** - The standard in this section are for custodians and janitors on a ratio of one for every 17,500 square feet of building space be calculated on a district-wide basis. Standards proposed by the National Center for Educational Statistics distinguishes between “service” custodians (day custodians) and “production” custodians (night custodians). When utilizing a square footage standard for each custodian, NCES does not include service custodians in this standard and districts that have day and night custodians should not count service custodians as part of the standard. NCES recommends one custodian for every 20,000 square feet for an eight hour shift. School custodians typically work seven hours, therefore the 17,500 standard would be appropriate. However this section should clarify that the 17,500 does not apply to service (day) custodians when the district employees production (evening) custodians. The day custodians should be exempt from this standard.

**6A:23A-9.3 (c) 6 – Efficiency standards for review of administrative and non-instructional expenditures and efficient business practices** – We recommend this section be eliminated as it is no longer applicable. The State Health Benefits plan clearly limits waivers for participating districts to no more than \$5,000.

**6A:23A 9.3 (c) 14 - Efficiency standards for review of administrative and non-instructional expenditures and efficient business practices** – We agree with the Task Force Report that this section should be eliminated as local discretion should govern in this area. The tax levy cap properly constrains district spending.

## **Subchapter 10. Spending Growth Limitation**

This entire subchapter should be revised and updated consistent with current statutory provisions.

**6A:23A-10.3 (a) – Unused spending authority (banked cap)** – We recommend the use of banked cap be extended for up to five (5) years. The restrictive nature of tax levy caps makes it extremely difficult to maintain current educational programs. The two percent levy caps often translate to less than one percent budget caps. This penalizes the less wealthy school districts.

## **Subchapter 11. Tax Levy Growth Limitation**

This entire subchapter should be revised and updated consistent with current statutory provisions.

## **Subchapter 12. Commissioner Waivers of Tax Levy Growth Limitation; Separate Voter Approval**

This entire subchapter should be revised and updated consistent with current statutory provisions.

## **Subchapter 13. Budget Transfers, Underestimated Surplus and Deficits**

This entire subchapter should be revised and updated consistent with current statutory provisions.

## **Subchapter 14. Reserve Accounts**

**6A:23A-14.1 Capital Reserve** - 14.1(b), We believe that this section should remain unchanged, although this is contrary to the recommendation of the Transformation Task Force Report (TTFR). The current tax levy cap includes capital expenditures with no waiver as was the case under CEIFA. Capital reserve funds, in the absence of school facility grants, have become the primary source of revenue to maintain and improve school infrastructure.

14.1(b)2 ii – We recommend language be added “pursuant to the Annual Budget approval by the ECS for districts with November elections.

14.1(c) 3 – We recommend adding this section 3 be added. “ A district board of education or board of school estimate, as appropriate, may supplement a capital reserve account through a transfer by board resolution of any unanticipated revenue and/or unexpended line-item appropriation amounts anticipated at year end for withdrawal in subsequent school years. Any such transfer resolution shall be adopted by the board no earlier than June 1 and no later than June 30 of the respective school year.”

14.1(e) – We recommend language be added after the wording budget time, “ as approved by the ECS for school districts with November elections.”

**6A:23A-14.2 Maintenance Reserve** –We recommend language be added “ A district board of education or board of school estimate, as appropriate, may supplement a maintenance reserve account through a transfer by board resolution of any unanticipated revenue and/or unexpended line-item appropriation amounts anticipated at year end for withdrawal in subsequent school years. Any such transfer resolution shall be adopted by the board no earlier than June 1 and no later than June 30 of the respective school year.”

**6A:23A-14.3 – Supplementation of capital reserve and maintenance reserve accounts** – We recommend this section be eliminated as this should be incorporated into 14.1 and 14.2.

**6A:23A-14.4 – Establishment of other reserve accounts** – 14.3. ii, we recommend changing the word from “third” year to “second” year.

14.3 iii – We recommend this section be eliminated.

## **Subchapter 15. State Aid Calculations and Aid Adjustments for Charter Schools**

We have no recommendations

## **Subchapter 16. Double-Entry Bookkeeping and GAAP Accounting**

**6A:23A-16.9 – Summer Payment Plan** – We recommend changing the word from “shall” to “may” in the first sentence. We also recommend eliminating the second sentence in its entirety, as the management of this program shall be determined by board policy.

## **Subchapter 17. Tuition Public Schools**

We have no recommendations

## **Subchapter 18. Tuition for Private Schools for Students with Disabilities**

We encourage the Department to place further restrictions on the ever increasing tuition costs for private schools for the handicapped. The escalation of tuition rates has become a major financial burden for all school districts. There right to amend rates after the rate certification by the State only adds to the financial hardship of districts that must contend with a 2% levy cap.

## **Subchapter 19. Emergency State Aid and Residency Determination**

We have no recommendations

## **Subchapter 20. Purchase and Loan of Textbooks**

We have no recommendations

## **Subchapter 21. Management of Public School Contracts**

We have no recommendations

## **Subchapter 22. Financial Operations of Charter Schools**

We have no recommendations