

ASSEMBLY, No. 2674

STATE OF NEW JERSEY

INTRODUCED JANUARY 29, 1997

By Assemblyman ROMANO

1 AN ACT concerning certain administrative hearings, supplementing
2 P.L.1978, c.67 (C.52:14F-1 et seq.), P.L.1968, c.410 (C.52:14B-1
3 et seq.), chapter 6 of Title 18A of the New Jersey Statutes and
4 amending N.J.S.18A:6-16 and N.J.S.18A:6-28.

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

8
9 1. (New section) a. The Director of the Office of Administrative
10 Law shall, within 12 months after the effective date of this act,
11 establish within the Office of Administrative Law an education unit
12 consisting of administrative law judges having special expertise in
13 education law. The number of administrative law judges in the unit
14 shall be proportional to the number and complexity of education cases
15 referred to the office.

16 b. Upon the establishment of the education unit, all contested
17 cases, as defined in section 2 of P.L.1968, c.410 (C.52:14B-2), except
18 those cases in which criminal charges are also filed, arising under the
19 Tenure Employees Hearing Law, article 2 of chapter 6 of Title 18A of
20 the New Jersey Statutes, referred to the Office of Administrative Law
21 shall be assigned to and adjudicated by the administrative law judges
22 in the education unit.

23
24 2. (New section) Any statute rule or regulation to the contrary
25 notwithstanding, all contested cases assigned to the education unit
26 pursuant to section 1 of this act shall be adjudicated pursuant to the
27 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.)
28 in an expeditious and timely manner except as follows:

29 a. The discovery process shall begin immediately upon the referral
30 of the case to the Office of Administrative Law and shall be completed
31 within 30 days of that referral.

32 b. The pre-hearing conference shall be held within 20 days of the
33 referral of the case to the Office of Administrative Law.

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 c. The hearing shall be held within 45 days after the pre-hearing
2 conference, and no later than 65 days from the referral of the case to
3 the Office of Administrative Law.

4 d. Transcripts if ordered by the parties shall be provided within 15
5 days of the conclusion of the hearing and all briefs shall be submitted
6 to the Administrative Law Judge within 30 days of the conclusion of
7 the hearing or receipt of the transcripts by the parties, whichever is
8 later.

9
10 3. (New section) Notwithstanding the provisions of section 10 of
11 P.L.1968, c. 410 (C. 52:14B-10) or any other law, rule or regulation
12 to the contrary, if a case is adjudicated by the education unit pursuant
13 to section 1 of P.L. ,c. (C.)(now pending before the Legislature
14 as this bill), the Commissioner of Education, upon a review of the
15 record submitted by the administrative law judge, shall adopt, reject
16 or modify the recommended report and decision no later than 30 days
17 after receipt of the recommendations.

18
19 4. N.J.S.18A: 6-16 is amended to read as follows:

20 18A:6-16. Upon receipt of such a charge and certification, or of a
21 charge lawfully made to him, the commissioner or the person
22 appointed to act in his behalf in the proceedings shall examine the
23 charges and certification [and if he]. The individual against whom the
24 charges are certified shall have 15 days to submit a written response
25 to the charges to the commissioner. If, following receipt of the
26 written response to the charges, the commissioner is of the opinion
27 that they are not sufficient to warrant dismissal or reduction in salary
28 of the person charged, he shall dismiss the same and notify said
29 person accordingly. If, however, he shall determine that such charge
30 is sufficient to warrant dismissal or reduction in salary of the person
31 charged, he shall [conduct a hearing thereon within a 60-day period
32 after the receipt thereof upon reasonable notice to all parties in
33 interest] within 10 days of making that determination refer the case to
34 the Office of Administrative Law for further proceedings.

35 (cf: N.J.S.18A:6-16)

36
37 5. N.J.S.18A:6-28 is amended to read as follows:

38 18A:6-28. An appeal to the State board shall be taken in the
39 manner prescribed by rules of the board, within 30 days after the
40 decision appealed from is filed, and the board shall have power to hear
41 and determine any such appeal. The board shall render its decision on
42 a tenure appeal within 60 days after it is filed.

43 (cf: P.L.1994, c.48, s.53)

44
45 6. This act shall take effect immediately.

STATEMENT

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

This bill streamlines the hearing process under the current tenure hearing laws by establishing a special, education hearing unit within the Office of Administrative Law (OAL) and by establishing time lines designed to expedite the process. Under the bill, the Commissioner of Education would refer a case to the OAL within 10 days of determining that it should be adjudicated, and the case would be assigned to the education unit, except for a case in which criminal charges were also filed. Discovery would begin on the date of that referral and must be completed within 30 days. The pre-hearing conference would be held within 20 days of the referral and the hearing itself no longer than 45 days thereafter. Transcripts ordered by the parties are to be provided within 15 days of the conclusion of the hearing, and all briefs would be submitted within 30 days of the conclusion of the hearing or receipt of the transcripts, whichever is later. The administrative law judge would have 45 days to render a decision after the hearing, as at present; however, the commissioner would have only 30 days, rather than 45 days, to review and act upon that decision. The bill also requires the State board to act within 60 days in the event that the commissioner's decision is appealed to that board.

The current system for the filing and processing of tenure charges can take two years. The system proposed in the bill would take between 6 and 7 months from the filing of written charges to final decision.

Provides for expedited hearing process in teacher tenure cases.