

18A:6-18.1

LEGISLATIVE HISTORY CHECKLIST

NJSA: 18A:6-18.1

(State and County College - tenured staff - under suspension - receive full salary if determination not made in 180 days)

LAWS OF: 1983

CHAPTER: 347

Bill No: A1197

Sponsor(s): Mazur and others

Date Introduced: May 3, 1982

Committee:

Assembly: Higher Education and Regulated Professions

Senate: Education

Amended during passage: Yes  
According to Governor's recommendations

Amendments denoted by asterisks

Date of Passage:

Assembly: June 28, 1982

Re-enacted 5-26-83

Senate: January 27, 1983

Re-enacted 8-29-83

Date of Approval: September 22, 1983

Following statements are attached if available:

Sponsor statement:

Yes

Committee statement:

Assembly

Yes

Senate

Yes

Fiscal Note:

No

Veto Message:

Yes

Message on Signing:

No

Following were printed:

Reports:

No

Hearings:

No

Statute, referred to in sponsors' statement: 18A:6-14

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**ASSEMBLY, No. 1197****STATE OF NEW JERSEY**

INTRODUCED MAY 3, 1982

By Assemblymen MAZUR, JANISZEWSKI, BROWN and ROCCO

Referred to Committee on Higher Education and  
Regulated ProfessionsAN ACT concerning education and supplementing Title 18A of the  
New Jersey Statutes.1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. If any *\*tenured\** professor, associate professor, assistant pro-  
2 fessor, instructor, supervisor, registrar, teacher or other person  
3 employed in a teaching capacity or any other tenured officer or  
4 employee in any State college, county college or industrial school or  
5 any other officer or employee of the college or school who is subject  
6 to dismissal only in the manner prescribed by subarticle B of article  
7 2 of chapter 6 of Title 18A of the New Jersey Statutes, is suspended  
8 pending the determination of any charge against him\*\*, *other than*  
9 *for an indictment under the laws of the United States or the State*  
10 *of New Jersey,\*\** and should the determination of the charge not be  
11 made within **\*\*[120]\*\*** *\*\*180\*\** days after it is filed with the board  
12 of trustees of said college or school, excluding all delays which are  
13 granted at the request of such person, the full salary (except for  
14 said **\*\*[120]\*\*** *\*\*180\*\** days) of such person shall be paid  
15 beginning on the **\*\*[121st]\*\*** *\*\*181st\*\** day until a determination  
16 *\*\*by the board of trustees\*\** is made. If the charge is dismissed, the  
17 person shall be reinstated immediately with full pay from the first  
18 day of the suspension. If the charge is dismissed and the suspen-  
19 sion is continued during an appeal therefrom, then the person's  
20 full pay or salary shall continue until the determination of the  
21 appeal. However, the board of trustees shall deduct from the full

**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 printed in italics thus is new matter.****Matter enclosed in asterisks or stars has been adopted as follows:****\*—Assembly committee amendment adopted June 17, 1982.****\*\*—Assembly amendments adopted in accordance with Governor's recom-  
mendations March 14, 1983.**

22 pay or salary any sums received by way of pay or salary from any  
23 substituted employment assumed during the period of suspension.  
24 If the charge is sustained on the original hearing or an appeal there-  
25 from, and the determination is appealed, then the **\*\*salary\*\***  
26 suspension may be continued **\*\*reinstated or instituted\*\*** unless  
27 and until the determination is reversed, in which event the sus-  
28 pended person shall be reinstated immediately with full pay as of  
29 the time of suspension. **\*\*If the charges are sustained, the employer**  
30 **may recover any salary which was paid to the employee during**  
31 **the period of suspension.\*\***

1 2. This act shall take effect immediately.

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ASSEMBLY, No. 1197

STATE OF NEW JERSEY

INTRODUCED MAY 3, 1982

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AN ACT concerning education and supplementing Title 18A of the  
New Jersey Statutes.

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

1 1. If any professor, associate professor, assistant professor, in-  
2 structor, supervisor, registrar, teacher or other person employed  
3 in a teaching capacity or any other tenured officer or employee in  
4 any State college, county college or industrial school or any other  
5 officer or employee of the college or school who is subject to dis-  
6 missal only in the manner prescribed by subarticle B of article  
7 2 of chapter 6 of Title 18A of the New Jersey Statutes, is suspended  
8 pending the determination of any charge against him and should  
9 the determination of the charge not be made within 120 days after  
10 it is filed with the board of trustees of said college or school, ex-  
11 cluding all delays which are granted at the request of such person,  
12 the full salary (except for said 120 days) of such person shall be  
13 paid beginning on the 121st day until a determination is made.  
14 If the charge is dismissed, the person shall be reinstated immedi-  
15 ately with full pay from the first day of the suspension. If the  
16 charge is dismissed and the suspension is continued during an  
17 appeal therefrom, then the person's full pay or salary shall con-  
18 tinue until the determination of the appeal. However, the board of  
19 trustees shall deduct from the full pay or salary any sums received  
20 by way of pay or salary from any substituted employment assumed  
21 during the period of suspension. If the charge is sustained on the  
22 original hearing or an appeal therefrom, and the determination is

23 appealed, then the suspension may be continued unless and until the  
24 determination is reversed, in which event the suspended person  
25 shall be reinstated immediately with full pay as of the time of  
26 suspension.

1 2. This act shall take effect immediately.

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STATEMENT

The purpose of this legislation is to provide that when any tenured professional staff member of a State or county college is under suspension pending the determination of any charge against him or her and that determination is not made within 120 days after it is filed, then the full salary of such person (except for the 120 days) shall be paid beginning on the 121st day until such determination is made. This legislation is similar to present statute protecting teaching staff members in public school districts.

A1197(1982)

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ASSEMBLY, No. 1197

STATE OF NEW JERSEY

INTRODUCED MAY 3, 1982

By Assemblymen MAZUR, JANISZEWSKI, BROWN and ROCCO

Referred to Committee on Higher Education and  
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AN ACT concerning education and supplementing Title 18A of the  
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1 BE IT ENACTED *by the Senate and General Assembly of the State*  
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1 1. If any *\*tenured\** professor, associate professor, assistant pro-  
2 fessor, instructor, supervisor, registrar, teacher or other person  
3 employed in a teaching capacity or any other tenured officer or  
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8 pending the determination of any charge against him and should  
9 the determination of the charge not be made within 120 days after  
10 it is filed with the board of trustees of said college or school, ex-  
11 cluding all delays which are granted at the request of such person,  
12 the full salary (except for said 120 days) of such person shall be  
13 paid beginning on the 121st day until a determination is made.  
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15 ately with full pay from the first day of the suspension. If the  
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17 appeal therefrom, then the person's full pay or salary shall con-  
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19 trustees shall deduct from the full pay or salary any sums received  
20 by way of pay or salary from any substituted employment assumed  
21 during the period of suspension. If the charge is sustained on the

**Matter printed in italics thus is new matter.**

**Matter enclosed in asterisks or stars has been adopted as follows:**

**\*—Assembly committee amendment adopted June 17, 1982.**

22 original hearing or an appeal therefrom, and the determination is  
23 appealed, then the suspension may be continued unless and until the  
24 determination is reversed, in which event the suspended person  
25 shall be reinstated immediately with full pay as of the time of  
26 suspension.

1     2. This act shall take effect immediately.

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ASSEMBLY HIGHER EDUCATION AND REGULATED  
PROFESSIONS COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 1197**

with Assembly committee amendments

**STATE OF NEW JERSEY**

DATED: JUNE 17, 1982

Assembly Bill No. 1197 provides that any tenured professional, officer or employee of a state or county college or industrial school who is suspended pending determination of a charge and that determination is not made within 120 days, shall receive full pay as of the 121st day until the determination is made. If the charge is dismissed but the suspension is continued during appeal, salary shall continue during that period. The board of trustees of the school is to deduct from the individual's salary money equal to any pay received from substituted employment during the period of suspension.

The committee amended the bill to clarify that it is only *tenured* school employees who enjoy this right.



SENATE EDUCATION COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 1197**

**STATE OF NEW JERSEY**

DATED: DECEMBER 13, 1982

The Senate Education Committee favorably reports this bill and endorses the Assembly Committee Statement, which reads as follows:

“Assembly Bill No. 1197 provides that any tenured professional, officer or employee of a state or county college or industrial school who is suspended pending determination of a charge and that determination is not made within 120 days, shall receive full pay as of the 121st day until the determination is made. If the charge is dismissed but the suspension is continued during appeal, salary shall continue during that period. The board of trustees of the school is to deduct from the individual's salary money equal to any pay received from substituted employment during the period of suspension.

The committee amended the bill to clarify that it is only *tenured* school employees who enjoy this right.”

March 14, 1983

ASSEMBLY BILL NO. 1197 (OCR)

To the General Assembly:

Pursuant to Article V, Section 1, Paragraph 14 of the Constitution, I herewith return Assembly Bill No. 1197 (OCR) with my recommendations for reconsideration.

The purpose of this bill is to provide that any tenured professional, officer, or employee of a State or county college or industrial school who is suspended pending determination of a charge which is not determined within 120 days shall receive full salary as of the 121st day until the determination is made, excluding delays at the request of the charged person. If the charge is dismissed but the suspension is continued during appeal, salary shall continue during that period. Any pay received from substitute employment during this period will be deducted from the individual's salary. If the charge is dismissed, the individual shall be reinstated with full pay from the first day of suspension.

My concerns with this bill are fivefold:

1. It is my understanding that suspended professors and other school employees are sometimes the subject of State or federal investigations. In such instances, it is customary for the prosecutor to request that the college not press its case so that the criminal case against the employee is not impaired. I feel it is unfair to require the college to pay an employee during this potentially lengthy period.

2. The bill states that full payment of salary will be made from the 121st day following suspension until the determination is made, but does not specify by whom this determination shall be made. There are numerous levels of appeal available to an employee, and a determination is made at every one of these levels. The language of the bill should be amended to specify that this determination is the one made by the Board of Trustees of the college. This will clarify the current ambiguity in the bill and make this provision comparable to the corresponding provision in the statute granting these rights to public school teachers.

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

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3. This bill, as written, requires that a suspended employee be paid full salary from the 121st day following suspension until a determination is made. If charges against an employee are sustained after the 121st day, the employee will receive full salary during the entire appeal process, even if the charges are sustained on every successive level. The bill should be amended to provide that payment of salary will cease upon the first determination which sustains the charges.

4. Although an employee whose suspension or dismissal is overturned is reinstated with full salary from the date of suspension, an employee against whom charges are sustained is not required to reimburse the college for salary received during a justified suspension. This permits an employee against whom a determination of guilt has been made to continue to draw salary throughout a lengthy appeal process, and encourages the practice of filing spurious appeals. There should be a provision in this bill providing for the reimbursement by an employee against whom charges have been sustained for all salary payments made after the 181st day of suspension

5. The 120 day time period during which a determination must be made is wholly inadequate and unrealistic. Studies have indicated that, due to various administrative delays and due process time requirements which are not the fault of the Department of Higher Education, the 120 day limit is rarely met. I have been informed that 180 days is a more realistic and attainable figure. Accordingly, the bill should be amended to extend the period during which a determination must be made from 120 days to 180 days.

Accordingly, I herewith return Assembly Bill No. 1197 (OCR) and recommend that it be amended as follows:

Page 1, Section 1, Line 8: After "against him" insert ", other than for an indictment under the laws of the United States or the State of New Jersey,"

Page 1, Section 1, Line 9: Delete "120" insert "180"

Page 1, Section 1, Line 12: Delete "120" insert "180"

Page 1, Section 1, Line 13: Delete "121st" insert "181st"

Page 1, Section 1, Line 13: After "determination" insert "by the Board of Trustees"

Page 2, Section 1, Line 23: After "appealed, then the" insert "salary"

Page 2, Section 1, Line 23: After "continued" insert ", reinstated or  
instituted"

Page 2, Section 1, Line 26: After "suspension." insert "If the charges  
are sustained the employer may recover any salary which was paid to the  
employee during the period of suspension."

Respectfully,

/s/ Thomas H. Kean  
GOVERNOR

[seal]

/s/ W. Cary Edwards

Chief Counsel