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Questionable Means to Admirable Ends; A Critique of New Jersey's Limited Certifications of Eligibility Pilot

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Questionable Means to Admirable Ends; A Critique of New Jersey’s Limited Certifications of Eligibility Pilot

Part I: INTRODUCTION

The COVID-19 Pandemic (the pandemic) created concerns of a teacher shortage in the U.S.¹ A teacher shortage began well before 2019, however, but was then exacerbated by the pandemic.² Prior to the pandemic, participation in teacher preparation programs, such as university level teaching courses, were on the decline due to individuals not enrolling in or completing such programs.³ When the pandemic began to grip all corners of our society, the already declining number of teachers-in-training that passed through these types of preparation programs was dealt another blow because of the exigencies of the pandemic.⁴

In response to the ballooning teacher shortage that the pandemic generated, the New Jersey state Legislature passed a law establishing the Limited Certifications of Eligibility Pilot (the Pilot).⁵ Introduced in the New Jersey Senate in August 2020 with bipartisan support, the Pilot was created to address the teacher shortage furthered by the pandemic. The program allows schools to waive certain certification requirements for prospective teachers, such as GPA or minimum test

¹ JOHN SCHMITT & KATHERINE DECOURCY, THE PANDEMIC HAS EXACERBATED A LONG-STANDING NATIONAL SHORTAGE OF TEACHERS (ECON. POL. INST., Dec. 6, 2022).

² Michael A. DiNapoli Jr., *Eroding Opportunity: COVID-19's Toll on Student Access to Well-Prepared and Diverse Teachers*, (Feb. 10, 2021), <https://learningpolicyinstitute.org/blog/covid-eroding-opportunity-student-access-prepared-diverse-teachers>.

³ *Id.*; see also Danny Espinoza et al., *Taking the Long View: State Efforts to Solve Teacher Shortages by Strengthening the Profession*, (Aug. 29, 2018), <https://learningpolicyinstitute.org/product/long-view-report>.

⁴ See JORGE V. VERLINDEN, ET AL, ASSOCIATION OF CHILDREN'S MODE OF SCHOOL INSTRUCTION WITH CHILD AND PARENT EXPERIENCES AND WELL-BEING DURING THE COVID-19 PANDEMIC, 370 (CTRS. FOR DISEASE CONTROL & PREVENTION MORBIDITY & MORTALITY WKLY. REP., Vol. 70 2021), <https://www.cdc.gov/mmwr/volumes/70/wr/pdfs/mm7011a1-H.pdf>; see also MELISSA KAY DILIBERTI & HEATHER L. SCHWARTZ, THE K–12 PANDEMIC BUDGET AND STAFFING CRISES HAVE NOT PANNED OUT—YET, 4 (RAND Corp., 2021).

⁵ 2020 Bill Tracking NJ S.B. 2826, see also 2021 N.J. ALS 224, 2021 N.J. Laws 224, 2021 N.J. Ch. 224, 2020 N.J. S.N. 2826.

scores.⁶ The Pilot also aims to combat the longstanding demographic discrepancies amongst public school faculty and students, which are, of course, worthy causes because most teachers identify as white females, which does not reflect most students in the classroom.⁷

Though the Pilot seeks to address issues of the teacher shortage crisis, as well as racial disparities in teacher and student populations in New Jersey public schools by increasing the number of minority teachers, this comment argues that the Pilot is problematic and is bound to fall short of its goals. Beginning with the teacher shortage issue, the Pilot fails to address the traditional root causes of attrition, such as the noncompetitive pay and benefits, the lack of support and professional development, the lack of attention to improving school quality, which have deepened during the COVID-19 pandemic.⁸ Without sustained attention to the reasons underlying the dearth of qualified teachers in the classroom, the pilot is at best a band aid on a bullet wound.

Consider next the Pilot's goal of improving diversity in public schools. By maintaining that a reduction of the qualifications to enter the teaching profession will in turn lead to more minority representation in the profession, the Pilot improperly suggests that many minorities do not become teachers because they are unqualified to do so. In so doing, it fails to acknowledge that a primary reason for the lack of minority representation is that the criminal legal system, and individual and systemic biases have excluded many minorities of working age out of the pipeline for such jobs. The way to attract more minorities is to reassess current recruitment efforts by recruiting earlier from the school's surrounding community.

⁶ New Jersey Legislature, Bill S2826 Sa (1R), <https://www.njleg.state.nj.us/bill-search/2020/S2826> (last visited Nov. 10, 2022).

⁷ See 2021 N.J. ALS 224, 2021 N.J. Laws 224, 2021 N.J. Ch. 224, 2020 N.J. S.N. 2826; see also Mark Weber, *New Jersey's Teacher Workforce*, 2019, 14 (New Jersey Policy Perspective, 2019).

⁸ DiNapoli, *supra* note 2.

This comment has three parts. Part II discusses the effects of the COVID-19 Pandemic on the teacher shortage and an overview of the pilot program. Part III analyzes why the Pilot is bound to fall short of its intended goals and proposes amendments to the Pilot, such as alternative legislation that are more aligned with meeting the Pilot’s goals. Alternative legislation includes emphases on positive school culture and leadership, salary and benefits adjustments, and revised teacher recruiting efforts. Whereas proposed amendments include the addition of training and professional development components for Pilot teachers.

Part II: BACKGROUND/OVERVIEW

A. COVID-19 and the Teacher Shortage

This Section provides an overview and understanding of the current teacher shortage and how the COVID-19 pandemic worsened the current shortage. It discusses trends within teacher retention, such as which schools are likely to see reduced rates of teacher retention. Lastly, it addresses how alternatives to teacher certification, such as the Teach for America program, impact teacher retention trends.

i. The Teacher Shortage and Retention Rates

Teacher shortages are not new. In the 2017–18 school year, the United States reported over 100,000 teaching vacancies.⁹ The number of vacancies is unsurprising considering the 340,000 decrease in educator preparation programs from 2009 to 2017.¹⁰ Downloadable reports from the United States Department of Education showcase which teaching areas and states are experiencing teacher shortages.¹¹ A five-year report for New Jersey shows shortages in the

⁹ DiNapoli, *supra* note 2.

¹⁰ DiNapoli, *supra* note 2.

¹¹ U.S. DEPT OF EDUC., TSA REPORT: TEACHER SHORTAGE AREAS (2020), <https://tsa.ed.gov/#/reports> (providing teacher shortage details by schoolyear, state, subject matter, and discipline).

following teaching areas: Career and Technical education, English as a Second Language, Mathematics, Science, Special Education, and World Languages.¹²

The current shortage plaguing schools and districts began well before the COVID-19 pandemic.¹³ The teacher shortage is partially attributable to a decrease in teacher preparation program enrollment, as well as the COVID-19 Pandemic.¹⁴ Traditionally, aspiring educators enroll in teacher preparation programs at accredited universities to acquire the necessary skills needed for the classroom.¹⁵ Between 2010 and 2017, however, there was a thirty-nine percent decrease in teacher preparation program enrollment.¹⁶ This decrease in teacher preparation program enrollment is equivalent to over 277,000 fewer teachers entering the classroom.¹⁷

The decrease in teacher program enrollment is likely attributed to the lack of competitive compensation within the teaching profession, coupled with the looming burden of student loan repayment.¹⁸ The lack of competitive compensation leads individuals, especially minority candidates, to believe that they will be unable to repay loans for the teacher preparation programs that are typically required before entering the classroom. In fact, many individuals cite uncompetitive salaries as a reason for leaving the teaching profession.¹⁹ Other common factors

¹² *Id.* (identifying teacher shortage details for New Jersey from 2018-2023).

¹³ DiNapoli, *supra* note 2.

¹⁴ DiNapoli, *supra* note 2.

¹⁵ N.J. DEPT. OF EDUC., Recruitment, Preparation and Induction, <https://www.nj.gov/education/rpi/preparation/> (last accessed Jan. 2023).

¹⁶ DiNapoli, *supra* note 3; *see also* Linda Darling Hammond, *Burdensome Student Loan Debt is Contributing to the Country's Teacher Shortage Crisis*, (Nov. 17, 2019), <https://www.forbes.com/sites/lindadarlinghammond/2019/11/17/burdensome-student-loan-debt-is-contributing-to-the-countrys-teacher-shortage-crisis/?sh=11098d535fc9>.

¹⁷ Darling-Hammond, *supra* note 16.

¹⁸ DiNapoli, *supra* note 3; *see also* Darling Hammond, *supra* note 16.

¹⁹ LINDA DARLING-HAMMOND & GARY SYKES, WANTED, A NATIONAL TEACHER SUPPLY POLICY FOR EDUCATION: THE RIGHT WAY TO MEET THE “HIGHLY QUALIFIED TEACHER” CHALLENGE 4 (EDUC. POL’Y ANALYSIS ARCHIVES, 2003).

that cause individuals to leave the profession include poor working conditions, insufficient preparation, and a lack of support for new teachers.²⁰

Teacher retention is often dependent on the school conditions where a teacher works. The financial compensation a teacher receives is an important part of assessing teacher retention, but it does not tell the entire story. Another factor that impacts teacher retention is the ability for teachers to overcome a potential lack of resources, such as access to technology and supplies, a skill many underqualified teachers do not possess. When comparing high poverty schools and non-high poverty schools are compares, a disparity exists for school conditions and teacher qualifications. Students in high poverty schools are often enrolled in overcrowded classrooms.²¹ These classrooms are often located in hazardous school buildings.²²

Additionally, students who are classified as low income and minority students are more likely to be placed in classrooms with inexperienced, underqualified, and uncredentialed teachers.²³ Teachers in high poverty districts often lack advanced degrees and basic certification requirements typically required of teachers.²⁴ Additionally, these teachers also tend to have limited access to advanced curriculum, latest edition textbooks, etc.²⁵ Consequently, because teachers often cite poor working conditions and limited support as reasons for leaving the profession, it is

²⁰ *Id.*

²¹ Clair S. Raj, Rights to Nowhere: The IDEA's Inadequacy in High-Poverty Schools, 53 Colum. Human Rights L. Rev. 409, 413-14 (citing Linda Darling-Hammond, Education and the Path to one Nation Indivisible, ((2018) https://learningpolicyinstitute.org/sites/default/files/productfiles/Education_Path_To_One_Nation_BRIEF.pdf).

²² *Id.*

²³ HEATHER G. PESKE & KATI HAYCOCK, TEACHER INEQUALITY: HOW POOR AND MINORITY STUDENTS ARE SHORTCHANGED ON TEACHER QUALITY, (EDUCATION TRUST, 2006).

²⁴ Raj, *supra* note 21.

²⁵ Raj, *supra* note 21 (citing Linda Darling-Hammond, New Standards and Old Inequalities: School Reform and the Education of African American Students, 69 J. Negro Educ. 263, 266-68 (2000)).

easy to see how high underfunded schools experience higher rates of turnover compared to schools with satisfactory funding.²⁶

Alternative certification programs yield lower teacher retention rates compared to teachers who graduate from traditional teacher certification programs, such as those offered by a university's school of education. Studies show that the retention rate for people who become teachers through nontraditional routes such as Teach for America is lower than for their counterparts who are traditionally trained educators.²⁷ This may come as no surprise considering that programs such as TFA typically entail providing only a couple weeks' of training to recent college graduates before they enter the classroom, while traditionally certified teachers have more extensive training.²⁸

A study by the Hoover Institution Center for Research on Education on the retention rates of Teach for America participants in Houston, Texas showed that eighty percent of Teach for America participants left their teaching roles only after two years of entering the profession.²⁹ A likely explanation is that Teach for America and other alternative teacher certification participants have predetermined number of years they are required to commit to the profession; the commitment for Teach for America participants being two years.³⁰ Though almost half of participants chose to stay in their placement school beyond the two year commitment, less than fifteen percent stayed for more than four years.³¹

²⁶ Nicole Simon & Susan Moore Johnson, *Teacher Turnover in High Poverty Schools: What We Know and Can Do*, 117 *Teachers College Record* 1, 2 (2015).

²⁷ Darling-Hammond, *supra* note 19 at 5.

²⁸ LINDA DARLING-HAMMOND, ET. AL, DOES TEACHER PREPARATION MATTER? EVIDENCE ABOUT TEACHER CERTIFICATION, TEACH FOR AMERICA, AND TEACHER EFFECTIVENESS (EDUC. POL'Y ANALYSIS ARCHIVES, 2003).

²⁹ Darling-Hammond, *supra*, note 19 at 4 (citing RAYMOND, M., FLETCHER, S., & LUQUE, J., TEACH FOR AMERICA: AN EVALUATION OF TEACHER DIFFERENCES AND STUDENT OUTCOMES IN HOUSTON, TEXAS, (THE HOOVER INSTITUTION, CENTER FOR RESEARCH ON EDUCATION OUTCOMES, 2001)).

³⁰ NEWS EDITORS, STUDY FINDS TEACH FOR AMERICA PARTICIPANTS STAY IN THE CLASSROOM PAST INITIAL COMMITMENT (HARVARD GRADUATE SCHOOL OF EDUCATION NEW & EVENTS, May 21, 2008).

³¹ *Id.*

These programs are problematic for the ongoing struggle with teacher retention. While the Teach for America study done in Houston shows high levels of participants choosing not to extend their commitment, over half of the Teach for America participants, nationwide, leave the program once they fulfill their commitment.³² Alternative certification programs are designed for participants to leave after two years of service, thus leading to high turnover and novice teachers continuously entering high poverty and low resource schools, thus worsening the ever-growing inequalities between districts.³³ The issue with such routes for certification is that even though they reduce barriers to enter the field of teaching, due to the minimal commitment required, these programs are designed to have low teacher retention rates.

ii. The COVID-19 Pandemic's Impact on the Teaching Profession

On top of the lack of retention in alternative teaching certification programs, the global pandemic accelerated the decline in the number of teachers entering and remaining in the profession. As it did in many professions, the pandemic increased occupational stress for teachers and worsened their health conditions.³⁴ Alongside the increase in stress experienced by teachers and students, parents of students who received virtual instruction also reported increased emotional distress.³⁵ This emotional distress is largely attributable to the shift to virtual learning without proper resources and support, such as through professional development opportunities guiding teachers through the transition.³⁶ These new conditions and emotional tolls caused teachers to voice their dissatisfaction about the field.

³² BEN BACKES & MICHAEL HANSEN, TEACH FOR AMERICA IS SHRINKING- IS THIS CAUSE FOR CELEBRATION? (BROOKINGS, Jan. 31, 2023).

³³ *Id.*

³⁴ DiNapoli, *supra* note 2

³⁵ Verlenden, *supra* note 4, *see also* EMMA GARCIA & ELAINE WEISS, COVID-19 AND STUDENT PERFORMANCE, EQUITY, AND U.S. EDUCATION POLICY 12–13 (Economic Policy Institute, 2020), <https://files.epi.org/pdf/205622.pdf>.

³⁶ Verlenden, *supra* note 4.

In a study conducted by Rand Corporation during the COVID-19 pandemic, eighty percent of teachers reported concerns regarding burnout.³⁷ The same study highlighted that approximately twenty-five percent of teachers also expressed a desire to leave the profession.³⁸ Most of the teachers who expressed such desire did not have such desire prior to the pandemic.³⁹

The pandemic created an unprecedented time for learning. Learning losses were threatened by school shutdowns and the inability for schools to retain teachers.⁴⁰ Learning disparities, like differences in access to live instruction and technology, also contributed to learning losses.⁴¹ In addition to the decrease in students' educational attainment, engagement between students and teachers also decreased.⁴² This decrease in engagement was because of disruptions in routines and school-wide celebratory events which adversely impacted the morale of students and teachers.⁴³ Predictably, the decrease in in-person engagement between students and teachers impacted learning as communication between the two groups became strained.⁴⁴ This dynamic, however, did not exist in all schools. Teachers in more affluent districts reported more frequent contact with students compared to teachers in high-poverty districts.⁴⁵ This difference is attributable to

³⁷ Diliberti, *supra* note 4.

³⁸ Diliberti, *supra* note 4.

³⁹ Diliberti, *supra* note 4.

⁴⁰ See Sumit Chandra, et al., CLOSING THE DIGITAL DIVIDE IN THE AGE OF DISTANCE LEARNING 3, 5 (2020), <https://perma.cc/SA3Q-24KZ>; see also BENJAMIN HEROLD, THE DISPARITIES IN REMOTE LEARNING UNDER CORONAVIRUS (IN CHARTS), (EDUC. WK., Apr. 10, 2020), <https://www.edweek.org/technology/the-disparities-in-remote-learning-under-coronavirus-in-charts/2020/04>.

⁴¹ *Id.*

⁴² BETHENY GROSS, LEAVE LEARNING TO CHANGE DURING THE PANDEMIC (Ctr. On Reinventing Pub. Educ., 2020), <https://www.crpe.org/publications/too-many-schools-leave-learning-chance-during-pandemic>; Holly Kurtz, *National Survey Tracks Impact of Coronavirus on Schools: 10 Key Findings*, (Apr. 10, 2020), <https://www.edweek.org/ew/articles/2020/04/10/national-survey-tracks-impact-of-coronavirus-on.html>.

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*; SARAH HODGMAN, ET AL. TEACHER INTERACTIONS WITH STUDENTS AND FAMILIES DURING COVID-19, 3 (Am. Inst. For Rsch., 2021), <https://www.air.org/sites/default/files/Teacher-Interactions-with-Students-and-Families-COVID-19-Survey-Feb-2021rev.pdf>.

differences in technological access, which allowed more affluent schools to pivot more seamlessly from in-person interactions to remote communications.

Concerns about how the pandemic was managed (and in some cases, continues to be managed) is part of the retention/attrition story. While switching and maintaining virtual learning, teachers reported a lack of professional development opportunities offered to them by school and district leaders.⁴⁶ Even when such teachers attempted to gain such support, their attempts were unsuccessful.⁴⁷

These concerns extended to the Centers for Disease Control's management at a national scale. Throughout the pandemic, educators and administrators voiced their grievances with the Centers for Disease Control's (CDC) guidelines.⁴⁸ Educators protested that the guidelines were inconsistent, incomplete, and often vague.⁴⁹ Educators also noted that the CDC's actions, or in some cases inaction, demonstrated a lack of concern regarding teachers' wellbeing.⁵⁰ For example, the CDC recommended opening schools while transmission rates were high, thus endangering the health of teachers.⁵¹ This is because in-person schooling, and as a result more contact with persons outside of a teacher's home, created a more likely scenario that a teacher providing in-person instruction would contract the virus and be at risk for complications that flowed from having the virus. The CDC also made many inconsistent statements regarding whether children were susceptible to contracting COVID-19, which caused confusion and concern amongst teachers.⁵²

⁴⁶ Garcia, *supra* note 35.

⁴⁷ Garcia, *supra* note 35.

⁴⁸ Kimberly Jenkins Robinson, Strengthening the Federal Approach to Education Equity During the Pandemic, 59 HARV. J. ON LEGIS. 35, 75 (2022).

⁴⁹ *Id.* at 37 (referencing Evie Blad, *CDC Pulls Statement That Stressed Importance of In-Person School*, (Nov. 17, 2020), <https://www.edweek.org/policy-politics/cdc-pulls-statement-that-stressed-importance-of-in-person-school/2020/11>).

⁵⁰ *Id.* at 76.

⁵¹ *Id.*

⁵² *Id.*

The feelings of occupational stress, burnout, and a worsening in health conditions caused a spike in teacher turnover.⁵³

In addition to new teachers leaving the field shortly after entering it, the pandemic encouraged many veteran teachers to retire early.⁵⁴ And though mass resignations, vacancies, and budget reductions continue to occur, it is estimated that states will continue to spend at their current rates instead of using this period of change to reassess if state spending should be refined or adjusted.⁵⁵ And when the inevitable layoffs occur, teachers with higher seniority will likely be laid off, thus adding to the ongoing teacher shortage.⁵⁶

B. New Jersey's Action to Address Teaching Shortages and Disparities

To address the teacher shortage that was exacerbated by the pandemic, the New Jersey legislature passed the Pilot. This Section provides a general overview of the traditional route for teacher certification in the New Jersey public education school system. It then contrasts the traditional path with the New Jersey Limited Certifications of Eligibility Pilot. The section details how individuals and public-school districts, charter schools, and renaissance schools may become eligible for this pilot.

i. The Typical Pathway of Teacher Certification in New Jersey

New Jersey offers prospective teachers multiple pathways to obtain a teaching certification. The most common teaching certification is the Standard Teaching Certificate.⁵⁷ The Standard Teaching Certification is a permanent certification awarded to teachers who complete the Provisional Teacher Process (PTP) and have two years of effective teaching completed in three

⁵³ Darling-Hammond, *supra* note 19 at 4.

⁵⁴ DiNapoli, *supra* note 2.

⁵⁵ Michael Griffith, The Impact of the COVID-19 Recession on Teaching Positions, (Learning Policy Institute, 2020), <https://learningpolicyinstitute.org/blog/impact-covid-19-recession-teaching-positions>.

⁵⁶ *Id.*

⁵⁷ N.J. DEPT. OF EDUC., Certification & Induction, Teachers, <https://nj.gov/education/license/teacher/> (last accessed Sept. 2022).

consecutive years.⁵⁸ To obtain a Standard Teaching Certificate, new teachers typically first obtain a Certificate of Eligibility with Advanced Standing (CEAS).⁵⁹ Obtaining a CEAS requires the completion of a teacher preparation program and meeting all basic requirements required for certification, including passing all necessary exams with the minimum test score.⁶⁰ It is important to note, however, those with a CEAS have yet to complete two years of full-time teaching, and are still pursuing a Standard Teaching Certification.⁶¹

Once an individual obtains a CEAS and is employed by a school or school district, the employing school or district requests a Provisional Certification for the new teacher.⁶² The Provisional Certification for new teachers is a two-year certificate that requires the new teacher to complete the Provisional Teacher Process (PTP).⁶³ The PTP requires the hiring school to mentor and supervise the new teaching throughout the PTP.⁶⁴ Once the new teacher completes the PTP, their employing school or district may then recommend the teacher for a Standard Certification.⁶⁵

ii. An overview of 2020 NJ S.B. 2826

During the pandemic, New Jersey was affected by the teacher shortage and pressures stemming from the state of education. To incentivize people to enter the teaching profession in light of the pandemic, New Jersey passed legislation that temporarily reduced requirements to obtain teaching certification.⁶⁶ The legislation also sought to reduce the racial disparity amongst

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² N.J. DEPT. OF EDUC. CERTIFICATION & INDUCTION, TEACHERS, CERTIFICATION & INDUCTION, WHAT IS THE PROCESS FOR NEWLY HIRED, FIRST-TIME TEACHERS?, <https://www.nj.gov/education/license/provprogram.htm> (Last accessed Sept. 2022)/

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *See* 2021 N.J. ALS 224, 2021 N.J. Laws 224, 2021 N.J. Ch. 224, 2020 N.J. S.N. 2826.

teachers and students in public schools.⁶⁷ The New Jersey Legislature introduced the Limited Certification of Eligibility Pilot (the Pilot) on August 17, 2020.⁶⁸ Governor Murphy signed the bill into law on September 24, 2021.⁶⁹

This bill created a five-year pilot under which the State Board of Education may issue Limited Certifications of Eligibility (Limited Certificate or Limited Certification) to new teachers entering the profession.⁷⁰ To participate in the Pilot, the prospective school or district must obtain approval from the Commissioner of Education.⁷¹ To gain approval, public districts, charter schools, or renaissance schools must demonstrate “sufficient capacity to provide support to new teachers,” and either a demographic disparity between teaching staff and student population, a shortage of bilingual teachers, or critical need to fill vacancies or enduring hardship due to such vacancies.⁷²

Approved schools or districts must abide by certain requirements, including [insert]. Once approved, no more than ten percent of the participating school or district’s faculty can hold Limited Certificates.⁷³ Additionally, participating schools must complete and submit annual reports to the Commissioner of Education and State Board of Education for the entire duration of the pilot.⁷⁴ The reports must include the total number of teachers in the school or district with Limited Certifications and those teacher’s subject areas; the impacts of hiring teachers with Limited Certifications of Eligibility had on the school or district’s demographic disparity and ability to fill vacancies; student achievement data; and any other relevant information.⁷⁵

⁶⁷ *Id.*

⁶⁸ 2020 Bill Tracking NJ S.B. 2826.

⁶⁹ *Id.*

⁷⁰ 2021 N.J. ALS 224, 2021 N.J. Laws 224, 2021 N.J. Ch. 224, 2020 N.J. S.N. 2826.

⁷¹ *Id.* at § 4(b).

⁷² *Id.* at § 5(1)– (3).

⁷³ *Id.* at § 5(c).

⁷⁴ 2021 N.J. ALS 224, 2021 N.J. Laws 224, 2021 N.J. Ch. 224, 2020 N.J. S.N. 2826 at §§ 5(d)–(e).

⁷⁵ *Id.*

A Limited Certificate of Eligibility lowers the standards for obtaining teaching certification. The Limited Certificate allows prospective teachers to waive one of four requirements typically imposed on those seeking to become K-12 teachers.⁷⁶ The first requirement the aspiring teacher may waive is meeting the minimum number of subject area courses and all other related alternative requirements, but the aspiring teacher may only do so if they hold a bachelor's degree.⁷⁷ Alternatively, the aspiring teacher may waive the minimum grade point average requirement and alternative grade point average requirements, or they may waive the minimum passing score requirement on the Commissioner of Education's approved test on basic writing, reading, and math skills.⁷⁸ Lastly, the new teacher might choose to waive the minimum score requirement on the New Jersey state test on subject matter knowledge.⁷⁹

An individual who obtains a Limited Certificate during the Pilot is eligible to obtain a Standard New Jersey Teaching Certification. A Limited Certification will automatically become a Standard Certification when the holder of such certification earns two Achieve NJ ratings of "effective or higher" within three consecutive years of teaching.⁸⁰ Achieve NJ is a state evaluation program where principals and certified observers evaluate teachers of all levels.⁸¹ Teachers are typically observed multiple times per year, and teachers with Limited Certifications will be observed a minimum of three times per year.⁸² While observing the teachers with Limited Certifications, observers look for key classroom teaching and management components.⁸³ These

⁷⁶ See 2021 N.J. ALS 224, 2021 N.J. Laws 224, 2021 N.J. Ch. 224, 2020 N.J. S.N. 2826 at § 4(4).

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ *Id.* at § 5(e); see also N.J. DEP'T EDUC, EDUCATION TEACHER PRACTICE OVERVIEW, 1 (Oct. 2019)

<https://www.nj.gov/education/AchieveNJ/teacher/TeacherPracticeOverview.pdf>.

⁸¹ N.J. DEP'T EDUC, EDUCATION TEACHER PRACTICE OVERVIEW, 1 (Oct. 2019)

<https://www.nj.gov/education/AchieveNJ/teacher/TeacherPracticeOverview.pdf>

⁸² *Id.* at 2

⁸³ *Id.* at 1.

observations assist in individualizing the teacher's professional development until the next observation occurs.

Part III: ANALYSIS

The Pilot confronts the fact that most New Jersey teachers are white females and aims to fill the growing number of teaching vacancies with people representative of the entire state population. This section discusses the admirable cause of the Pilot in addressing both the prevalent racial disparity in New Jersey schools as well as the current shortage of teachers. This section, however, also highlights that the Pilot will inevitably be unable to meet its anticipated goals. Lastly, this section provides suggestions for how the New Jersey Legislature may amend the Pilot and identifies the longstanding issues that were missing from the Pilot but must be addressed to meet the Pilot's venerable goals.

i. Benefits of addressing racial disparities and the teacher shortage.

The Limited Certifications of Eligibility Pilot is a hopeful step in addressing the New Jersey racial disparity amongst teachers and students. The New Jersey Teacher population is overwhelming white and female; according to data gathered by the New Jersey Department of Education, seventy-nine percent of teachers in 2017 identified as female.⁸⁴ In that same year, an overwhelming eighty-four percent of teachers identified as white.⁸⁵ Contrasted with the rest of the teaching force of the state in 2017, about seven percent of teachers identified as Black, approximately six percent identified as Hispanic, and only one percent identified as Asian.⁸⁶

When the overall demographics of teachers are compared to the overall demographics of students, the disparities are alarming. Despite the teacher population being comprised of sixty-six

⁸⁴ Weber, *supra* note 7 at 14.

⁸⁵ Weber, *supra* note 7 at 15.

⁸⁶ Weber, *supra* note 7 at 16.

percent females, white females were only twenty-two percent of the student population.⁸⁷ The data also notes that eight percent of the student population were black males, but less than two percent of the state’s teaching population; and while Hispanic males were fourteen percent of the student population and only one percent of the teacher workforce.⁸⁸

Addressing racial disparities is critical because it can have positive impacts on student achievement. When students are placed in classrooms with teachers who share a similar demographic, such as race or gender, the student may experience an increase in motivation in the classroom as well as their expectations in themselves.⁸⁹ Such impact is often referred to as the “role-model effect.”⁹⁰

The Pilot also recognizes the difficulties schools had and continue to have in hiring and retaining teachers, especially since the COVID-19 pandemic exacerbated the issue. Overall, states saw a decrease in the number of teachers vacancies remaining open despite any best efforts of districts to recruit and retain educators. The Rand Corporation and the American School District Panel conducted a study during the 2021-2022 school year regarding teacher retention and vacancies amid the COVID-19 Pandemic.⁹¹ In this study, sixty-eight percent of district leaders who participated agreed that the pandemic created a shortage of teachers.⁹² These reported in-school observations match the overall data trends in the education field.

From October 2019 to October 2020 the national education sector experienced a decrease from 131,000 to 125,000 job openings.⁹³ During that same timeframe, the education sector also

⁸⁷ Weber, *supra* note 7 at 16–17.

⁸⁸ Weber, *supra* note 7 at 16–17.

⁸⁹ Thomas S. Dee, *A Teacher Like Me: Does Race, Ethnicity, or Gender Matter?*, 95 *American Economic Review* 158, 159 (2005).

⁹⁰ *Id.*

⁹¹ Diliberti, *supra* note 4.

⁹² Diliberti, *supra* note 4.

⁹³ BUREAU OF LAB. STAT., *JOB OPENINGS AND LABOR TURNOVER SUMMARY—OCTOBER 2020*, 4 (Dec. 9, 2020), <https://www.bls.gov/news.release/jolts.nr0.htm>

saw a decrease of hires, with 106,000 hires in 2019, compared to 92,000 in 2020.⁹⁴ As the pandemic impacted the lives of people across the globe, job openings in education spiked. Though the number of hires in education also grew, the number of openings outpaced the growth of hires. In July 2021, the Bureau of Labor reported 174,000 education job openings, which then grew to 193,000 openings in July of 2022.⁹⁵ Compared to the number of hires occur at the same time, the Department of Labor reported 99,000 hires in July 2021 and 102,000 hires in July 2022.⁹⁶

This is an advantageous time for New Jersey's efforts to new teachers and the Pilot is a unique way of breaking down a potential barrier to enter the teaching field. Trends in New Jersey show that many in the state's teaching field are reaching retirement age, and thus leaving more vacancies once these individuals retire.⁹⁷ Researchers cite the lack of diversity in the field is furthered by barriers to enter and the lack of attraction by people of color.⁹⁸ But it may be reasonable to conclude that the entry barrier and the lack of attraction also contributes to the teacher shortage. It also seems possible that the state legislature also came to a similar conclusion. These trends, coupled with efforts to promote demographic diversity will hopefully lead to a teacher corps that is a better representation of the student population.

ii. The Pilot will likely not achieve its goals.

Despite the New Jersey Legislature's best efforts to reduce the racial disparity in education and shrink the teacher shortage, the Pilot has fundamental shortcomings: (1) The Pilot ignores common factors that former teachers cite as reasons for leaving the profession; (2) it sends a negative message about minorities, thus ignoring systematic errors that exclude minorities from

⁹⁴ *Id.*

⁹⁵ U.S. BUREAU OF LAB.STAT., ECONOMIC NEWS RELEASE TABLE A. JOB OPENINGS, HIRES, AND TOTAL SEPARATIONS BY INDUSTRY, SEASONALLY ADJUSTED (Last Modified Aug. 30, 2022), <https://www.bls.gov/news.release/jolts.a.htm>.

⁹⁶ *Id.*

⁹⁷ Weber, *supra* note 7 at 12.

⁹⁸ Weber, *supra* note 7 at 16.

the teaching profession; and (3) it opens the door for underqualified teachers to enter the profession but fails to identify practical and beneficial supports that these teachers may require.

1. The Pilot ignores common reasons why teachers leave the profession.

The Pilot fails to address common reasons why individuals leave the field of education. Common factors why individuals leave the teaching profession include poor working conditions, insufficient preparation, lack of support for new teachers, and uncompetitive salaries.⁹⁹ Schools and districts experienced a spike in teacher vacancies during the pandemic.¹⁰⁰ As schools struggled to manage issues of understaffing, teachers struggled to manage increases in occupational stress.¹⁰¹ In the Spring of 2020, more than half of teachers surveyed by the RAND Corporation identified that they were concerned with feelings of burnout.¹⁰² According to the study, one-quarter of teachers surveyed also reported a desire to leave the teaching profession despite not wanting to leave prior to the pandemic.¹⁰³ The legislation does not address these feelings of burnout, nor the concerns of increased stresses.

2. The Pilot ignores systematic errors that exclude and deter minorities from entering the teaching profession.

The Pilot also fails to identify what constitutes sufficient supports for teachers. To participate in the Pilot, schools and districts must demonstrate to the Commissioner of Education, a “sufficient capacity” to support teachers.¹⁰⁴ The Commissioner of Education is to determine the sufficient capacity for support, yet no guidelines are provided within the statute on how this mandate is satisfied.¹⁰⁵ Without an explanation, the determination for whether a school or district

⁹⁹ Darling-Hammond, *supra* note 19.

¹⁰⁰ Bureau of Lab. Stat., *supra* note 93.

¹⁰¹ DiNapoli, *supra* note 2.

¹⁰² Diliberti, *supra* note 4.

¹⁰³ Diliberti, *supra* note 4.

¹⁰⁴ 2021 N.J. ALS 224, 2021 N.J. Laws 224, 2021 N.J. Ch. 224, 2020 N.J. S.N. 2826 § 5(a).

¹⁰⁵ *Id.*

can properly support teachers seems entirely subjective. Such subjectivity will then lead to great variations in identifying the true and appropriate meaning of “sufficient capacity for support.”

The lack of definition or guidelines for what constitutes sufficient teacher support is detrimental to new teachers with Limited Eligibility Certificates. Investing in teachers is especially important at the beginning of a teacher’s career.¹⁰⁶ Early investment into junior teachers is critical because in effectiveness is increase as a teacher gains experience.¹⁰⁷ Typically, the largest gains occur at the beginning of one’s teaching career.¹⁰⁸ Proper professional development and support during these influential times in a teacher’s career will ultimately increase the effectiveness of their teaching, thus increasing the likelihood of high student achievement. Moreover, common sense notions about motivation and job performance demonstrate that the more successful teachers are, the more likely they are to stick around.¹⁰⁹ Without clear provisions for proper support, schools and districts are given too much discretion, which may not be prioritized while administrators are focusing on other pressing school issues.

3. The Pilot does not identify practical and beneficial supports that teachers require.

In addition to not discussing teacher burnout, support, and mental health, the bill fails to recognize that individuals are not attracted to entering and remaining in the education field. Noncompetitive compensation is a common reason why teachers leave the profession.¹¹⁰ Leveraging benefits and compensation are frequently mentioned as ways in which teaching can become more desirable.¹¹¹ Studies show that high pay most often leads to a reduction in

¹⁰⁶ Weber, *supra* note 7 at 10.

¹⁰⁷ Weber, *supra* note 7 at 10.

¹⁰⁸ Weber, *supra* note 7 at 10.

¹⁰⁹ See Vincent S. Flowers & Charles L. Hughes, *Why Employees Stay*, HARV. BUS. REV., July 1973.

¹¹⁰ Darling-Hammond, *supra* note 19.

¹¹¹ Weber, *supra* note 7 at 2.

turnover.¹¹² Increasing compensation to a competitive level is sure to induce additional people to enter the teaching profession but will require great changes in New Jersey's funding scheme.

Compensation and pension are unlikely to entice individuals to become educators. New Jersey spends slightly less than the national average on instructional staff compensation.¹¹³ The state spends a little less than fifty-seven percent of total expenditures on teacher compensation.¹¹⁴ Pensions, though potentially desirable, are not likely to induce interest in entering the state's teacher corp. This is because the state's pension fund is underfunded.¹¹⁵ Though unrealistic to drastically modify public teacher salaries through one piece of legislation, the Pilot fails to acknowledge the undesirability of teacher pay.

Besides its failure to address common issues cited to explain inadequate teacher retention and recruitment, the Pilot overlooks the reasons why many racial minorities do not go into K-12 teaching and instead improperly suggests that the lack of racial diversity in the teaching ranks is because minorities are underqualified. The Pilot establishes a lower bar for teacher qualifications with the hopes of increasing the number of minorities in the teaching profession. Though increasing minority representation is an applaudable goal, the Pilot perpetuates the harmful idea that individual shortcomings offer a full explanation for the reasons minorities are underrepresented in the teaching profession.

It is possible that this legislation can lead to a trend of reducing requirements in certain fields with the goal of promoting diversity or decreasing racial disparities. Continued legislation with this type of application may lead to furtherance of depictions of inferiority in social settings,

¹¹² Weber, *supra* note 7 at 7 (citing MATTHEW D. HENDRICKS, DOES IT PAY TO PAY TEACHERS MORE? EVIDENCE FROM TEXAS, 50–63 (Journal of Public Economics, 109, 2014), <https://doi.org/10.1016/j.jpubeco.2013.11.001>).

¹¹³ Weber, *supra* note 7 at 3 (citing U.S. DEP'T. OF EDUC. CTR. FOR EDUC. STAT., FIRST LOOK (NCES 2018-303), <http://nces.ed.gov/pubsearch>).

¹¹⁴ Weber, *supra* note 7 at 3.

¹¹⁵ Weber, *supra* note 7 at 11.

which is a critique shared by skeptics of affirmative action.¹¹⁶ This ideology ultimately will stunt the promotion minority communities, minority voices, and minorities in education, thus being exactly counter to the legislation's intended goals.¹¹⁷ Though the goal of promoting diversity is well intentioned, the means of achieving such goal are highly problematic.

The Pilot allows more underqualified teachers to enter the profession. Uncredentialed teachers are not unheard of in the teaching profession. Overall, many states allow schools to hire teachers who do not meet typical licensing standards.¹¹⁸ And typically, when states face teacher shortages, the response is to redefine and reduce teaching certifications.¹¹⁹ Consider, for example, the No Child Left Behind Act (NCLB), which was in part a legislative response to teacher shortages that had the effect of reducing teacher quality.¹²⁰ Though the reduction of qualifications needed to obtain teacher certification is common, the outcomes these amendments produce are not always positive since all students are deserving of qualified and passionate teachers.

New Jersey is among a handful of states that either reduced or are attempting to reduce teacher qualifications to combat the current teacher shortage. In May 2022, Oklahoma passed a law that removed the certification requirement for prospective teachers to pass a general education

¹¹⁶ See Louis Menand, *The Changing Meaning of Affirmative Action*, *The New Yorker* (Jan. 13, 2020), <https://www.newyorker.com/magazine/2020/01/20/have-we-outgrown-the-need-for-affirmative-action> (detailing a theory that outlines two types of affirmative action skeptics, one of which is skeptical of affirmative action goals and targets because they are counter to individual rights).

¹¹⁷ See *id.*

¹¹⁸ LINDA DARLING-HAMMOND, *TEACHER QUALITY AND STUDENT ACHIEVEMENT: A REVIEW OF STATE POLICY EVIDENCE*, 7 (Education Policy Analysis Archives Vol. 8, No. 1, 2000); *contra* Lee C. Bollinger & Geoffrey R. Stone, *The End of Affirmative Action Would be a Disaster*, *The Atlantic* (Oct. 31, 2022), <https://www.theatlantic.com/ideas/archive/2022/10/affirmative-action-supreme-court-harvard-admissions/671914/> (advocating for affirmative action due to the racial complexities of today's society and to create opportunity while restoring past injustices).

¹¹⁹ Derek W. Black, *Taking Teacher Quality Seriously*, 57 *Wm. & Mary L. Rev.* 1597, 1613 (2016).

¹²⁰ See NAT'L COMM'N ON TEACHING & AM.'S FUTURE, *WHAT MATTERS MOST: TEACHING FOR AMERICA'S FUTURE*, 14-15 (1996) (noting that at the time, forty states allowed hiring teachers on emergency licenses despite not meeting basic requirements).

exam.¹²¹ Similarly, the California legislature considered allowing prospective teachers to skip the basic skills test and subject matter test, so long as they took approved college courses.¹²² Additionally, both Missouri and Alabama lawmakers considered granting certification to teacher candidates who do not reach the previously established minimum test score.¹²³ Though New Jersey is not alone in waiving certification requirements, these laws allow underqualified teachers to enter the profession.

The trend where underqualified teachers work is well established. Compared to other students, poor and minority students are twice as likely to be exposed to uncredentialed teachers.¹²⁴ Poor and minority students are also twice as likely compared to other students to be exposed to underqualified and inexperienced teachers.¹²⁵ While some may say that hiring underqualified teachers is a better alternative than allowing the teacher shortage to continue, by easing the requirements to obtain teacher certification, the Pilot will further expose poor and minority students to teachers with limited experience. It is in these schools where racial disparities between teachers and students likely exist and therefore are more likely to obtain approval to participate in the Pilot.

Placing uncredentialed and inexperienced teachers predominantly in low-income schools and schools with higher enrollment of minority students not only puts the students at a disadvantage, it also outweighs the potential benefit of filling vacancies with underqualified educators. Credentials and experience are the key factors shown to be related both teacher

¹²¹ Madeline Will, States Relax Teacher Certification Rule to Combat Shortages , Education Weekly (June 28, 2022), <https://www.edweek.org/teaching-learning/states-relax-teacher-certification-rules-to-combat-shortages/2022/06>.

¹²² *Id.*

¹²³ *Id.*

¹²⁴ Black, *supra* note 119 at 1602 (citing HEATHER G. PESKE & KATI HAYCOCK, TEACHER INEQUALITY: HOW POOR AND MINORITY STUDENTS ARE SHORTCHANGED ON TEACHER QUALITY, (EDUCATION TRUST, 2006).

¹²⁵ Black, *supra* note 119 at 1602 (citing HEATHER G. PESKE & KATI HAYCOCK, TEACHER INEQUALITY: HOW POOR AND MINORITY STUDENTS ARE SHORTCHANGED ON TEACHER QUALITY, (EDUCATION TRUST, 2006).

effectiveness and student success.¹²⁶ Though qualities like academic intelligence and subject matter are not positively related to teacher effectiveness, educators are shown to be more effective when they engage in certain teaching habits.¹²⁷ Studies show that many effective teachers leverage the same teaching methods. Teachers are more effective when they can clearly express ideas in a convincing manner.¹²⁸ Teachers are also proven to be effective when they ask high level questions and facilitate engaging classroom discussion.¹²⁹ Positive teacher habits that lead to greater teaching effectiveness are gained through acquiring knowledge about teaching and learning, which are typically done through preparatory schooling or on the job learning.¹³⁰

Enrollment in education programs and acquiring experience are also correlated to teacher effectiveness. When aspiring teachers enroll in education programs, they are typically required to undergo more preparation compared to those who do not enroll in education programs, but ultimately enter the classroom.¹³¹ Teachers with more formal levels of preparation typically obtain higher ratings and greater levels of student learning gains.¹³² Though formal education programs do lead to positive student outcomes, it is not definitive of teacher effectiveness. It may not be a surprise that experience also plays an important role in teacher effectiveness.¹³³ And though experience is correlated to teacher effectiveness, it is important to note, however, that teacher

¹²⁶ See Marco A. Muñoz & Florence C. Chang, The Elusive Relationship Between Teacher Characteristics and Student Academic Growth: A Longitudinal Multilevel Model for Change, 20 J. PERSONNEL EVALUATION EDUC. 147, 148 (2007).

¹²⁷ Darling-Hammond, *supra* note 118, at 3–5.

¹²⁸ Darling-Hammond, *supra* note 118, at 3.

¹²⁹ Muñoz, *supra* note 126.

¹³⁰ See Darling-Hammond, *supra* note 118, at 5.

¹³¹ Darling-Hammond, *supra* note 118, at 6–7.

¹³² Darling-Hammond, *supra* note 118, at 6–7.

¹³³ Muñoz, *supra* note 126 at 149.

experience is impacted by outside forces and labor market trends.¹³⁴ Higher wages and benefits offered to math and science teachers influence teacher experience.¹³⁵

The Pilot ignores the importance of standard teaching credentials. Teachers with standard credentials prove more effective than their counterparts, thus leading to student success.¹³⁶ Teachers who are considered underprepared tend to leave the profession at least two to three times the rate compared to prepared teachers.¹³⁷ Therefore, by hiring new teachers without the typical level credentialing, the new teachers, and by default students, are placed at a disadvantage. These students who are placed at a disadvantage are those who are enrolled in schools with demographic disparities and/or struggling to recover from the teacher shortage due to the pandemic.¹³⁸ These are the same students who experienced higher rates of disengagement and learning losses due to the pandemic.¹³⁹ Now, the Pilot is placing inexperienced and underqualified teachers into schools that typically see higher rates of hiring underqualified teachers.¹⁴⁰ This is bound to negatively impact student achievement since these teachers are less likely to implement the positive teaching habits that typically make teachers effective.¹⁴¹ Ultimately, these students will be at an academic disadvantage compared to those who were not enrolled in a school approved to participate in the Pilot.

The Pilot also ignores the importance of teaching experience by not addressing plans for increasing teacher retention. Since these teachers are likely to lack positive teaching habits, they

¹³⁴ Muñoz, *supra* note 126 at 149.

¹³⁵ Muñoz, *supra* note 126 at 149.

¹³⁶ Muñoz, *supra* note 126 at 149.

¹³⁷ Espinoza, *supra* note 3.

¹³⁸ 2021 N.J. ALS 224, 2021 N.J. Laws 224, 2021 N.J. Ch. 224, 2020 N.J. S.N. 2826 § 5(c).

¹³⁹ Gross, *supra* note 42.

¹⁴⁰ Black, *supra* note 119 at 1602 (citing HEATHER G. PESKE & KATI HAYCOCK, *TEACHER INEQUALITY: HOW POOR AND MINORITY STUDENTS ARE SHORTCHANGED ON TEACHER QUALITY*, (EDUCATION TRUST, 2006)).

¹⁴¹ *Contra* Muñoz, *supra* note 126 at 149; *see also* Darling-Hammond, *supra* note 118, at 3-5.

are more likely to see low levels of student outcomes.¹⁴² These lower levels of student outcome and lack key teaching components will lead to negative feedback from observers during Achieve NJ observations.¹⁴³ It is easy to imagine that negative feedback on observations will cause Pilot teachers to become frustrated and receive poor ratings. This stress can very likely cause Pilot teachers to leave the profession.

iii. Proposed amendments and considerations for meeting the Pilot’s goals.

Despite its admirable goal of reducing racial disparities between teachers and students and combatting the teacher shortage deepened by the COVID-19 Pandemic, the New Jersey Legislature should consider changing the program, or passing new legislation that better addresses the issues in education. If the state legislature is adamant about continuing the Pilot, then they should add requirements and guidelines for professional development support offered to Pilot teachers. If the state legislature, however, is dedicated to establishing long-term legislation that will address the issues at hand, then they should take steps to enact legislation that takes a holistic approach in approving quality and retention amongst teachers.

To address the teacher shortage furthered by the pandemic, the New Jersey State Legislature should take a holistic approach in approving quality and retention. The issues within education are systematic and longstanding. Therefore, taking a broader view of the issue and making incremental changes amongst various impacting factors may be more effective for long-term change. When one measure is applied in hopes of addressing teacher retention, it proves to

¹⁴² *Contra* Muñoz, *supra* note 126 at 149; *see also* Darling-Hammond, *supra* note 118, at 3–5.

¹⁴³ *See* 2021 N.J. ALS 224, 2021 N.J. Laws 224, 2021 N.J. Ch. 224, 2020 N.J. S.N. 2826 at § 4(4); *see also* N.J. DEP’T EDUC, EDUCATION TEACHER PRACTICE OVERVIEW, 1 (Oct. 2019) <https://www.nj.gov/education/AchieveNJ/teacher/TeacherPracticeOverview.pdf>.

be ineffective because it essentially acts as a temporary band aid on a laundry list of issues in education.¹⁴⁴

Addressing uncompetitive compensation and benefits are one of many issues that should be addressed through incremental legislation. Typically, higher pay reduces rates of turnover.¹⁴⁵ When people are employed at a job that pays a competitive salary, the individual is more likely to tolerate everyday occupational stressors because they feel adequately compensated.¹⁴⁶ Looking only at yearly compensation, however, can be ineffective to reducing rates of teacher turnover.¹⁴⁷

In addition to adjusting yearly expenditures to accommodate higher pay, the state legislature should focus on creating a more desirable pension program for educators. Making benefits and pension more competitive are ways in which the teaching profession can become more desirable.¹⁴⁸ And when teaching is more desirable, individuals are more likely to enter the field, thus reducing teacher shortages.

Currently, New Jersey' pension program is underfunded.¹⁴⁹ New Jersey's total expenditures for teaching staff compensation is slightly less than the national average.¹⁵⁰ This number is not proportional to the cost of living in New Jersey compared to the national average. New Jersey's cost of living is approximately fifteen percent higher than the national average.¹⁵¹

¹⁴⁴ See Black, *supra* note 119 at 1604.

¹⁴⁵ Weber *supra* note 7 at 7 (citing MATTHEW D. HENDRICKS, DOES IT PAY TO PAY TEACHERS MORE? EVIDENCE FROM TEXAS, 50–63 (Journal of Public Economics, 109, 2014), <https://doi.org/10.1016/j.jpubeco.2013.11.001>).

¹⁴⁶ Weber *supra* note 7 at 7 (citing MATTHEW D. HENDRICKS, DOES IT PAY TO PAY TEACHERS MORE? EVIDENCE FROM TEXAS, 50–63 (Journal of Public Economics, 109, 2014), <https://doi.org/10.1016/j.jpubeco.2013.11.001>).

¹⁴⁷ Black, *supra* note 119 at 1616.

¹⁴⁸ Weber, *supra* note 7 at 2.

¹⁴⁹ Weber, *supra* note 7 at 12.

¹⁵⁰ Weber, *supra* note 7 at 3 (citing U.S. DEP'T. OF EDUC. CTR. FOR EDUC. STAT., FIRST LOOK (NCES 2018-303), <http://nces.ed.gov/pubsearch>).

¹⁵¹ Cost of Living in New Jersey, RentCafe, <https://www.rentcafe.com/cost-of-living-calculator/us/nj/> (Last accessed Sept. 24, 2022).

Addressing the State’s underfunded pension program, such as through funding reallocation, would be a first step in the right direction to longstanding change.

Although, simply looking at salary and pension, though, can be a fatal flaw in addressing decreases in teacher retention. Salary is often thought to play a more important role in teacher retention, but the bigger picture issues, such as accommodating teacher preference, as seldom considered.¹⁵² This ideology puts salary as the sole issue within the world of education.¹⁵³ By addressing salary alone, legislation and policy will be a quick fix, and will not yield long term results in addressing teacher retention.

Though salary is a common factor considered to increase teacher retention and attraction to potential candidates, by improving working conditions for teachers, the state legislation could justify lower salaries.¹⁵⁴ Legislation that makes incremental changes in standardizing working conditions may achieve long-term positive results. Currently, there are very large variations in teaching conditions amongst district, as well as schools located in the same district.¹⁵⁵ By reducing class sizes, creating an attractive work environment, and adding resources, teacher work conditions will improve.¹⁵⁶ Legislation should also begin to address resource allocation. It is typical to see resistance within schools and districts when leadership begins to relocate resources.¹⁵⁷ While these improvements do require increases in school spending, advances in education can also occur through simpler methods.

Schools may achieve improvements in working conditions by changing administrative personnel. Districts can leverage principals in creating positive working conditions. Principals,

¹⁵² Muñoz, *supra* note 126 at 330.

¹⁵³ Muñoz, *supra* note 126 at 330.

¹⁵⁴ Muñoz, *supra* note 126 at 330.

¹⁵⁵ SUSANNA LOEB & MICHELLE REININGER, PUBLIC POLICY AND TEACHER LABOR MARKETS: WHAT WE KNOW AND WHY IT MATTERS, iii (Stanford Ctr. for Educ. Pol’y Analysis, 2004).

¹⁵⁶ *Id.* at 53.

¹⁵⁷ *See id.* at 54.

as leaders of the school, are tasked with spearheading the initiative of creating a positive school climate.¹⁵⁸ Such a climate is central to cultivating respect and support amongst both students and teachers.¹⁵⁹ This positive environment, build on safety and orderliness, will then manifest itself as academic success.¹⁶⁰

A positive work environment created by principals can also overshadow any limits in resources that a school may face.¹⁶¹ Besides leveraging principals, superintendents and other district administrators can also aid reform. Superintendents and other district administrators that have positive relationships with school staff are essential in creating amicable communication and fostering respect.¹⁶² Most importantly, these administrators can create flexibility and understanding amongst school personnel.¹⁶³ Creating flexibility, especially through school leadership, can help increase resources in schools that currently lack, while also respecting teacher who may feel they are treated unfairly by having resources removed.¹⁶⁴

Instead of lowering requirements for certification, districts can attempt to increase the number of minority educators by adjusting recruitment efforts. The first change in teacher recruitment should be to the timeline for when schools and districts begin looking for teachers for the upcoming school year. Many schools begin recruiting candidates the summer before the candidate enters the classroom.¹⁶⁵ Recruitment often extends to right before and during the start of the school year.¹⁶⁶ By starting teacher recruitment earlier, schools and districts can allow for

¹⁵⁸ ELLEN GOLDRING, ET AL., ASSESSING LEARNING-CENTERED LEADERSHIP: CONNECTIONS OF RESEARCH, PROFESSIONAL STANDARDS, AND CURRENT PRACTICES, 7 (Vanderbilt University, 2007)

¹⁵⁹ *Id.* at 8.

¹⁶⁰ *Id.* at 7.

¹⁶¹ Loeb, *supra* note 155 at iii.

¹⁶² Loeb, *supra* note 155 at iii.

¹⁶³ Loeb, *supra* note 155 at iii.

¹⁶⁴ Loeb, *supra* note 155.

¹⁶⁵ Loeb, *supra* note 155 at iv.

¹⁶⁶ Loeb, *supra* note 155 at iv.

more time to generate an applicant pool that better represents the student population by focusing recruitment efforts on identifying more minority applicants. Additionally, schools and districts can use this time to focus recruiting within the community where the school sits. Recruiting within the school's community will likely improve the current demographic disparities and will hopefully lead to long term trends of teachers representing the communities in which they teach. This minor adjustment to recruitment efforts alone, however, will not improve the systematic problems at the heart of the issue.

In addition to beginning recruitment earlier, schools and districts, can use time previously dedicated to summer recruitment efforts in order to provide teachers with additional training prior to entering the new school year. As shown in a study conducted by the Hoover Institution, Center for Research on Education, many Teach for America participants leave their teaching positions only after a couple of years.¹⁶⁷ These teachers typically receive a couple weeks' worth of training prior to the school year, which is not much less than those teachers who are recruited right before the school year or after the start of the school year.¹⁶⁸ Like the Teach for America Teachers cited in the Hoover Institution's study, it is clear that these teachers could also feel unsupported and insufficiently prepared for their new role.¹⁶⁹ If recruitment and hiring occurs earlier, however, schools and districts have more time to train and prepare teachers for the upcoming school year. For example, though teachers might be working at another school at the time they are hired by a district, the district can send asynchronous trainings to be completed prior to more formal training during the summer.

¹⁶⁷ Darling-Hammond, *supra* note 19 at 4 (citing RAYMOND, M., FLETCHER, S., & LUQUE, J., TEACH FOR AMERICA: AN EVALUATION OF TEACHER DIFFERENCES AND STUDENT OUTCOMES IN HOUSTON, TEXAS, (THE HOOVER INSTITUTION, CENTER FOR RESEARCH ON EDUCATION OUTCOMES, 2001)).

¹⁶⁸ Darling-Hammond, *supra* note 19 at 5.

¹⁶⁹ See Darling-Hammond, *supra* note 19 at 5.

Lastly, district leaders can leverage ties with policy makers and local teacher preparation programs to help recruit minority candidates and compensate for lower compensation levels. District leaders should work with policy makers to create loan forgiveness programs that are especially targeted to individuals from the surrounding school community.¹⁷⁰ Focusing on loan forgiveness for individuals from the school’s surrounding community is important because the surrounding community is likely more representative of the school population, and thus the racial disparity will be eased. To ensure retention, loan forgiveness should be eligible for those who work in the education field for a certain number of years.¹⁷¹ By leveraging connections with local teacher preparation programs, on the other hand, district leaders can help establish scholarship opportunities for minorities who wish to pursue teaching as a profession.¹⁷² Scholarships can incentivize individuals who are unable to financially afford tuition to teacher preparation programs.¹⁷³ In turn, school districts will then be able to recruit directly from the teacher preparation program, which has already pursued recruiting more diverse students due to the available scholarships.

Reducing requirements for attaining teacher certification can make entering the field of education more attainable, which can lead to the state legislature being adamant about not wanting to strike down the pilot. Should this be the case, the legislature can slightly improve the Pilot by adding specific and required training components. Currently, the Pilot requires participating schools and districts to provide teachers with sufficient support.¹⁷⁴ The Pilot, however, gives schools and districts too much discretion in defining “sufficient support.” If schools and districts

¹⁷⁰ Espinoza, *supra* note 3.

¹⁷¹ Espinoza, *supra* note 3.

¹⁷² Espinoza, *supra* note 3.

¹⁷³ Espinoza, *supra* note 3.

¹⁷⁴ 2021 N.J. ALS 224, 2021 N.J. Laws 224, 2021 N.J. Ch. 224, 2020 N.J. S.N. 2826 § 5(a).

do not provide new Pilot Teachers with sufficient support, schools and districts risk diminishing the critical gains that new teachers typically attain early in their careers.¹⁷⁵

Increased professional development and training should be required when certification requirements are reduced. Increased training for individuals who lack typical certification requirements will reduce the cost of entry into the classroom.¹⁷⁶ Additionally, these trainings, especially when focused on specific issues in teaching, will properly prepare individuals and ensure comfort as they enter the classroom.¹⁷⁷ And as previously mentioned, increased training and support for inexperienced teachers will also increase support provided, thus also increasing the likelihood of leaving this career for such reason. Ultimately, when schools invest in teachers' success, by default, they increase student achievement.

Part IV: CONCLUSION

The purpose of New Jersey's legislation is to promote diversity within K-12 teaching ranks while also addressing the current teacher shortage that the COVID-19 Pandemic furthered by establishing a five-year Limited Certifications of Eligibility Pilot. The Pilot has admirable goals, but its ineffective suggestions for attaining said goals will merely be band-aids for the longstanding and prevalent issues in education. To better promote diversity in education and shrink the teacher shortage, the New Jersey Legislature, at the very least, should add additional training and professional development components for those with Limited Certifications of Eligibility. This investment will better prepare individuals entering the classroom, and hopefully create better culture within schools, thus increasing teacher retention.

¹⁷⁵ See Weber, *supra* note 784 at 10.

¹⁷⁶ Loeb, *supra* note 155 at 58.

¹⁷⁷ Loeb, *supra* note 155 at 58–59.