

P.L. 2021, CHAPTER 51, *approved April 19, 2021*

Senate, No. 699

1 **AN ACT** concerning the training of arbitrators and amending
2 P.L.2012, c.26.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

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7 1. Section 22 of P.L.2012, c.26 (C.18A:6-17.1) is amended to
8 read as follows:

9 22. a. The Commissioner of Education shall maintain a panel
10 of 50 permanent arbitrators to hear matters pursuant to N.J.S.18A:6-
11 16. Of the 50 arbitrators, 16 arbitrators shall be designated by the
12 New Jersey Education Association, six arbitrators shall be
13 designated by the American Federation of Teachers, 18 arbitrators
14 shall be designated by the New Jersey School Boards Association,
15 and 10 arbitrators shall be designated by the New Jersey Principals
16 and Supervisors Association. The commissioner shall inform the
17 appropriate designating entity when a vacancy exists. If the
18 appropriate entity does not designate an arbitrator within 30 days,
19 the commissioner shall designate an arbitrator to fill that vacancy.

20 All arbitrators designated pursuant to this section shall serve on
21 the American Arbitration Association panel of labor arbitrators and
22 shall be members of the National Academy of Arbitrators. The
23 arbitrators shall have knowledge and experience in the school
24 employment sector. Arbitrators on the permanent panel shall be
25 assigned by the commissioner randomly to hear cases.

26 All arbitrators designated pursuant to this section after the
27 effective date of P.L.2019, c.45, shall receive training on conduct
28 unbecoming an employee including, but not limited to, issues
29 related to allegations of sexual assault and child abuse, for the
30 purpose of assisting the arbitrator in determining matters in which
31 conduct unbecoming an employee is the basis of the tenure charges
32 made against the employee. Any arbitrator on the permanent panel
33 as of the effective date of P.L.2019, c.45, shall receive the training
34 within 18 months of the effective date of that act.

35 The training on conduct unbecoming an employee shall also
36 include issues related to cultural diversity and bias. Any arbitrator
37 on the permanent panel as of the effective date of
38 P.L. , c. (pending before the Legislature as this bill), shall receive
39 training on these issues within 18 months of the effective date of
40 that act.

41 The training shall be conducted by a State agency or private
42 entity with expertise in the subject area selected by the

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

Matter underlined thus is new matter.

1 commissioner, and any training on sexual misconduct or child abuse
2 shall be conducted in consultation with a sexual assault or child
3 abuse prevention organization. The training program utilized by the
4 State agency or private entity shall be approved by the
5 commissioner and shall be developed in consultation with interested
6 stakeholders in the school law and education communities
7 including, but not limited to, the New Jersey School Boards
8 Association, the New Jersey Principals and Supervisors
9 Association, the New Jersey Education Association, the American
10 Federation of Teachers, and the New Jersey Association of School
11 Administrators. The training program shall include, but shall not be
12 limited to:

13 (1) A review of tenure charge cases concerning conduct
14 unbecoming by a school employee, including cases decided both
15 before and after the enactment of P.L.2012, c.26 (C.18A:6-
16 117 et al.); and

17 (2) A review of the factors to be considered by arbitrators in
18 deciding tenure charge cases concerning conduct unbecoming by a
19 school employee including, but not limited to, the nature of the
20 alleged offense and the impact, or potential impact, of the
21 employee's conduct on the health and safety of students within the
22 context of the school environment.

23 b. The following provisions shall apply to a hearing conducted
24 by an arbitrator pursuant to N.J.S.18A:6-16, except as otherwise
25 provided pursuant to P.L.2012, c.26 (C.18A:6-117 et al.):

26 (1) The hearing shall be held before the arbitrator within 45
27 days of the assignment of the arbitrator to the case;

28 (2) The arbitrator shall receive no less than \$1250 per day, or
29 such amount as established at the discretion of the Commissioner of
30 Education, who shall consider the average per diem rate of
31 arbitrators eligible to serve on the panel who reside in New Jersey,
32 New York, and Pennsylvania. The costs and expenses of the
33 arbitrator shall be borne by the State of New Jersey;

34 (3) Upon referral of the case for arbitration, the employing
35 board of education shall provide all evidence including, but not
36 limited to, documents, electronic evidence, statements of witnesses,
37 and a list of witnesses with a complete summary of their testimony,
38 to the employee or the employee's representative. The employing
39 board of education shall be precluded from presenting any
40 additional evidence at the hearing, except for purposes of
41 impeachment of witnesses. At least 10 days prior to the hearing,
42 the employee shall provide all evidence upon which he will rely
43 including, but not limited to, documents, electronic evidence,
44 statements of witnesses, and a list of witnesses with a complete
45 summary of their testimony, to the employing board of education or
46 its representative. The employee shall be precluded from presenting
47 any additional evidence at the hearing except for purposes of
48 impeachment of witnesses.

1 Discovery shall not include depositions, and interrogatories shall
2 be limited to 25 without subparts.

3 c. The arbitrator shall determine the case under the American
4 Arbitration Association labor arbitration rules. In the event of a
5 conflict between the American Arbitration Association labor
6 arbitration rules and the procedures established pursuant to this
7 section, the procedures established pursuant to this section shall
8 govern.

9 d. Notwithstanding the provisions of N.J.S.18A:6-25 or any
10 other section of law to the contrary, the arbitrator shall render a
11 written decision within 45 days of the start of the hearing.

12 e. The arbitrator's determination shall be final and binding and
13 may not be appealable to the commissioner or the State Board of
14 Education. The determination shall be subject to judicial review
15 and enforcement as provided pursuant to N.J.S.2A:24-7 through
16 N.J.S.2A:24-10.

17 f. Timelines set forth herein shall be strictly followed; the
18 arbitrator or any involved party shall inform the commissioner of
19 any timeline that is not adhered to.

20 g. An arbitrator may not extend the timeline of holding a
21 hearing beyond 45 days of the assignment of the arbitrator to the
22 case without approval from the commissioner. An arbitrator may
23 not extend the timeline for rendering a written decision within 45
24 days of the start of the hearing without approval from the
25 commissioner. Extension requests shall occur before the 41st day
26 of the respective timelines set forth herein. The commissioner shall
27 approve or disapprove extension requests within five days of
28 receipt.

29 h. The commissioner may remove any arbitrator from an
30 arbitration case or an arbitration panel if an arbitrator does not
31 adhere to the timelines set forth herein without approval from the
32 commissioner. If the commissioner removes an arbitrator from an
33 arbitration case, the commissioner shall refer the case to a new
34 arbitrator within five days. The newly-assigned arbitrator shall
35 convene a new hearing and then render a written decision within 45
36 days of being referred the case.

37 (cf: P.L.2019, c.45, s.1)

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39 2. This act shall take effect immediately.

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44 Requires training for DOE arbitrators to include issues related to
45 cultural diversity and bias.