

ASSEMBLY AMENDMENTS

(Proposed by Assemblywoman LAMPITT)

to

[First Reprint]

ASSEMBLY, No. 5874

(Sponsored by Assemblywomen LAMPITT and CARTER and Assemblyman SIMONSEN)

REPLACE SECTION 1 TO READ:

1. The Legislature finds and declares that:

a. It is the public policy of this State that personnel directly employed by the board of education of a public school ²[or by an approved private school for students with disabilities]² in the State provide the highest quality of education for New Jersey students.

b. Every effort should be made to have the personnel of a public school be directly employed by the board of education.

c. In certain cases, it is necessary for a board of education to contract certain services from qualified and certified individuals in order to the serve the students of the State.

d. It is altogether necessary and proper for the Legislature to establish requirements for boards of education to directly employ certain individuals and ensure services contracted by boards of education are of the highest quality.

REPLACE SECTION 3 TO READ:

3. Except as otherwise expressly permitted pursuant to P.L. , c. (C.) (pending before the Legislature as this bill) ²[or] ² any other law, ²or by an exemption provided by the Commissioner of Education pursuant to section 4 or section 5 of P.L. , c. (C.) (pending before the Legislature as this bill),² a board of education shall directly employ all persons performing any duty, function, service, assignment, or job requiring an appropriate certificate issued by the State Board of Examiners for, or on behalf of, a board of education.

INSERT NEW SECTION 4 TO READ:

²4. a. The Commissioner of Education shall establish a process for a board of education to apply for an exemption from the provisions of section 3 of P.L. , c. (C.) (pending before the Legislature as this bill) on a case by case basis.

b. The exemption may be granted for personnel necessary to operate a specified program or course offered by a school district that supplements the educational programming of the district. The

exemption may include personnel necessary to operate an alternative education program, programming to address learning loss, or remedial education.

c. An exemption granted by the commissioner pursuant to this section shall not exempt a board of education from directly employing any personnel providing instruction for the courses or curriculum implemented by a district to satisfy the New Jersey Student Learning Standards or as part of the district's implementation of school graduation requirements for a State-endorsed diploma.²

INSERT NEW SECTION 5 TO READ:

5. a. The Commissioner of Education shall establish a process for a charter school to apply for an exemption from the provisions of section 3 of P.L. , c. (C.) (pending before the Legislature as this bill) for personnel performing any school nursing services on a case by case basis.

b. The commissioner shall post any determinations issued pursuant to subsection a. of this section on the department's Internet website, excluding any personally identifiable information.

REPLACE SECTION 4 TO READ:

²[4.] 6.² Notwithstanding the provisions of section 3 of P.L. , c. (C.) (pending before the Legislature as this bill) to the contrary, a board of education may contract with the following personnel to ensure that required programs and services are provided and shall not be required to directly employ the personnel, provided that the personnel hold an applicable certificate:

¹(a) a.¹ a substitute teacher;

¹(b) b.¹ personnel providing instruction in financial, economic, business, and entrepreneurial literacy to satisfy graduation requirements pursuant to regulations promulgated by the State Board of Education;

¹(c) c.¹ personnel providing educational services to a student who is enrolled in a school other than a public school pursuant to regulations promulgated by the State Board of Education;

¹(d) d.¹ personnel employed by other boards of education and providing services pursuant to a shared services or joint agreement;

¹(e) e.¹ personnel providing individualized student learning opportunities; ²[and]²

¹(f) f.¹ personnel providing special education and related services to a student who is enrolled in an out-of-district placement²;

g. faculty of a public institution of higher education providing instruction under a dual enrollment agreement established pursuant to section 1 of P.L.2014, c.74 (C.18A:61C-10);

h. a business administrator who oversees the fiscal operations of a charter school;

i. personnel providing instruction during a summer school session of a charter school; and

j. personnel employed by a charter management organization who provide operation, management, or curriculum services to a charter school in this State including, but not limited to, instructional directors and school administrators².

REPLACE SECTION 5 TO READ:

²[5.] 7.² a. Notwithstanding the provisions of section 3 of P.L. , c. (C.) (pending before the Legislature as this bill) to the contrary, a board of education may contract for the services listed in subsection c. of this section for public school students with:

(1) a private clinic or agency approved by the Department of Education;

(2) a private professional practitioner who is certified and licensed in accordance with State law; or

(3) an agency or program that is certified, approved, or licensed by the Department of Human Services or the Department of Health to provide counseling or mental health services.

b. All instructional, child study team, or related services personnel shall hold an applicable certificate on a non-emergency basis.

c. The services shall include:

(1) independent child study team evaluations;

(2) child study team services to supplement existing district services;

(3) home instruction in accordance with regulations promulgated by the State Board of Education;

(4) speech-language services provided by a speech-language specialist ¹in a temporary position that supplements existing district staff¹ when a board of education is unable to hire sufficient staff to provide the service; and

(5) related services^{2,2} except that for the following related services:

(a) certified occupational therapy assistants, and others employed in a supportive role to licensed and, where applicable, certified providers of related services, shall work under the supervision of an appropriately licensed and, where applicable, certified provider of the services;

(b) physical therapy assistants shall work ²[in the presence of and]² under the supervision of a certified physical therapist; and

(c) specialists in behavior modification or other disciplines for which there is no license or certification shall hold, at a minimum, a bachelor's degree in education, psychology, or a related field from an accredited institution of higher education and shall work under the supervision of certified board of education personnel.

OMIT SECTION 6 IN ITS ENTIRETY

REPLACE SECTION 9 TO READ:

9. a. Notwithstanding the provisions of subsection a. of section 8 of P.L. , c. (C.) (pending before the Legislature as this bill) to the contrary, a school district may utilize ²[individualized]² virtual or remote instruction for ²[a] an individual² student ²or a class of students² when equivalent instruction cannot be provided through in-person instruction, subject to the approval of the Commissioner of Education.

b. A school district shall apply to the commissioner, in a form and manner prescribed by the commissioner, to utilize virtual or remote instruction for ²[a specific] an individual² student ²or a class of students² pursuant to this section.

c. The application shall:

(1) identify and attest to the specific ²[, individualized]² reasons why equivalent instruction cannot be provided ²[to the student]² through in-person instruction; and

(2) demonstrate how the board of education will ensure the virtual or remote instruction meets educational standards.

d. A school district shall apply separately to the commissioner for each ²individual² student ²or class of students² for whom the district is requesting ²[individualized]² virtual or remote instruction.

e. The commissioner shall not make a determination on an application until the notification and comment procedures established pursuant to paragraph (1) of subsection f. of this section are completed.

f. The commissioner shall establish:

(1) a process for notifying any individual currently providing the instructional services sought to be implemented virtually or remotely, and the majority representative of the district's employees of the submission of an application, and provide them with a copy of the application and notice of the right to object to, or comment on, the application prior to the commissioner's determination;

(2) a process for notifying a school district, any individual currently providing the instructional services which are being sought to be implemented virtually or remotely, and the majority representative of the district's employees regarding a determination on the request for virtual or remote instruction; and

(3) a procedure for a school district, any individual currently providing the instructional services which are being sought to be implemented virtually or remotely, and the majority representative of the district's employees to appeal the determination.

g. Notwithstanding the provisions of section 9 of P.L.1996, c.138 (C.18A:7F-9) to the contrary, the Commissioner of Education shall ²[allow] permit² a board of education that provides virtual or remote instruction approved pursuant to this section to apply the instruction to the 180-day requirement established pursuant to subsection a. of section 9 of P.L.1996, c.138 (C.18A:7F-9).

INSERT NEW SECTION 10 TO READ:

²10. a. Notwithstanding the provisions of subsection a. of section 8 of P.L. , c. (C.) (pending before the Legislature as this bill) to the contrary, a school district that has applied to utilize virtual or remote instruction pursuant to section 9 of P.L. , c. (C.) (pending before the Legislature as this bill) shall be permitted to utilize virtual or remote instruction for an individual student or a class of students on a temporary basis without the approval of the Commissioner of Education when equivalent instruction cannot be provided through in-person instruction during the period between the district's submission of the application and the district's receipt of the commissioner's determination on the application.

b. If the commissioner denies the district's application for virtual or remote instruction, the district shall discontinue the use of virtual or remote instruction and implement in-person instruction no less than 14 instructional days after the determination is made.

c. Notwithstanding the provisions of section 9 of P.L.1996, c.138 (C.18A:7F-9) to the contrary, the commissioner shall permit a board of education that provides virtual or remote instruction approved pursuant to this section to apply the instruction to the 180-day requirement established pursuant to subsection a. of section 9 of P.L.1996, c.138 (C.18A:7F-9).²

INSERT NEW SECTION 11 TO READ:

²11. The commissioner shall post any determinations issued pursuant to section 9 or section 10 of P.L. , c. (C.) (pending before the Legislature as this bill) on the department's Internet website, excluding any personally identifiable information.²

RENUMBER SECTIONS 10 and 11 AS SECTIONS 12 and 13

INSERT NEW SECTION 14 TO READ:

²14. a. Notwithstanding the provisions of subsection a. of section 8 of P.L. , c. (C.) (pending before the Legislature as this bill) or any other section of law to the contrary, a charter school may provide summer school sessions by virtual or remote instruction, either in whole or in part, subject to the approval of the Commissioner of Education.

b. The commissioner shall post any determinations issued pursuant to subsection a. of this section on the department's Internet website, excluding any personally identifiable information ²

RENUMBER SECTION 12 AS SECTION 15

Assembly Bill No. 5874 (1R) requires a board of education to directly employ certain professionals; permits a board of education to contract for certain personnel; and permits the use of virtual or remote instruction for public school students in certain circumstances.

These Assembly floor amendments:

- remove provisions concerning the employment of personnel by approved private schools for students with disabilities;
- require the Commissioner of Education to establish an application process for specified exemptions to the provision of the bill requiring certain personnel to be employed directly by a board of education on a case by case basis;
- require the commissioner to establish an application process for a charter school to apply for an exemption to the provision of the bill requiring certain personnel to be employed directly by a board of education to provide school nursing services on a case by case basis;
- permit a board of education to contract with faculty of a public institution of higher education providing instruction under a dual enrollment agreement;
- permit a charter school to contract with a business administrator, personnel providing instruction during summer school sessions, and personnel employed by a charter management organization to provide specific services;
- specify that a physical therapy assistant is not required to work in the presence of a certified physical therapist;
- permit the virtual or remote instruction approved pursuant to the bill to be provided to an individual student or a class of students;
- permit a school district that has applied to provide virtual or remote instruction to provide emergent virtual or remote instruction while the district's application to the commissioner is pending;
- require the commissioner to post determinations concerning virtual or remote instruction on its internet website; and
- permit a charter school to provide virtual or remote instruction, either in whole or in part, for summer school sessions.