

**SENATE, No. 2081**

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**STATE OF NEW JERSEY**  
**221st LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

**Sponsored by:**

**Senator VIN GOPAL**

**District 11 (Monmouth)**

**Co-Sponsored by:**

**Senator Johnson**

**SYNOPSIS**

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.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1   **AN ACT** concerning school employees and virtual or remote  
2       instruction and supplementing chapter 27 and chapter 35 of Title  
3       18A of the New Jersey Statutes.

4  
5       **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6       *of New Jersey:*

7  
8       1. The Legislature finds and declares that:

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

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

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

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

22

23      2. As used in sections 1 through 6 of P.L.     , c.     (C.     )  
24      (pending before the Legislature as this bill):

25      “Board of education” means and includes a board of education as  
26      defined in N.J.S.18A:18A-2, the board of directors of an  
27      educational services commission, and the administrative board of a  
28      renaissance school project or any other local education agency.

29      “Individualized student learning opportunities” means student  
30      experiences, including independent study, study abroad programs,  
31      student exchange programs, and structured learning experiences,  
32      including, but not limited to: work-based programs; internships;  
33      apprenticeships; and service-learning experiences; based on specific  
34      instructional objectives that meet or exceed the New Jersey Student  
35      Learning Standards for students in grades nine through 12 pursuant  
36      to regulations promulgated by the State Board of Education.

37      “Public school” means and includes a school, under college  
38      grade, which derives its support entirely or in part from public  
39      funds, a school district, a charter school, a renaissance school  
40      project, an educational services commission, or any other local  
41      education agency.

42

43      3. Except as otherwise expressly permitted pursuant to  
44      P.L.     , c.     (C.     ) (pending before the Legislature as this bill)  
45      or any other law, a board of education shall directly employ all  
46      persons performing any duty, function, service, assignment, or job  
47      requiring an appropriate certificate issued by the State Board of  
48      Examiners for, or on behalf of, a board of education.

- 1        4. Notwithstanding the provisions of section 3 of P.L.        ,  
2        c.        (C.        ) (pending before the Legislature as this bill) to the  
3        contrary, a board of education may contract with the following  
4        personnel to ensure that required programs and services are  
5        provided and shall not be required to directly employ the personnel,  
6        provided that the personnel hold an applicable certificate:  
7        a.        a substitute teacher;  
8        b.        personnel providing instruction in financial, economic,  
9        business, and entrepreneurial literacy to satisfy graduation  
10       requirements pursuant to regulations promulgated by the State  
11       Board of Education;  
12       c.        personnel providing educational services to a student who is  
13       enrolled in a school other than a public school pursuant to  
14       regulations promulgated by the State Board of Education;  
15       d.        personnel employed by other boards of education and  
16       providing services pursuant to a shared services or joint agreement;  
17       e.        personnel providing individualized student learning  
18       opportunities; and  
19       f.        personnel providing special education and related services to  
20       a student who is enrolled in an out-of-district placement.  
21
- 22       5. a. Notwithstanding the provisions of section 3 of P.L.       ,  
23       c.        (C.        ) (pending before the Legislature as this bill) to the  
24       contrary, a board of education may contract for the services listed in  
25       subsection c. of this section for public school students with:  
26       (1) a private clinic or agency approved by the Department of  
27       Education;  
28       (2) a private professional practitioner who is certified and  
29       licensed in accordance with State law; or  
30       (3) an agency or program that is certified, approved, or licensed  
31       by the Department of Human Services or the Department of Health  
32       to provide counseling or mental health services.  
33       b.        All instructional, child study team, or related services  
34       personnel shall hold an applicable certificate on a non-emergency  
35       basis.  
36       c.        The services shall include:  
37       (1) independent child study team evaluations;  
38       (2) child study team services to supplement existing district  
39       services;  
40       (3) home instruction in accordance with regulations promulgated  
41       by the State Board of Education;  
42       (4) speech-language services provided by a speech-language  
43       specialist when a board of education is unable to hire sufficient staff  
44       to provide the service; and  
45       (5) related services except that for the following related services:  
46       (a) certified occupational therapy assistants, and others employed  
47       in a supportive role to licensed and, where applicable, certified  
48       providers of related services, shall work under the supervision of an

1 appropriately licensed and, where applicable, certified provider of  
2 the services;

3 (b) physical therapy assistants shall work in the presence of and  
4 under the supervision of a certified physical therapist; and

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

10

11 6. a. Notwithstanding the provisions of section 3 of P.L. ,  
12 c. (C. ) (pending before the Legislature as this bill) to the  
13 contrary, an approved private school for students with disabilities  
14 may contract for the services listed in subsection c. of this section  
15 for public school students with:

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

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

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

23 b. All instructional or related services personnel shall hold an  
24 applicable certificate or license on a non-emergency basis.

25 c. The services shall include:

26 (1) speech-language services provided by a speech-language  
27 specialist when an approved private school for students with  
28 disabilities is unable to hire sufficient staff to provide the service;  
29 and

30 (2) related services except that for the following related services:

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

36 (b) physical therapy assistants shall work in the presence of and  
37 under the supervision of a certified physical therapist; and

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

43

44 7. The Legislature finds and declares that:

45 a. It is the public policy of this State that instruction delivered  
46 in-person provides the most educational benefit for New Jersey's  
47 students.

- 1        b.        There are very limited educationally appropriate  
2 circumstances where the availability of virtual or remote instruction  
3 serves as a benefit for students.
- 4        c.        When utilized at the discretion of a properly certified teaching  
5 staff member to aid in in-person instruction, technological tools can  
6 be educationally beneficial and the Legislature does not intend to  
7 limit their use.
- 8        d.        It is therefore necessary and proper to recognize the existence  
9 and current utilization of virtual or remote instruction and provide  
10 certain opportunities for students to receive this type of instruction.  
11
- 12        8.    a.        Except as otherwise expressly permitted pursuant to  
13 P.L.        , c.        (C.        ) (pending before the Legislature as this bill) or  
14 any other law, instructional services provided by a school district  
15 shall be delivered through in-person methods.
- 16        b.        This section shall not be construed to limit the ability or  
17 discretion of a teaching staff member to utilize technological tools  
18 as an aide to in-person instruction. Technological tools shall  
19 include, but shall not be limited to, online learning applications,  
20 educational software, third party websites, internet-based  
21 educational resources, online data and assessment platforms, and  
22 any other board of education approved software program or  
23 application used to assist with curricular or education specific  
24 needs.
- 25        c.        This section shall not be construed to limit the availability of  
26 remote-work for disability-related accommodations.  
27
- 28        9.    a.        Notwithstanding the provisions of subsection a. of section  
29 8 of P.L.        , c.        (C.        ) (pending before the Legislature as this bill)  
30 to the contrary, a school district may utilize individualized virtual or  
31 remote instruction for a student when equivalent instruction cannot  
32 be provided through in-person instruction, subject to the approval of  
33 the Commissioner of Education.
- 34        b.        A school district shall apply to the commissioner, in a form  
35 and manner prescribed by the commissioner, to utilize virtual or  
36 remote instruction for a specific student pursuant to this section.
- 37        c.        The application shall:
- 38        (1) identify and attest to the specific, individualized reasons why  
39 equivalent instruction cannot be provided to the student through in-  
40 person instruction; and
- 41        (2) demonstrate how the board of education will ensure the  
42 virtual or remote instruction meets educational standards.
- 43        d.        A school district shall apply separately to the commissioner  
44 for each student for whom the district is requesting individualized  
45 virtual or remote instruction.
- 46        e.        The commissioner shall not make a determination on an  
47 application until the notification and comment procedures

1 established pursuant to paragraph (1) of subsection f. of this section  
2 are completed.

3 f. The commissioner shall establish:

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

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

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

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

25

26 10. Notwithstanding the provisions of subsection a. of section 8  
27 of P.L. , c. (C. ) (pending before the Legislature as this bill) or  
28 any other section of law to the contrary, a board of education, as  
29 part of the district's implementation of school graduation  
30 requirements for a State-endorsed diploma, may provide instruction  
31 in financial, economic, business, and entrepreneurial literacy, as  
32 required by regulations promulgated by the State Board of  
33 Education, by virtual or remote instruction, either in whole or in  
34 part.

35

36 11. a. Notwithstanding the provisions of subsection a. of section  
37 8 of P.L. , c. (C. ) (pending before the Legislature as this bill)  
38 to the contrary, individualized student learning opportunities may  
39 include, but are not limited to:

40 (1) independent study;

41 (2) study abroad programs;

42 (3) student exchange programs;

43 (4) credit recovery programs; and

44 (5) structured learning experiences including, but not limited to,  
45 work-based programs, internships, apprenticeships, and service-  
46 learning experiences.

47 b. A board of education approving an individualized student  
48 learning opportunity may determine if the individualized student

1 learning opportunity may be completed by virtual or remote  
2 instruction, either in whole or in part.

3 c. Individualized student learning opportunities shall apply  
4 toward the credit requirements for a State-endorsed diploma  
5 established pursuant to regulations promulgated by the State Board  
6 of Education.

7 d. As used in this section, “individualized student learning  
8 opportunities” means student experiences based upon specific  
9 instructional objectives that meet or exceed the New Jersey Student  
10 Learning Standards for students in grades nine through 12 pursuant  
11 to regulations promulgated by the State Board of Education.

12

13 12. This act shall take effect on the first day of the fourth month  
14 next following the date of enactment, except that the Commissioner  
15 of Education may take any anticipatory administrative action, in  
16 advance of the effective date, as may be necessary to implement the  
17 provisions of this act.

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#### STATEMENT

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22 This bill requires a board of education to directly employ certain  
23 professionals and permits a board of education to contract for  
24 certain personnel. This bill also permits the use of virtual or remote  
25 instruction for public school students in certain circumstances.

26 Under the bill, a board of education, generally defined as the  
27 board of education of any local school district, consolidated school  
28 district, regional school district, county vocational school, and any  
29 other board of education or other similar body, the board of  
30 directors of an educational services commission, and the  
31 administrative board of a renaissance school project or any other  
32 local education agency, is required to directly employ all persons  
33 performing any duty, function, service, assignment, or job requiring  
34 an appropriate certificate issued by the State Board of Examiners  
35 for, or on behalf of, a board of education. Additionally, the bill  
36 permits a board of education to contract with personnel to ensure  
37 required programs and services are provided and are not required to  
38 directly employ the personnel, provided that the personnel hold an  
39 applicable certificate. Under the bill, the personnel include: (1) a  
40 substitute teacher; (2) personnel providing instruction in financial,  
41 economic, business, and entrepreneurial literacy to satisfy  
42 graduation requirements; (3) personnel providing educational  
43 services to a student who is enrolled in a school other than a public  
44 school; (4) personnel employed by other boards of education and  
45 providing services under a shared services or joint agreement; (5)  
46 personnel providing individualized student learning opportunities;  
47 and (6) personnel providing special education and related services  
48 to a student who is enrolled in an out-of-district placement.

1        Additionally, the bill permits a board of education to contract for  
2 additional services provided that the personnel holds an applicable  
3 certificate on a non-emergency basis and the board contracts with  
4 specific entities. Under the bill, these services include (1)  
5 independent child study team evaluations; (2) child study team  
6 services to supplement existing district services; (3) home  
7 instruction; (4) speech-language services in certain circumstances;  
8 and (5) related services, provided that certified occupational therapy  
9 assistants, others employed in a supportive role to licensed certified  
10 providers of related services, physical therapy assistants, and  
11 specialists in behavior modification meet additional requirements,  
12 as specified in the bill.

13        The bill also permits an approved private school for students  
14 with disabilities to contract for certain services, provided that the  
15 personnel holds an applicable certificate on a non-emergency basis  
16 and the approved private school for students with disabilities  
17 contracts with specific entities. Under the bill, these services  
18 include speech-language services and related services, provided that  
19 certified occupational therapy assistants, others employed in a  
20 supportive role to licensed certified providers of related services,  
21 physical therapy assistants, and specialists in behavior modification  
22 meet additional requirements, as specified in the bill.

23        The bill also requires instructional services provided by a school  
24 district, including a charter school or a renaissance school project,  
25 to be delivered through in-person methods unless otherwise  
26 permitted by State law.

27        Additionally, the bill permits a school district to utilize  
28 individualized virtual or remote instruction for a student when  
29 equivalent instruction cannot be provided through in-person  
30 instruction, subject to the approval of the Commissioner of  
31 Education and establishes an application process for a school  
32 district to apply for individualized virtual or remote instruction for a  
33 student. Under the bill, the commissioner is required to establish a  
34 process for notifying an individual currently providing the  
35 instructional services which are being sought to be implemented  
36 virtually or remotely, and the majority representative of the  
37 district's employees of the submission of an application and provide  
38 them with a copy of the application and notice of the right to object  
39 to, or comment on, the application prior to the commissioner's  
40 determination. Additionally, the bill requires the commissioner to  
41 establish a process to notify a school district, any individual  
42 currently providing the instructional services which are being  
43 sought to be implemented virtually or remotely, and the majority  
44 representative of the district's employees regarding a determination  
45 on the request for virtual or remote instruction and a procedure for a  
46 school district to them to appeal the determination.

47        The bill also permits a board of education, as part of the district's  
48 implementation of school graduation requirements for a State-



1    endorsed diploma to provide instruction in financial, economic,  
2    business, and entrepreneurial literacy by virtual or remote  
3    instruction, either in whole or in part.  
4    Finally, the bill specifies that individualized student learning  
5    opportunities that meet or exceed the New Jersey Student Learning  
6    Standards for students in grades nine through 12 include (1)  
7    independent study, (2) study abroad programs, (3) student exchange  
8    programs, (4) credit recovery programs; and (5) structured learning  
9    experiences, including, but not limited to, work-based programs,  
10    internships, apprenticeships, and service-learning experiences.  
11    Under the bill, the board is to determine if an individualized student  
12    learning opportunity may be completed by virtual or remote  
13    instruction, either in whole or in part. Pursuant to the bill,  
14    individualized student learning opportunities are required to apply  
15    toward the credit requirement for a State-endorsed diploma  
16    established under State Board of Education regulations.