



December 14, 2023

**NJSBA Position Statement**  
**OPPOSING**  
**Assembly Bill No. 5874 (Lampitt)**  
**&**  
**Senate Bill No. 4233 (Gopal)**

**Requires board of education to directly employ certain professionals; permits board of education to contract for certain personnel; permits use of virtual or remote instruction for public school students in certain circumstances.**

The New Jersey School Boards Association (NJSBA), a federation of all of the state's local boards of education, respectfully **opposes** A-5874/S-4233. As introduced, this legislation requires a board of education to directly employ certain professionals and permits a board of education to contract for certain personnel. This bill also permits the use of virtual or remote instruction for public school students in certain circumstances.

The NJSBA has strong concerns with the bill as currently structured, as it would interfere with a board of education's ability to enter into contracts with individuals or private entities that provide valuable services to students. The NJSBA believes that it is critical that a board of education be permitted to enter into subcontracting agreements whenever, for reasons of economy or in order to advance the best interests of the school district and the educational opportunities of students, the board determines such agreements are appropriate. Local boards of education should have a nonnegotiable, managerial prerogative to enter into subcontracting agreements.

The most significant concern NJSBA has with this bill is the requirement that school districts directly employ any individual performing duties that require an appropriate certificate issued by the State Board of Examiners (see section 3). This requirement may simply not be feasible, particularly at a time when districts across the state – and nation for that matter – are facing significant school staff shortages. Contracting out for personnel may be the only way a district can offer certain classes or services to our students. Restricting the ability to contract out may have the unintended consequence of limiting educational opportunities for students when a district cannot find personnel to directly employ. Districts often enter into contracts out of necessity, when they cannot find someone to hire directly, not necessarily out of desire. Removing flexibility in personnel decisions could result in a complete elimination of a particular class or service, to the detriment of our students' educational opportunities.

We recognize that the bill does attempt to address the fact that certain positions are harder to fill than others, and that a contracted employee or provider may be needed to ensure adequate staffing levels. Therefore, we appreciate that the bill includes various exemptions to the requirement that BOEs directly employ anyone filling a position that requires them to possess a State Board of Examiners certificate. However, we are concerned that these exemptions may not be broad enough to address all of the positions districts have a difficult time filling. There are other areas where there are critical shortages, including but not limited to,

world languages, English as a second language, math, science, special education, career and technical education, school nurses, and school counselors. Should this bill move forward, we strongly urge the Legislature to expand upon these exemptions to reflect the reality in the field that there is currently not a sufficient pool of qualified educators in all subject areas.

The NJSBA also has concerns with the sections of the bill concerning the use of virtual or remote instruction. The process of applying to the Commissioner of Education and the steps district must follow for each individual student are prohibitively onerous and will likely result in delays or elimination of high-quality educational opportunities for students. We believe that any application process should be streamlined and simplified as much as possible so that districts can act swiftly whenever the use of remote or virtual instruction becomes necessary.

For these reasons, the NJSBA respectfully asks the Legislature to consider the adverse impact A-5874/S-4233 will have on school district operations and student learning. Thank you for your consideration of the NJSBA's position on this important matter. Any questions or comments may be directed to Jonathan Pushman, NJSBA Director of Governmental Relations, at [jpushman@njsba.org](mailto:jpushman@njsba.org) or (609) 278-5248.