



Testimony
On
Proposed Changes to Fiscal Accountability, Efficiency and Budgeting Regulations
N.J.A.C. 6A:23A-1 through 15
January 9, 2016

Thank you for the opportunity to share the thoughts of the New Jersey Principals and Supervisors Association (NJPSA) and its statewide membership on changes to current fiscal accountability, efficiency and budgeting regulation, *N.J.A.C. 6A:23A-1 through 15*.

Superintendent Salary Cap – Subchapters 1 & 3

Educational research demonstrates the linkage between the quality of leadership at both the district and building levels and school performance outcomes. Superintendents at the district level, and principals at the school building level, play a critical role in reaching state and national performance benchmarks, establishing safe and secure learning environments, developing and leading school staff to higher achievement, running effective and efficient operations, and partnering with communities. **This is important and complex work which requires bright, dedicated and experienced school leaders in top leadership roles.**

Over the past six years, New Jersey schools have experienced a revolving door at the top of our educational leadership ranks due to the imposition of the superintendent cap. This has led to a significant exodus of top-notch superintendents from New Jersey's schools – either to retirement or to other States. It has also forced an over-reliance on interim superintendents (estimated at over 40 percent of current sitting superintendents), who by virtue of their limited contract term, negatively impact continuity of instruction of our students and limit long-term strategic planning for a district.

In addition, the salary cap has had a negative impact on the educational career ladder by deterring successful principals, school business officials and other educators from seeking promotional opportunities.

New Jersey students need individuals who have had successful careers as instructional and district leaders to serve in the critical role of superintendent. Successful superintendents have a depth of experience in school operations, instruction, staff evaluation/management, assessment, school finance and school law that allow them to successfully lead our schools in the highest field level position in our system. **New Jersey's policy direction should be focused on attracting and retaining our top-notch educators to the profession. Unfortunately, current policy does not.**

Given this, any attempt to loosen the strictures, or vitiate some of the impact that the current regulation has wrought must be viewed positively. We would prefer to be advocating in support of the outright elimination of the cap, but are prepared to support what flexibility is offered as part of this proposal.

This is not to say that we do not believe in restraining cost. Rather, we believe that cost controls are already in place. See P.L.2007, c.62 and c.53; P.L. 2010, c.44. The Executive County Superintendent (ECS) in each county has broad power to not only review budgets with mandatory authority to limit administrative spending, but also not approve an employment contract of a superintendent if it is not in compliance with state-developed criteria designed to limit excessive compensation. Layered upon this is the two percent tax levy cap which limits exclusions even further – placing a tight lid on compensation for all employees.

In practice, New Jersey's administrative costs are among the lowest in the nation, below that of 42 other states while our spending on instructional costs and student support serves exceed the national average. See the National Center for Education Statistics. Collectively, the tax levy cap, limitation on administrative spending

growth, and the Accountability Regulations render the cap unnecessary.

Flexibility - A Must

It is with this backdrop, we support both the widening of the cap ranges as well as the inclusion of the nominal two percent increase allowance to address inflationary cost. The work of an educational leader is complex and each community of learners presents its own unique challenges to a leader's successful performance. The nature of the student population and their educational needs, the level of community support, and local performance expectations are all relevant considerations to leadership compensation. The proposed changes allow a district at least some limited flexibility to determine compensation based upon factors other than simply enrollment.

Similarly, the inclusion of the salary increment where a superintendent satisfies more than one role is appropriate. A superintendent may serve in multiple roles such as Special Education Director or principal – creating enhanced savings and efficiencies for a district. The proposal allows boards some flexibility to be creative and efficient in meeting local leadership needs. We would simply argue the approach may need to be modified slightly to allow for shared service arrangements as the current amendment does not appear to incentivize this option. As such, we support the creation of a 'salary increment' in light of a district leader's acceptance of additional responsibilities and would merely seek additional clarifying language to support a shared service arrangement.

Regional Cost Differences

Additionally, we would urge the Commissioner to consider the fluctuation in the cost of living across the Garden State. School leaders in Bergen County face a higher cost of living than those living and working in Cumberland County. This fluctuation can equate to a differential of up to 35 percent in buying power. Unfortunately, the proposed amendment continues to ignore these differences, despite the clear link between cost of living and salary levels. The federal government acknowledges the high cost of living in the New York Metropolitan area and provides appropriate cost of living adjustments to compensate individuals doing the same work in different locales. We would urge the Commissioner to consider this change, in concert with the other proposed changes, as this proposal moves forward.

New Jersey must pursue policy that attracts and retains top-notch educators to the profession of educational leadership. New Jersey's educators, leaders, students and communities have invested significant time and resources to achieve higher standards and student achievement. Attracting the very best school leaders to serve as superintendents is critical in our continuing effort to provide our students with an outstanding education and to ensure that they are fully prepared to succeed in college and careers. These new proposed regulations are an important first step in this direction.

Executive County Superintendent: Duties – Subchapter 2

NJPSA would urge the Commissioner to reconsider the scope of the School District Regionalization and Consolidation of Services Advisory Committee as the regulation appears to exceed statute. Moreover, the code provision as outlined requires the ECS to focus on consolidation based upon district size consideration solely. We would argue this is monolithic in approach. Moreover, the process, if pursued, lacks a mechanism for input by local boards and building level personnel. Rather than pursue this proscriptive process, we would urge the Commissioner to consider developing a best practice document of examples that districts have employed in pursuing consolidation/regionalization in order to share ideas between districts.

Efficiency Measures – Subchapter 5

NJPSA continues to question whether the mandated procedures which seek to limit legal costs if a district is 130 percent above the statewide average are necessary. Legal costs vary greatly from year to year depending upon the existence of an actual court action, legal settlement, contract negotiations, and event occurring outside district control. We oppose the use of a cut off number as the size of a district, or its particular

circumstances, are not taken into account. Further, legal costs should be reviewed over a broader time period (such as three to five years) so that extraordinary costs in a single year do not adversely impact a district.

NJPSA members also find the current restrictions on who may speak with a board attorney to be unwise and unpractical. In order to properly investigate a matter the board attorney may need to speak with several individuals. Restricting the individuals who may speak with an attorney can easily lead to unnecessary delay in taking action, which in some cases, can be held against a district (e.g. bullying situations). Moreover, increased court costs can result if delays in speaking with appropriate individuals lead to late court filings. Most importantly, legal advice should be sought for proper decision making in real time, not after the fact when options are limited

Similarly, the current log requirement is ineffective since legal matters may not originate with district outreach. Clarification is need in several areas. What types of matters require approval? Are matters preceding or subsequent to an event included within an approval? How should 'continuing use' of an attorney's services be interpreted?

As such, we would recommend that *N.J.A.C. 6A:23A-5.2(a)3, 5.22(a)3I(i) and (iv)* be eliminated and clarifying language as noted be added.

School District Travel Policies & Procedures - Subchapter 7

While we appreciate the intent of subchapter 7 – limiting unnecessary costs – we would urge the Commissioner to take this opportunity to address some of the more anomalous impacts within code because of its connection to Office of Management and Budget (OMB) circulars. The OMB circulars are meant to provide direction on travel transactions throughout a single entity (i.e. the State) not across multiple employers. Because of this, the approach cannot account for the unique structure, mission, requirements and needs of diverse school districts. Attempting to establish a 'one size fits all' approach creates several issues as follows:

1) *Maintaining Certification & Ongoing Professional Development Requirements*

State law and code require many in the education profession to obtain and maintain an appropriate license to work with students. To maintain this license, an individual must participate in ongoing professional development in multi-year cycles. In addition, the Legislature continually mandates training above and beyond local district goals and current licensure requirements. In contrast, state employees are generally not required as a condition of employment to participate in ongoing professional development. This is reflected in the circular as only limited discussion is focused on training for certification or licensing. See OMB Circular 16-11-OMB.

2) *Differing Organizational Structures*

The OMB circular is built around a hierarchical idea of a Chief Executive Governor with Departments reporting upward. Such is not the case in districts. Rather, the Superintendent, who might be considered the 'chief executive' of a district, reports to a School Board for purpose of these travel regulations. Unlike a Department head who is likely onsite and/or readily available, the approval structure outlined in the travel regulations, pursuant to the circular create additional layers of approval and extend timelines for board approval which may impact the ability of an individual to participate in training.

3) *Parental & Community Involvement*

School districts are encouraged to, and are even evaluated upon, the ability to involve parents and community members. In fact, fostering these connections is essential to student success. Unfortunately the travel regulations specifically limit expenditures associated with parental involvement, requiring them to be 'minimal and infrequent) (OMB Circular 11-09-OMB (Entertainment, Meals and Refreshment). Moreover, the circular is drafted in light of the role of a State agency, not a local district which relies on parental/community involvement.

It is with this in mind that we request at least some modification to address concerns as follows:

- The \$1,500 maximum annual amount not requiring board approval has not been modified in years. We would recommend this amount be increased and an annual inflationary index (e.g. CPI) be incorporated. See *N.J.A.C. 6A:23A-7.3(b)1*.
- Similarly, the maximum 'in-state' registration fee permitted under this section has been \$150 for close to a decade. We would recommend that this amount be increased to \$300 with an inflationary index as well. See *N.J.A.C. 6A:23A:7-3(b)2*.
- We would urge the Commissioner to consider expanding the permissible areas of waiver to include the regular business travel dollar amount set forth in *N.J.A.C. 6A:23A-7.3(b)2*. There are occasions where nationally renowned experts are retained by professional associations to provide high quality professional development to New Jersey educators. The fees for such speakers are significantly higher, and so, correspondingly, is the registration fee. As such, allow a waiver process to develop to address these unique situations.
- Further, *N.J.A.C. 6A:23A-7.11(d)* prohibits overnight stays if a participant is within 50 miles of a conference or training. The prohibition not only fails to realize the unique opportunities for staff and board members to build relationships after scheduled activities, but also fails to recognize the different state road characteristics – not all locations are as easily traversed, regardless of the mileage. No other public official at the State or local level have such a prohibition. As such, we would recommend the elimination of the 50 mile limit.
- While appreciative of the changes in *N.J.A.C. 6A:23A-7.9* which allow a purchaser to prove that an expense is reasonable such that an additional expenditure was warranted, subsection (c)1 of *N.J.A.C. 6A:23A-7.9* does not define what is reasonable when booking air/rail travel (i.e. how many connectors are practical). In comparison, the OMB circular from which this language is derived, treats these factors as considerations, not requirements. As such we recommend the language be made consistent with the circular.
- We appreciate the nominal increase in the current meal allowance, but request that an inflationary index be tied to this provision. See *N.J.A.C. 6A:23A-7.12*
- Finally, *N.J.A.C. 6A:23A-7.12(f)5* regulates leftovers after meetings of local boards of education. Is such a provision really necessary? The provision should be eliminated.

Efficiency Standards - Subchapter 9

N.J.A.C. 6A:23A-9.3 sets forth mandatory efficiency standards concerning administrative costs, support services and school operations staffing levels. The provision uses state medians and averages to set 'efficient' levels of school administrative costs, support service levels and operations/maintenance costs. By definition, using state medians as an 'efficiency benchmark' in these areas means that at least half of the state's school districts fail to meet the standard. Staffing decisions should be made by school administration and local boards of education based upon the unique characteristics and needs of the school community and local community desires.

This arbitrary approach disregards local needs, the characteristics of a particular school facility, educational goals and achievement levels, characteristics of the student body, mandated programs, and the need for quality in schools. Further, this approach fails to recognize the anomalies of cost that can occur in a school year based upon particular circumstances or a high cost event (e.g. a lawsuit). Rather, the ECS should review longitudinal data to analyze efficient along the lines employed under the New Jersey Quality Single Accountability Continuum (NJQSAC) (which examines school criteria in score areas over a three year period).

Moreover, restricting the budgeting of vacant positions at no more than step one of a salary guide unless the ECS has affirmatively approved an amount is simply inefficient. See subsection 8 of *N.J.A.C. 6A:23A-9.3(c)*. Frankly, the code provision disregards the fact that the job market in certain high needs subjects or service areas simply demands the need that a position be budgeted at a higher amount. Requiring principals to seek approval adds to administrative burden, and can lead to a delay that jeopardizes the hiring of a candidate. This process simply defies efficiency. Districts should be afforded some flexibility.

Further, restricting the hiring of aides to only instances where independent research-based evidence can be demonstrated may be unduly limiting. See subsection 9 of *N.J.A.C. 6A:23A-9.3(c)*. Similar concerns exist as it relates to limitations on administrative personnel. See subsection 2 of *N.J.A.C. 6A:23A-9.3(c)*. Rather, we would recommend some flexibility to allow local decision making based on local facts and circumstances.

Similarly, we would argue that the line between communication and public relations is often difficult to discern. Allowing some discretion as it relates to the work of a staff member (current code allows no more than 50 percent of the duties of any one staff person) may be warranted. As such, we would urge the Commissioner to incorporate some flexibility or discretion to this provision. See subsection 10 of *N.J. A.C. 6A:23A-9.3(c)*.

In addition, current code, *N.J.A.C 6A:23A-9.3(c)3*, establishes a particular ratio of custodial/janitorial staff of one per 17,500 square feet as well as transportation efficiency standards (*N.J.A.C 6A:23A-9.3(c)4*) and efficiency standards as they relate to even overtime (*N.J.A.C. 6A:23A:9.3(c)4*). We would argue that this approach can be arbitrary and fails to take into account local needs or building characteristics as well as the composite of the student body, school programming or even unexpected circumstances or events. Rather we would recommend the Commissioner review longitudinal data to determine efficiency over a three year period, akin to NJQSAC analysis.

Spending Growth Limitation - Subchapter 10

Current code, *N.J.A.C. 6A:23A-10.3(a)*, does not permit a district to bank unused spending authority or 'cap' for a period of longer than two years. New Jersey's two percent levy cap continues to make it more and more difficult to maintain current programs in the absence of state aid, in turn requiring enhanced reliance on local support to maintain school programming. Districts should not be penalized for underutilization of local school tax levy. In addition, this same code provision requires ECS approval. We would urge the Commissioner to consider expanding cap banking authority to not more than five years, instead of three to afford districts additional budgetary flexibility.

In closing, thank you for the opportunity to present the recommendations of the NJ Principals and Supervisors Association. We stand ready to work with the Commissioner and the Department of Education on this, and other initiatives.