

18A:6-17.1
LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2019 **CHAPTER:** 45

NJSA: 18A:6-17.1 (Mandates certain training for DOE arbitrators.)

BILL NO: S2712 (Substituted for A4406)

SPONSOR(S) M. Teresa Ruiz and others

DATE INTRODUCED: 6/14/2018

COMMITTEE: **ASSEMBLY:** Education

SENATE: Education

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** 1/31/2019

SENATE: 6/25/2018

DATE OF APPROVAL: 3/18/2019

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (First Reprint enacted) Yes

S2712

SPONSOR'S STATEMENT: (Begins on page 4 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: Yes

LEGISLATIVE FISCAL ESTIMATE: Yes

A4406

SPONSOR'S STATEMENT: (Begins on page 4 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes

(continued)

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

RWH/JA

P.L. 2019, CHAPTER 45, *approved March 18, 2019*
Senate, No. 2712 (*First Reprint*)

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:

6
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 of
10 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. , c. (pending before the Legislature as this
28 bill), shall receive training on ¹conduct unbecoming an employee
29 including, but not limited to, issues related to allegations of¹ sexual
30 assault and child abuse ¹, ¹ for the purpose of assisting the arbitrator
31 in determining matters in which ¹**[this]**¹ conduct ¹unbecoming an
32 employee¹ is the basis of the tenure charges made against the
33 employee. ¹**[The training shall be conducted by a State agency or**
34 private entity with expertise in the subject area, selected by the
35 commissioner.]¹ Any arbitrator on the permanent panel as of the
36 effective date of P.L. , c. (pending before the Legislature as this
37 bill), shall receive the training within 18 months of the effective
38 date of that act.

39 ¹The training shall be conducted by a State agency or private
40 entity with expertise in the subject area selected by the
41 commissioner, and any training on sexual misconduct or child abuse

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate floor amendments adopted June 21, 2018.

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

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

16 (2) A review of the factors to be considered by arbitrators in
17 deciding tenure charge cases concerning conduct unbecoming by a
18 school employee including, but not limited to, the nature of the
19 alleged offense and the impact, or potential impact, of the
20 employee's conduct on the health and safety of students within the
21 context of the school environment.¹

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

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

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

33 (3) Upon referral of the case for arbitration, the employing
34 board of education shall provide all evidence including, but not
35 limited to, documents, electronic evidence, statements of witnesses,
36 and a list of witnesses with a complete summary of their testimony,
37 to the employee or the employee's representative. The employing
38 board of education shall be precluded from presenting any
39 additional evidence at the hearing, except for purposes of
40 impeachment of witnesses. At least 10 days prior to the hearing,
41 the employee shall provide all evidence upon which he will rely
42 including, but not limited to, documents, electronic evidence,
43 statements of witnesses, and a list of witnesses with a complete
44 summary of their testimony, to the employing board of education or
45 its representative. The employee shall be precluded from
46 presenting any additional evidence at the hearing except for
47 purposes of 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 41 day of
26 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.2015, c.109, s.1)

38

39 2. This act shall take effect immediately.

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44 Mandates certain training for DOE arbitrators.

SENATE, No. 2712

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED JUNE 14, 2018

Sponsored by:

Senator M. TERESA RUIZ

District 29 (Essex)

Senator FRED H. MADDEN, JR.

District 4 (Camden and Gloucester)

SYNOPSIS

Mandates sexual assault and child abuse training for DOE arbitrators.

CURRENT VERSION OF TEXT

As introduced.



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:

6

7 1. Section 22 of P.L.2012, c.26 (C.18A:6-17.1) is amended to
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15 and 10 arbitrators shall be designated by the New Jersey Principals
16 and Supervisors Association. The commissioner shall inform the
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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. , c. (pending before the Legislature as this
28 bill), shall receive training on sexual assault and child abuse for the
29 purpose of assisting the arbitrator in determining matters in which
30 this conduct is the basis of the tenure charges made against the
31 employee. The training shall be conducted by a State agency or
32 private entity with expertise in the subject area, selected by the
33 commissioner. Any arbitrator on the permanent panel as of the
34 effective date of P.L. , c. (pending before the Legislature as this
35 bill), shall receive the training within 18 months of the effective
36 date of that act.

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

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

42 (2) The arbitrator shall receive no less than \$1250 per day, or
43 such amount as established at the discretion of the Commissioner of
44 Education, who shall consider the average per diem rate of
45 arbitrators eligible to serve on the panel who reside in New Jersey,

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 New York, and Pennsylvania. The costs and expenses of the
2 arbitrator shall be borne by the State of New Jersey;

3 (3) Upon referral of the case for arbitration, the employing
4 board of education shall provide all evidence including, but not
5 limited to, documents, electronic evidence, statements of witnesses,
6 and a list of witnesses with a complete summary of their testimony,
7 to the employee or the employee's representative. The employing
8 board of education shall be precluded from presenting any
9 additional evidence at the hearing, except for purposes of
10 impeachment of witnesses. At least 10 days prior to the hearing,
11 the employee shall provide all evidence upon which he will rely
12 including, but not limited to, documents, electronic evidence,
13 statements of witnesses, and a list of witnesses with a complete
14 summary of their testimony, to the employing board of education or
15 its representative. The employee shall be precluded from
16 presenting any additional evidence at the hearing except for
17 purposes of impeachment of witnesses.

18 Discovery shall not include depositions, and interrogatories shall
19 be limited to 25 without subparts.

20 c. The arbitrator shall determine the case under the American
21 Arbitration Association labor arbitration rules. In the event of a
22 conflict between the American Arbitration Association labor
23 arbitration rules and the procedures established pursuant to this
24 section, the procedures established pursuant to this section shall
25 govern.

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

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

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

37 g. An arbitrator may not extend the timeline of holding a
38 hearing beyond 45 days of the assignment of the arbitrator to the
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40 not extend the timeline for rendering a written decision within 45
41 days of the start of the hearing without approval from the
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43 the respective timelines set forth herein. The commissioner shall
44 approve or disapprove extension requests within five days of
45 receipt.

46 h. The commissioner may remove any arbitrator from an
47 arbitration case or an arbitration panel if an arbitrator does not
48 adhere to the timelines set forth herein without approval from the

1 commissioner. If the commissioner removes an arbitrator from an
2 arbitration case, the commissioner shall refer the case to a new
3 arbitrator within five days. The newly-assigned arbitrator shall
4 convene a new hearing and then render a written decision within 45
5 days of being referred the case.

6 (cf: P.L.2015, c.109, s.1)

7

8 2. This act shall take effect immediately.

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10

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STATEMENT

12

13 Currently, the Commissioner of Education maintains a panel of
14 50 permanent arbitrators to hear tenure charge matters. The law
15 currently requires that arbitrators designated to serve on the panel
16 have knowledge and experience in the school employment sector.
17 This bill would require additional training for arbitrators on sexual
18 assault and child abuse. The training would be for the purpose of
19 assisting arbitrators in determining matters in which this type of
20 conduct is the basis of the tenure charges made against the
21 employee. The commissioner will select a State agency or private
22 entity with expertise in the subject area to conduct the training. An
23 arbitrator who is serving on the permanent panel as of the effective
24 date of the bill will have 18 months to complete the training.

ASSEMBLY EDUCATION COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 2712

STATE OF NEW JERSEY

DATED: NOVEMBER 26, 2018

The Assembly Education Committee reports favorably Senate Bill No. 2712 (1R).

Currently, the Commissioner of Education maintains a panel of 50 permanent arbitrators to hear tenure charge matters. The law currently requires that arbitrators designated to serve on the panel have knowledge and experience in the school employment sector. This bill would require additional training for arbitrators on conduct unbecoming an employee including, but not limited to, issues related to allegations of sexual assault and child abuse. The training would be for the purpose of assisting arbitrators in determining matters in which conduct unbecoming an employee is the basis of the tenure charges made against the employee. An arbitrator who is serving on the permanent panel as of the effective date of the bill will have 18 months to complete the training.

Under the bill, the commissioner will select a State agency or private entity with expertise in the subject area to conduct the training, and any training on sexual misconduct or child abuse will be conducted in consultation with a sexual assault or child abuse prevention organization. The training program must be approved by the commissioner and will be developed in consultation with interested stakeholders including, but not limited to, the New Jersey School Boards Association, the New Jersey Principals and Supervisors Association, the New Jersey Education Association, the American Federation of Teachers, and the New Jersey Association of School Administrators. The training program is required to include, but not be limited to: (1) a review of tenure charge cases concerning conduct unbecoming, including cases decided both before and after the enactment of the TEACHNJ Act, pursuant to which arbitrators were given the authority to hear tenure charge cases; and (2) a review of specific factors to be considered by arbitrators in deciding tenure charge cases concerning conduct unbecoming including, but not limited to, the nature of the alleged offense and the impact, or potential impact, of the employee's conduct on the health and safety of students.

As reported by the committee, this bill is identical to Assembly Bill No. 4406 which also was reported by the committee on this same date.

SENATE EDUCATION COMMITTEE

STATEMENT TO

SENATE, No. 2712

STATE OF NEW JERSEY

DATED: JUNE 14, 2018

The Senate Education Committee favorably reports Senate Bill No. 2712.

Currently, the Commissioner of Education maintains a panel of 50 permanent arbitrators to hear tenure charge matters. The law currently requires that arbitrators designated to serve on the panel have knowledge and experience in the school employment sector. This bill would require additional training for arbitrators on sexual assault and child abuse. The training would be for the purpose of assisting arbitrators in determining matters in which this type of conduct is the basis of the tenure charges made against the employee. The commissioner will select a State agency or private entity with expertise in the subject area to conduct the training. An arbitrator who is serving on the permanent panel as of the effective date of the bill will have 18 months to complete the training.

STATEMENT TO
SENATE, No. 2712

with Senate Floor Amendments
(Proposed by Senator RUIZ)

ADOPTED: JUNE 21, 2018

These floor amendments:

- Require training for arbitrators on conduct unbecoming a school employee. The bill as introduced only required the training on sexual assault and child abuse;
- Require the training program to be developed in consultation with stakeholders including, but not limited to, the New Jersey School Boards Association, the New Jersey Principals and Supervisors Association, the New Jersey Education Association, the American Federation of Teachers, and the New Jersey Association of School Administrators;
- Require the training to include a review of tenure charge case determinations concerning conduct unbecoming, including those decided both before and after the enactment of the TEACHNJ Act, pursuant to which arbitrators were given the authority to hear tenure charge cases; and
- Require the training to include specific factors to be used in making determinations in tenure charge cases concerning conduct unbecoming including, but not limited to, the nature of the alleged offense and the impact, or potential impact, of the employee's conduct on the health and safety of students within the context of the school environment.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 2712 STATE OF NEW JERSEY 218th LEGISLATURE

DATED: FEBRUARY 6, 2019

SUMMARY

Synopsis: Mandates certain training for DOE arbitrators.

Type of Impact: Expenditure Increase in the General Fund.

Agencies Affected: Department of Education.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Cost	Indeterminate Expenditure Increase

- The Office of Legislative Services (OLS) concludes that this bill may result in an increase in State expenditures, primarily caused by the deployment of State resources to develop and conduct the training program established under the bill.
- The OLS lacks sufficient information to accurately estimate the increased State expenditures associated with developing and conducting the training program; however, the OLS notes that a State agency may already have the resources and expertise to develop and conduct the training, thereby minimizing costs.
- If the Commissioner of Education decides to contract with a private entity to develop and conduct the training, the State may incur an indeterminate amount of annual service charges in accordance with the terms of a potential contract with the private entity.

BILL DESCRIPTION

Currently, the Commissioner of Education maintains a panel of 50 permanent arbitrators to hear tenure charge matters. The law currently requires that arbitrators designated to serve on the panel have knowledge and experience in the school employment sector. This bill would require additional training for arbitrators on conduct unbecoming an employee including, but not limited

to, issues related to allegations of sexual assault and child abuse. The training would be for the purpose of assisting arbitrators in determining matters in which conduct unbecoming an employee is the basis of the tenure charges made against the employee. An arbitrator who is serving on the permanent panel as of the effective date of the bill will have 18 months to complete the training.

Under the bill, the commissioner will select a State agency or private entity with expertise in the subject area to conduct the training, and any training on sexual misconduct or child abuse will be conducted in consultation with a sexual assault or child abuse prevention organization. The training program must be approved by the commissioner and will be developed in consultation with interested stakeholders including, but not limited to, the New Jersey School Boards Association, the New Jersey Principals and Supervisors Association, the New Jersey Education Association, the American Federation of Teachers, and the New Jersey Association of School Administrators. The training program is required to include, but not be limited to: (1) a review of tenure charge cases concerning conduct unbecoming, including cases decided both before and after the enactment of the TEACHNJ Act, pursuant to which arbitrators were given the authority to hear tenure charge cases; and (2) a review of specific factors to be considered by arbitrators in deciding tenure charge cases concerning conduct unbecoming including, but not limited to, the nature of the alleged offense and the impact, or potential impact, of the employee's conduct on the health and safety of students.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that this bill may result in an increase in State expenditures, primarily caused by the deployment of State resources to develop and conduct the training program established under the bill. The OLS lacks sufficient information to accurately estimate the increased State expenditures needed to develop and conduct the training program; however, the OLS notes that a State agency may already have the resources and expertise to develop and conduct the training, thereby minimizing costs.

If the Commissioner of Education decides to contract with a private entity to develop and conduct the training, the State may incur an indeterminate amount of annual service charges in accordance with the terms of a potential contract with that private entity.

Although not specifically enumerated in the bill, it is conceivable that additional State expenditures may occur if the Department of Education decides to reimburse the arbitrators for the time taken to undergo the training on conduct unbecoming an employee. The OLS notes that, under current law, an arbitrator conducting a hearing related to tenure charge matters is required to receive from the State no less than \$1,250 per day, or an amount established at the discretion of the Commissioner of Education, who shall consider the average per diem rate of arbitrators eligible to serve on the panel who reside in New Jersey, New York, and Pennsylvania.

Section: Education

*Analyst: Christopher Myles
Assistant Fiscal Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

ASSEMBLY, No. 4406

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED SEPTEMBER 13, 2018

Sponsored by:

Assemblywoman PAMELA R. LAMPITT

District 6 (Burlington and Camden)

Assemblywoman CAROL A. MURPHY

District 7 (Burlington)

Co-Sponsored by:

**Assemblymen Peters, Howarth, Assemblywomen DiMaso and Pintor
Marin**

SYNOPSIS

Mandates certain training for DOE arbitrators.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/1/2019)

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

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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.

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27 effective date of P.L. , c. (pending before the Legislature as this
28 bill), shall receive training on conduct unbecoming an employee
29 including, but not limited to, issues related to allegations of sexual
30 assault and child abuse, for the purpose of assisting the arbitrator in
31 determining matters in which conduct unbecoming an employee is
32 the basis of the tenure charges made against the employee. Any
33 arbitrator on the permanent panel as of the effective date of P.L. ,
34 c. (pending before the Legislature as this bill), shall receive the
35 training within 18 months of the effective date of that act.

36 The training shall be conducted by a State agency or private
37 entity with expertise in the subject area selected by the
38 commissioner, and any training on sexual misconduct or child abuse
39 shall be conducted in consultation with a sexual assault or child
40 abuse prevention organization. The training program utilized by the
41 State agency or private entity shall be approved by the
42 commissioner and shall be developed in consultation with interested
43 stakeholders in the school law and education communities
44 including, but not limited to, the New Jersey School Boards
45 Association, the New Jersey Principals and Supervisors

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 Association, the New Jersey Education Association, the American
2 Federation of Teachers, and the New Jersey Association of School
3 Administrators. The training program shall include, but shall not be
4 limited to:

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

9 (2) A review of the factors to be considered by arbitrators in
10 deciding tenure charge cases concerning conduct unbecoming by a
11 school employee including, but not limited to, the nature of the
12 alleged offense and the impact, or potential impact, of the
13 employee's conduct on the health and safety of students within the
14 context of the school environment.

15 b. The following provisions shall apply to a hearing conducted
16 by an arbitrator pursuant to N.J.S.18A:6-16, except as otherwise
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19 days of the assignment of the arbitrator to the case;

20 (2) The arbitrator shall receive no less than \$1250 per day, or
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22 Education, who shall consider the average per diem rate of
23 arbitrators eligible to serve on the panel who reside in New Jersey,
24 New York, and Pennsylvania. The costs and expenses of the
25 arbitrator shall be borne by the State of New Jersey;

26 (3) Upon referral of the case for arbitration, the employing
27 board of education shall provide all evidence including, but not
28 limited to, documents, electronic evidence, statements of witnesses,
29 and a list of witnesses with a complete summary of their testimony,
30 to the employee or the employee's representative. The employing
31 board of education shall be precluded from presenting any
32 additional evidence at the hearing, except for purposes of
33 impeachment of witnesses. At least 10 days prior to the hearing,
34 the employee shall provide all evidence upon which he will rely
35 including, but not limited to, documents, electronic evidence,
36 statements of witnesses, and a list of witnesses with a complete
37 summary of their testimony, to the employing board of education or
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44 Arbitration Association labor arbitration rules. In the event of a
45 conflict between the American Arbitration Association labor
46 arbitration rules and the procedures established pursuant to this
47 section, the procedures established pursuant to this section shall
48 govern.

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

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

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14 case without approval from the commissioner. An arbitrator may
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16 days of the start of the hearing without approval from the
17 commissioner. Extension requests shall occur before the 41 day of
18 the respective timelines set forth herein. The commissioner shall
19 approve or disapprove extension requests within five days of
20 receipt.

21 h. The commissioner may remove any arbitrator from an
22 arbitration case or an arbitration panel if an arbitrator does not
23 adhere to the timelines set forth herein without approval from the
24 commissioner. If the commissioner removes an arbitrator from an
25 arbitration case, the commissioner shall refer the case to a new
26 arbitrator within five days. The newly-assigned arbitrator shall
27 convene a new hearing and then render a written decision within 45
28 days of being referred the case.

29 (cf: P.L.2015, c.109, s.1)

30

31 2. This act shall take effect immediately.

32

33

34

STATEMENT

35

36 Currently, the Commissioner of Education maintains a panel of
37 50 permanent arbitrators to hear tenure charge matters. The law
38 currently requires that arbitrators designated to serve on the panel
39 have knowledge and experience in the school employment sector.
40 This bill would require additional training for arbitrators on conduct
41 unbecoming an employee including, but not limited to, issues
42 related to allegations of sexual assault and child abuse. The
43 training would be for the purpose of assisting arbitrators in
44 determining matters in which conduct unbecoming an employee is
45 the basis of the tenure charges made against the employee. An
46 arbitrator on the permanent panel as of the effective date of the bill
47 will receive the training within 18 months of that effective date.

1 The training will be conducted by a State agency or private entity
2 selected by the Commissioner of Education. The training program
3 utilized by the agency or entity will be approved by the
4 commissioner and will be developed in consultation with interested
5 stakeholders including, but not limited to: the New Jersey School
6 Boards Association, the New Jersey Principals and Supervisors
7 Association, the New Jersey Education Association, the American
8 Federation of Teachers, and the New Jersey Association of School
9 Administrators. The training program will include: a review of
10 tenure charge case determinations concerning conduct unbecoming,
11 including those decided both before and after the enactment of the
12 TEACHNJ Act, pursuant to which arbitrators were given the
13 authority to hear tenure charge cases; and a review of the factors to
14 be used in making determinations in tenure charge cases concerning
15 conduct unbecoming including, but not limited to, the nature of the
16 alleged offense and the impact, or potential impact, of the
17 employee's conduct on the health and safety of students within the
18 context of the school environment.

ASSEMBLY EDUCATION COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4406

STATE OF NEW JERSEY

DATED: NOVEMBER 26, 2018

The Assembly Education Committee reports favorably Assembly Bill No. 4406.

Currently, the Commissioner of Education maintains a panel of 50 permanent arbitrators to hear tenure charge matters. The law currently requires that arbitrators designated to serve on the panel have knowledge and experience in the school employment sector. This bill would require additional training for arbitrators on conduct unbecoming an employee including, but not limited to, issues related to allegations of sexual assault and child abuse. The training would be for the purpose of assisting arbitrators in determining matters in which conduct unbecoming an employee is the basis of the tenure charges made against the employee. An arbitrator who is serving on the permanent panel as of the effective date of the bill will have 18 months to complete the training.

Under the bill, the commissioner will select a State agency or private entity with expertise in the subject area to conduct the training, and any training on sexual misconduct or child abuse will be conducted in consultation with a sexual assault or child abuse prevention organization. The training program must be approved by the commissioner and will be developed in consultation with interested stakeholders including, but not limited to, the New Jersey School Boards Association, the New Jersey Principals and Supervisors Association, the New Jersey Education Association, the American Federation of Teachers, and the New Jersey Association of School Administrators. The training program is required to include, but not be limited to: (1) a review of tenure charge cases concerning conduct unbecoming, including cases decided both before and after the enactment of the TEACHNJ Act, pursuant to which arbitrators were given the authority to hear tenure charge cases; and (2) a review of specific factors to be considered by arbitrators in deciding tenure charge cases concerning conduct unbecoming including, but not limited to, the nature of the alleged offense and the impact, or potential impact, of the employee's conduct on the health and safety of students.

As reported by the committee, this bill is identical to Senate Bill No. 2712 (1R) which also was reported by the committee on this same date.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 4406
STATE OF NEW JERSEY
218th LEGISLATURE

DATED: FEBRUARY 5, 2019

SUMMARY

Synopsis: Mandates certain training for DOE arbitrators.

Type of Impact: Expenditure Increase in the General Fund.

Agencies Affected: Department of Education.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Cost	Indeterminate Expenditure Increase

- The Office of Legislative Services (OLS) concludes that this bill may result in an increase in State expenditures, primarily caused by the deployment of State resources to develop and conduct the training program established under the bill.
- The OLS lacks sufficient information to accurately estimate the increased State expenditures associated with developing and conducting the training program; however, the OLS notes that a State agency may already have the resources and expertise to develop and conduct the training, thereby minimizing costs.
- If the Commissioner of Education decides to contract with a private entity to develop and conduct the training, the State may incur an indeterminate amount of annual service charges in accordance with the terms of a potential contract with the private entity.

BILL DESCRIPTION

Currently, the Commissioner of Education maintains a panel of 50 permanent arbitrators to hear tenure charge matters. The law currently requires that arbitrators designated to serve on the panel have knowledge and experience in the school employment sector. This bill would require additional training for arbitrators on conduct unbecoming an employee including, but not limited

to, issues related to allegations of sexual assault and child abuse. The training would be for the purpose of assisting arbitrators in determining matters in which conduct unbecoming an employee is the basis of the tenure charges made against the employee. An arbitrator who is serving on the permanent panel as of the effective date of the bill will have 18 months to complete the training.

Under the bill, the commissioner will select a State agency or private entity with expertise in the subject area to conduct the training, and any training on sexual misconduct or child abuse will be conducted in consultation with a sexual assault or child abuse prevention organization. The training program must be approved by the commissioner and will be developed in consultation with interested stakeholders including, but not limited to, the New Jersey School Boards Association, the New Jersey Principals and Supervisors Association, the New Jersey Education Association, the American Federation of Teachers, and the New Jersey Association of School Administrators. The training program is required to include, but not be limited to: (1) a review of tenure charge cases concerning conduct unbecoming, including cases decided both before and after the enactment of the TEACHNJ Act, pursuant to which arbitrators were given the authority to hear tenure charge cases; and (2) a review of specific factors to be considered by arbitrators in deciding tenure charge cases concerning conduct unbecoming including, but not limited to, the nature of the alleged offense and the impact, or potential impact, of the employee's conduct on the health and safety of students.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that this bill may result in an increase in State expenditures, primarily caused by the deployment of State resources to develop and conduct the training program established under the bill. The OLS lacks sufficient information to accurately estimate the increased State expenditures needed to develop and conduct the training program; however, the OLS notes that a State agency may already have the resources and expertise to develop and conduct the training, thereby minimizing costs.

If the Commissioner of Education decides to contract with a private entity to develop and conduct the training, the State may incur an indeterminate amount of annual service charges in accordance with the terms of a potential contract with that private entity.

Although not specifically enumerated in the bill, it is conceivable that additional State expenditures may occur if the Department of Education decides to reimburse the arbitrators for the time taken to undergo the training on conduct unbecoming an employee. The OLS notes that, under current law, an arbitrator conducting a hearing related to tenure charge matters is required to receive from the State no less than \$1,250 per day, or an amount established at the discretion of the Commissioner of Education, who shall consider the average per diem rate of arbitrators eligible to serve on the panel who reside in New Jersey, New York, and Pennsylvania.

Section: Education

*Analyst: Christopher Myles
Assistant Fiscal Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).



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Newark, N.J.

Governor Murphy Takes Action on Legislation

03/18/2019

TRENTON – Today, Governor Phil Murphy signed the following bills into law

AJR-149 (Schepisi, Jasey, Johnson/Pou, T. Kean) – Designates September of each year as “Brain Aneurysm Awareness Month” in New Jersey.

AJR-164 (Benson, Zwicker, Lampitt/Diegnan, T. Kean) – Establishes "New Jersey Advanced Autonomous Vehicle Task Force."

A-591 (Moriarty, Reynolds-Jackson, Jimenez/Pou, Cruz-Perez) – Prohibits discrimination against cash-paying consumers.

A-1400 (A.M. Bucco, Caputo, DeCroce, Johnson/A.R. Bucco, Gopal) – Revises law governing Class Three special law enforcement officer.

A-4073 (Holley, Carter, Kennedy, Quijano/Scutari, Cryan) – Designates portion of State Highway Route 27 in Union County as "Jerry Green Memorial Highway."

A-4177 (Pintor Marin, Mukherji, Downey/Singleton, Ruiz) – Allows county homelessness trust funds to be used for code blue emergency shelter services.

A-4701 (Spearman, Chiaravalloti, Mukherji, Quijano/Ruiz, Cunningham) – Requires DHS to establish electronic portal to promote surplus food donation collaboration among nonprofit organizations, gleaners, and food retailers.

A-4734 (Land, Taliaferro, Mukherji/Beach, C.A. Brown) – Appropriates \$1,190,349 from constitutionally dedicated CBT revenues to NJ Historic Trust for historic site management grants to certain historic preservation projects and associated administrative expenses.

S-121 (Weinberg, Gill/McKeon, Bramnick, Vainieri Huttie) – Bars provisions in employment contracts that waive rights or remedies; bars agreements that conceal details relating to discrimination claims.

S-641 (Beach, Bateman/Munoz, Thomson, Lampitt) – Upgrades penalty for failing to report act of sexual abuse against child.

S-746 (Diegnan, Cruz-Perez/Vainieri Huttie, Pinkin, Chiaravalloti) – Permits certain audiologists to dispense and fit hearing aids.

S-1073 (Smith, Bateman, Codey, Greenstein/McKeon, Pinkin, Tucker) – Authorizes municipalities, counties, and certain authorities to establish stormwater utilities.

S-1773 (Diegnan, Gopal/Calabrese, Chiaravalloti, Tully) – Requires display of identifying information on rear of school bus so public may report bus driver misconduct.

S-2454 (Madden/Murphy, Houghtaling, Downey) – Concerns prevailing wage requirements for certain fabrication.

S-2712 (Ruiz, Madden/Lampitt, Murphy) – Mandates certain training for DOE arbitrators.

S-2714 (Ruiz, Madden/Lampitt, Armato, Murphy) – Requires school districts to notify State Board of Examiners when teaching staff member fails to report child abuse for determination of revocation or suspension of certificate.

S-2715 (Madden, Ruiz/Lampitt, Reynolds-Jackson) – Requires Attorney General to develop protocol for retaining footage from school surveillance system.

S-2773 (Pou/Greenwald, Lopez, Vainieri Huttle) – Clarifies definition of health care service firms and homemaker-home health aides.

S-2922 (Vitale, O'Scanlon/Vainieri Huttle, DiMaso) – Revises standard for presence of medical examiner during removal of anatomical gift from decedent.

Governor Murphy also announced that he has conditionally vetoed the following bills:

A-4904 (Mukherji, Quijano, Mazzeo/Cryan, Sweeney) – Concerns property taxes due and owing on real property owned by certain federal employees or contractors under certain circumstances.

[Copy of Statement on A-4904](#)

S-2129 (Cruz-Perez, Turner/Wimberly, Armato, Lopez, Mazzeo) – Directs certain unclaimed electric and gas utility deposits in Unclaimed Utility Deposits Trust Fund and societal charge revenues be paid to Statewide nonprofit energy assistance organizations meeting certain eligibility criteria.

[Copy of Statement on S-2129](#)

[Back to Top](#)

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Economy & Jobs
Education
Environment
Health
Law & Justice
Transportation

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Twitter
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[Opportunities](#)

[Governor's Residence](#)

[- Drumthwacket](#)

[News & Events](#)

[Press Releases](#)

[Public Addresses](#)

[Executive Orders](#)

[Statements on](#)

[Legislation](#)

[Administration Reports](#)

[Transition Reports](#)

[Press Kits](#)

[Scheduling Requests](#)

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