New Jersey School Boards Association

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NJSBA Position Statement
OPPOSING
Senate Bill No. 2843
(Singleton)

Establishes measures to provide employment stability for high school coaches employed in school districts.

The New Jersey School Boards Association (NJSBA), a federation of all the state's local school districts, appreciates the opportunity to provide feedback on Senate Bill No. 2843, which establishes various measures to provide employment stability for high school coaches employed in school districts. The NJSBA appreciates the intention behind the legislation to provide protections from the arbitrary dismissal of high school coaches from their positions. However, that intention must be balanced with a board of education's responsibility to make personnel decisions based on educational needs, financial capacity and operational considerations. We believe S-2843 constitutes an unnecessary and inappropriate overreach into a board of education's responsibility to make prompt and responsive personnel decisions that are in the best interest of the community. For that reason and for those cited below, the NJSBA respectfully opposes the bill in its current form.

First, I would like to address various media reports and concerns raised by the athletic coaching community regarding the impact that New Jersey's anti-bullying laws have had on individuals holding coaching positions in NJ's public school districts. It has been alleged that the state's anti-bullying law has been abused and that several coaches have been unfairly dismissed from their positions following allegations of harassment, intimidation or bullying towards a student-athlete.

Last year, the Legislature unanimously approved legislation, S-2575 (P.L.2019, c.179), establishing a task force to examine the "Anti-Bullying Bill of Rights Act" (the "Act"). Governor Murphy signed the bill into law in July 2019. Among other provisions, the new law directs the task force to study and evaluate the current implementation of the Act, to identify areas of improvement, and to make recommendations regarding any appropriate changes or updates to the law. In conducting this study, the task force has been explicitly charged with examining any unintended consequences resulting from implementation of the Act, including, but not limited to, ***impacts of the law on athletic coaches***. As this study has not been completed, it would be premature for the Legislature to advance S-2843 at this time. If coaches' concerns over their alleged lack of employment protection are due to the implementation and unintended consequences of the anti-bullying law, we urge the Legislature to exercise restraint and allow the task force to fulfill its charge before proceeding any further with this measure.

The NJSBA has the following additional concerns with S-2843:

- S-2843 extends multi-year contracts and other special protections to high school athletic coaches, but not to other staff members assigned to oversee other extracurricular activities, such as a theater advisor or choral director. While the rationale for this preferential treatment is unclear, granting stronger protections to coaches gives the impression that they are more valuable or important to the educational community than other school employees. Another anomaly is the provision granting dismissed coaches "one year in

which to correct and overcome any identified deficiencies". This would severely inhibit a duly elected board of education's authority and managerial prerogative to make prompt and decisive personnel actions, which may run counter to the best interest of students. If a coach is deficient in his or her duties, then the school administration, community at-large and (most importantly) students should not have to wait at least a year for him or her to be held accountable.

- The requires all head coaches and assistant coaches to be employed, respectively, under three-year and two-year employment contracts. Under current law, annual contracts are the norm for non-tenured employees. For example, school business administrators receive one-year employment contracts. What is the justification for granting multi-year contracts to coaches, but not to other district staff who serve critical roles? This constitutes drastic departure from the existing status quo. Currently, coaches are appointed for one-year terms and may be reappointed to those positions on annual basis. Changing the status quo would interfere with a school district's ability to make prompt personnel changes they deem necessary and appropriate. Boards of education, along with their superintendents and other supervisory staff, must maintain the ability to make annual adjustments to staffing.

- Existing laws and regulations, along with collective bargaining agreements, provide all employees with protection against unjust termination. For example, any staff member whose contract is not renewed is entitled to a written statement of reasons for such nonrenewal as well as an informal hearing before the board of education (a "Donaldson" hearing), which provides an opportunity for the staff member to convince the board to offer reemployment (see *N.J.S.A.*18A:27-4.1). We believe that these protections are sufficient to ensure that staff appointed to serve as a coach are not arbitrarily and capriciously dismissed from their positions.

- It is our understanding that the vast majority of high school athletic coaches are reappointed to their positions year-after-year. However, this bill proposes a statewide solution while there is little evidence supporting the need for the sweeping remedy contemplated by S-2843.

- Pursuant to existing state law, the terms and conditions of employment for staff members engaged in extracurricular activities are negotiable topics and subject to collective bargaining. N.J.S.A.34:13A-23 provides, in pertinent part:

> All aspects of assignment to, retention in, dismissal from, and any terms and conditions of employment concerning extracurricular activities shall be deemed mandatory subjects for collective negotiations between an employer and the majority representative of the employees in a collective bargaining unit, except that the establishment of qualifications for such positions shall not constitute a mandatory subject for negotiations.

  The provisions of this bill, such as those regarding dismissal notices and an opportunity to be heard by the board of education, should remain subject to collective bargaining, and not dictated by statute.

Thank you for the opportunity to express our concerns with the S-2843. We would be happy to meet with you in person to discuss the legislation, and are available to answer any questions you or your staff may have. Any questions may be directed to Jonathan Pushman, NJSBA Legislative Advocate, at (609) 529-5154 or jpushman@njsba.org.