

SENATE, No. 2160

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MARCH 16, 2020

Sponsored by:

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

Senator STEVEN V. OROHO

District 24 (Morris, Sussex and Warren)

Senator ROBERT W. SINGER

District 30 (Monmouth and Ocean)

Co-Sponsored by:

Senators Corrado, Holzapfel and Singleton

SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/20/2021)

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

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

6
7 1. a. The Director and Chief Administrative Law Judge of the
8 Office of Administrative Law shall establish within the Office of
9 Administrative Law a special education unit consisting of
10 administrative law judges having expertise in special education law.
11 The Director and Chief Administrative Law Judge shall ensure that
12 the administrative law judges in the special education unit include
13 individuals with a wide range of special education law expertise,
14 including expertise as school board attorneys and as parent and
15 student advocates. The number of administrative law judges in the
16 special education unit shall be proportional to the number and
17 complexity of special education cases referred to the office and
18 shall be of a sufficient number to render decisions within the federal
19 and State mandated time period. The Director and Chief
20 Administrative Law Judge may appoint administrative law judges to
21 the special education unit on a temporary or case basis as need
22 arises.

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

28
29 2. The Director and Chief Administrative Law Judge shall
30 prepare an annual report to the Governor and, pursuant to section 2
31 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature regarding the
32 special education unit established under section 1 of
33 P.L. c. (C.) (pending before the Legislature as this bill). The
34 report shall include: a. the number of special education cases that
35 were decided via a final settlement within 45 days after the case
36 was transmitted to the Office of Administrative Law, and of the
37 remaining petitions transmitted to the Office of Administrative
38 Law, the number of cases that were heard and decided in a written
39 decision within 45 days after the case was transmitted to the Office
40 of Administrative Law; b. a list setting forth each special education
41 case that was not decided within the 45 days, including the total
42 number of days it took the administrative law judge to hear the case
43 and issue the decision and the reason why the case was not decided
44 within the 45 days; and c. other relevant information and
45 recommendations at the discretion of the Director and Chief
46 Administrative Law Judge.

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.