## ASSEMBLY, No. 5701

# STATE OF NEW JERSEY

### 219th LEGISLATURE

INTRODUCED MAY 12, 2021

**Sponsored by:** 

Assemblywoman LINDA S. CARTER
District 22 (Middlesex, Somerset and Union)
Assemblywoman PAMELA R. LAMPITT
District 6 (Burlington and Camden)
Assemblywoman MILA M. JASEY
District 27 (Essex and Morris)

Co-Sponsored by:

Assemblywoman Vainieri Huttle, Assemblymen Wirths and Space

#### **SYNOPSIS**

Creates special education unit within the Office of Administrative Law; requires annual report.

#### **CURRENT VERSION OF TEXT**

As introduced.

(Sponsorship Updated As Of: 6/16/2021)

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1 AN ACT concerning the Office of Administrative Law and special education and supplementing Title 52 of the Revised Statutes.

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

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The Director and Chief Administrative Law Judge of the Office of Administrative Law shall establish within the Office of Administrative Law a special education unit consisting of administrative law judges having expertise in special education law. The Director and Chief Administrative Law Judge shall ensure that the administrative law judges in the special education unit include individuals with a wide range of special education law expertise, including expertise as school board attorneys and as parent and student advocates. The number of administrative law judges in the special education unit shall be proportional to the number and complexity of special education cases referred to the office and shall be of a sufficient number to render decisions within the federal and State mandated time period. The Director and Chief Administrative Law Judge may appoint administrative law judges to the special education unit on a temporary or case basis as need arises.

b. Upon the establishment of the special education unit, all contested cases, as defined in section 2 of P.L.1968, c.410 (C.52:14B-2), concerning special education law referred to the Office of Administrative Law shall be assigned to and adjudicated by the administrative law judges in the special education unit.

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2. The Director and Chief Administrative Law Judge shall prepare an annual report to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature regarding the education unit established under section P.L. c. (C. ) (pending before the Legislature as this bill). The report shall include: a. the number of special education cases that were decided via a final settlement within 45 days after the case was transmitted to the Office of Administrative Law, and of the remaining petitions transmitted to the Office of Administrative Law, the number of cases that were heard and decided in a written decision within 45 days after the case was transmitted to the Office of Administrative Law; b. a list setting forth each special education case that was not decided within the 45 days, including the total number of days it took the administrative law judge to hear the case and issue the decision and the reason why the case was not decided within the 45 days; and c. other relevant information and recommendations at the discretion of the Director and Chief Administrative Law Judge.

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3. The Director and Chief Administrative Law Judge of the Office of Administrative Law, in consultation with the Department of Education, shall develop a system to track a due process petition once it is assigned to an administrative law judge and to allow petitioners to track the status of their petition.

4. This act shall take effect on the first day of the ninth month next following enactment except the Director and Chief Administrative Law Judge of the Office of Administrative Law may take any anticipatory administrative action in advance as shall be necessary for the implementation of this act.

#### **STATEMENT**

This bill would establish a unit within the Office of Administrative Law (OAL) dedicated to special education cases. The special education unit would consist of administrative law judges having expertise in special education law. The number of administrative law judges in the unit would be proportional to the number and complexity of special education cases referred to the OAL.

Under the bill, all contested cases concerning special education law referred to the OAL would be assigned to and adjudicated by the administrative law judges in the special education unit.

The bill directs the Director and Chief Administrative Law Judge of the OAL to prepare an annual report to the Governor and to the Legislature regarding: the number of special education cases referred to the special education unit during the reporting period; the number of special education cases resolved by the special education unit during the reporting period; the average number of cases pending before the special education unit during the reporting period; the average time to resolution of the special education cases; a brief description of the outcome of the resolved cases; and other relevant information and recommendations at the discretion of the Director and Chief Administrative Law Judge.

The bill has a delayed effective date in order to allow the OAL to develop a timeline for training judges and assigning judges to the new unit. The bill would take effect on the first day of the ninth month next following enactment except the Director and Chief Administrative Law Judge may take any anticipatory administrative action in advance as necessary for the implementation of the bill.