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**REPORTS:**

No

**HEARINGS:**

No

**NEWSPAPER ARTICLES:**

No

LAW

§1 - C.18A:6-9.1  
§2 - C.18A:6-38.4  
§3 –  
C.18A:12-29.1  
§4 - C.18A:6-9.2  
§6 - Note to §§1-3  
§7 - Repealer

P.L. 2008, CHAPTER 36, *approved July 7, 2008*  
Assembly, No. 45 (*First Reprint*)

1 **AN ACT** concerning controversies and disputes arising under the  
2 school laws <sup>1</sup>**[and]** <sup>1</sup> supplementing chapters 6 and 12 of Title  
3 18A of the New Jersey Statutes <sup>1</sup>, amending P.L.1991, c.393, and  
4 repealing parts of the statutory law<sup>1</sup>.

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

8  
9 1. a. Notwithstanding the provisions of any law or regulation to  
10 the contrary, on and after the effective date of this act  
11 determinations made by the Commissioner of Education in all  
12 controversies and disputes arising under the school laws shall be  
13 considered to be final agency action under the “Administrative  
14 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), and appeal of  
15 that action shall be directly to the Appellate Division of the  
16 Superior Court.

17 b. For all cases pending before the State Board of Education on  
18 the effective date of this act for which the State board has not  
19 rendered a decision, the decision of the commissioner shall be  
20 deemed to be the final agency action under the “Administrative  
21 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.). Any appeal  
22 of the commissioner’s decision to the Appellate Division of the  
23 Superior Court shall be filed within 45 days of the effective date of  
24 this act.

25 <sup>1</sup>c. Any request for relief arising out of a State Board of  
26 Education decision rendered prior to the effective date of this act  
27 pursuant to the “Administrative Procedure Act,” P.L.1968, c.410  
28 (C.52:14B-1 et seq.), shall be considered and determined by the  
29 commissioner.<sup>1</sup>

30  
31 2. Notwithstanding the provisions of any law or regulation to the  
32 contrary, any appeal of a determination of the State Board of  
33 Examiners shall be to the Commissioner of Education whose  
34 determination shall be a final agency action under 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.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SED committee amendments adopted June 5, 2008.

1 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et  
2 seq.), and appeal of that action shall be directly to the Appellate  
3 Division of the Superior Court.

4  
5 3. Notwithstanding the provisions of any law or regulation to the  
6 contrary, any appeal of a determination of the School Ethics  
7 Commission shall be to the Commissioner of Education whose  
8 determination shall be a final agency action under the  
9 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et  
10 seq.), and appeal of that action shall be directly to the Appellate  
11 Division of the Superior Court.

12  
13 <sup>1</sup>4. Notwithstanding the provisions of any law or regulation to  
14 the contrary, on and after the effective date of this act the State  
15 Board of Education shall have no authority to consider an appeal  
16 from any commissioner determination.<sup>1</sup>

17  
18 <sup>1</sup>5. Section 9 of P.L.1991, c.393 (C.18A:12-29) is amended to  
19 read as follows:

20 9. a. Any person, including a member of the commission, may  
21 file a complaint alleging a violation of the provisions of this act or  
22 the Code of Ethics for School Board Members as set forth in section  
23 5 of P.L.2001, c.178 (C.18A:12-24.1), by submitting it, on a form  
24 prescribed by the commission, to the commission. No complaint  
25 shall be accepted by the commission unless it has been signed under  
26 oath by the complainant. If a member of the commission submits  
27 the complaint, the member shall not participate in any subsequent  
28 proceedings on that complaint in the capacity of a commission  
29 member. If a commission member serves on the school board of, or  
30 is employed by, the school district which employs or on whose  
31 board the school official named in the complaint serves, the  
32 commission member shall not participate in any subsequent  
33 proceedings on that complaint.

34 b. Upon receipt of a complaint, the commission shall serve a  
35 copy of the complaint on each school official named therein and  
36 shall provide each named school official with the opportunity to  
37 submit a written statement under oath. The commission shall  
38 thereafter decide by majority vote whether probable cause exists to  
39 credit the allegations in the complaint. If the commission decides  
40 that probable cause does not exist, it shall dismiss the complaint and  
41 shall so notify the complainant and any school official named in the  
42 complaint. The dismissal shall constitute final agency action. If the  
43 commission determines that probable cause exists, it shall refer the  
44 matter to the Office of Administrative Law for a hearing to be  
45 conducted in accordance with the "Administrative Procedure Act,"  
46 P.L.1968, c.410 (C.52:14B-1 et seq.), and shall so notify the  
47 complainant and each school official named in the complaint.

1 In making a determination regarding an alleged violation of the  
2 Code of Ethics for School Board Members, the burden of proof  
3 shall be on the accusing party to establish factually a violation of  
4 the code. A decision regarding a complaint alleging violations of  
5 the code shall be rendered by the commission within 90 days of the  
6 receipt of the complaint by the commission.

7 c. Upon completion of the hearing, the commission, by  
8 majority vote, shall determine whether the conduct complained of  
9 constitutes a violation of this act, or in the case of a board member,  
10 this act or the code of ethics, or whether the complaint should be  
11 dismissed. If a violation is found, the commission shall, by majority  
12 vote, recommend to the commissioner the reprimand, censure,  
13 suspension, or removal of the school official found to have violated  
14 this act, or in the case of a board member, this act or the code of  
15 ethics. The commission shall state in writing its findings of fact  
16 and conclusions of law. The commissioner shall then act on the  
17 commission's recommendation regarding the sanction.

18 d. Any appeal of the commission's determination regarding a  
19 violation of this act, or in the case of a board member, this act or the  
20 code of ethics, and of the commissioner's decision regarding the  
21 sanction shall be **【to the State Board of Education】** in accordance  
22 with **【Title 18A of the New Jersey Statutes】** the provisions of  
23 P.L. , c. (C. ) (pending before the Legislature as this bill).

24 e. If prior to the hearing the commission determines, by  
25 majority vote, that the complaint is frivolous, the commission may  
26 impose on the complainant a fine not to exceed \$500. The standard  
27 for determining whether a complaint is frivolous shall be the same  
28 as that provided in subsection b. of section 1 of P.L.1988, c.46  
29 (C.2A:15-59.1).

30 f. Notwithstanding the provisions of subsections c. and d. of  
31 this section, the commission shall be authorized to determine and  
32 impose the appropriate sanction including reprimand, censure,  
33 suspension or removal of any school official found to have violated  
34 this act who is an officer or employee of the New Jersey School  
35 Boards Association. Any action of the commission regarding a  
36 violation of P.L.1991, c.393 (C.18A:12-21 et seq.) or the sanction  
37 to be imposed in the event that the school official involved is an  
38 officer or employee of the New Jersey School Boards Association  
39 shall be considered final agency action and an appeal of that action  
40 shall be directly to the Appellate Division of the Superior Court.<sup>1</sup>  
41 (cf: P.L.2001, c.178, s.4)

42  
43 <sup>1</sup>**【4.】** 6.<sup>1</sup> Notwithstanding any provision of P.L.1968, c.410  
44 (C.52:14B-1 et seq.) to the contrary, the Commissioner of  
45 Education may adopt, immediately upon filing with the Office of  
46 Administrative Law, such rules and regulations as the commissioner  
47 deems necessary to implement the provisions of P.L. , c. (C. )  
48 (pending before the Legislature as this bill). The rules and

1 regulations adopted by the commissioner shall expire no later than  
2 12 months following the effective date of P.L. , c. (C. ) (pending  
3 before the Legislature as this bill). Rules and regulations shall  
4 thereafter be amended, adopted, or re-adopted by the commissioner  
5 pursuant to the “Administrative Procedure Act,” P.L.1968, c.410  
6 (C.52:14B-1 et seq.).

7

8 **'[5.] 7.'** The following sections are repealed:

9

10 N.J.S.18A:6-26 through N.J.S.18A:6-29.

11

12 **'[6.] 8.'** This act shall take effect immediately.

13

14

15

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17 \_\_\_\_\_  
18 Eliminates role of State Board of Education in the appeal of  
19 Commissioner of Education decisions in disputes arising under the  
State school laws.

**ASSEMBLY, No. 45**

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**STATE OF NEW JERSEY**

**213th LEGISLATURE**

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INTRODUCED MAY 12, 2008

**Sponsored by:**

**Assemblyman JOSEPH CRYAN**

**District 20 (Union)**

**Assemblyman SCOTT T. RUMANA**

**District 40 (Bergen, Essex and Passaic)**

**Assemblyman PAUL D. MORIARTY**

**District 4 (Camden and Gloucester)**

**Assemblyman JOSEPH R. MALONE, III**

**District 30 (Burlington, Mercer, Monmouth and Ocean)**

**Co-Sponsored by:**

**Assemblyman Wisniewski**

**SYNOPSIS**

Eliminates role of State Board of Education in the appeal of Commissioner of Education decisions in disputes arising under the State school laws.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 5/20/2008)**

1 AN ACT concerning controversies and disputes arising under the  
2 school laws and supplementing chapters 6 and 12 of Title 18A of  
3 the New Jersey Statutes.

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

7  
8 1. a. Notwithstanding the provisions of any law or regulation to  
9 the contrary, on and after the effective date of this act  
10 determinations made by the Commissioner of Education in all  
11 controversies and disputes arising under the school laws shall be  
12 considered to be final agency action under the “Administrative  
13 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), and appeal of  
14 that action shall be directly to the Appellate Division of the  
15 Superior Court.

16 b. For all cases pending before the State Board of Education on  
17 the effective date of this act for which the State board has not  
18 rendered a decision, the decision of the commissioner shall be  
19 deemed to be the final agency action under the “Administrative  
20 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.). Any appeal  
21 of the commissioner’s decision to the Appellate Division of the  
22 Superior Court shall be filed within 45 days of the effective date of  
23 this act.

24  
25 2. Notwithstanding the provisions of any law or regulation to the  
26 contrary, any appeal of a determination of the State Board of  
27 Examiners shall be to the Commissioner of Education whose  
28 determination shall be a final agency action under the  
29 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et  
30 seq.), and appeal of that action shall be directly to the Appellate  
31 Division of the Superior Court.

32  
33 3. Notwithstanding the provisions of any law or regulation to the  
34 contrary, any appeal of a determination of the School Ethics  
35 Commission shall be to the Commissioner of Education whose  
36 determination shall be a final agency action under the  
37 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et  
38 seq.), and appeal of that action shall be directly to the Appellate  
39 Division of the Superior Court.

40  
41 4. Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-  
42 1 et seq.) to the contrary, the Commissioner of Education may  
43 adopt, immediately upon filing with the Office of Administrative  
44 Law, such rules and regulations as the commissioner deems  
45 necessary to implement the provisions of P.L. , c. (C. ) (pending  
46 before the Legislature as this bill). The rules and regulations  
47 adopted by the commissioner shall expire no later than 12 months  
48 following the effective date of P.L. , c. (C. ) (pending before the



1 Legislature as this bill). Rules and regulations shall thereafter be  
2 amended, adopted, or re-adopted by the commissioner pursuant to  
3 the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1  
4 et seq.).

5

6 5. The following sections are repealed:  
7 N.J.S.18A:6-26 through N.J.S.18A:6-29.

8

9 6. This act shall take effect immediately.

10

11

12

#### STATEMENT

13

14 Under current law the Commissioner of Education hears and  
15 decides controversies and disputes that arise under the State school  
16 laws. Those decisions may be appealed to the State Board of  
17 Education, which is the ultimate administrative fact-finder and  
18 decision-maker in matters arising under the education laws, and  
19 thereafter to the courts. Under this bill an appeal of a  
20 commissioner’s decision would go directly to the Appellate  
21 Division of the Superior Court.

22 The bill also provides that after an appeal of a determination by  
23 the School Ethics Commission or the State Board of Examiners the  
24 commissioner’s decision would be considered final agency action  
25 appealable directly to the Appellate Division of the Superior Court.

ASSEMBLY EDUCATION COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 45**

**STATE OF NEW JERSEY**

DATED: MAY 12, 2008

The Assembly Education committee favorably reports Assembly Bill No. 45.

Under current law the Commissioner of Education hears and decides controversies and disputes that arise under the State school laws. Those decisions may be appealed to the State Board of Education, which is the ultimate administrative fact-finder and decision-maker in matters arising under the education laws, and thereafter to the courts. Under this bill an appeal of a commissioner's decision would go directly to the Appellate Division of the Superior Court.

The bill also provides that after an appeal of a determination by the School Ethics Commission or the State Board of Examiners the commissioner's decision would be considered final agency action appealable directly to the Appellate Division of the Superior Court.

# SENATE EDUCATION COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 45**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 5, 2008

The Senate Education Committee favorably reports Assembly Bill No. 45 with committee amendments.

Under current law the Commissioner of Education hears and decides controversies and disputes that arise under the State school laws. Those decisions may be appealed to the State Board of Education, which is the ultimate administrative fact-finder and decision-maker in matters arising under the education laws, and thereafter to the courts. As amended, under this bill an appeal of a commissioner's decision would go directly to the Appellate Division of the Superior Court.

The bill also provides that after an appeal of a determination by the School Ethics Commission or the State Board of Examiners the commissioner's decision would be considered final agency action appealable directly to the Appellate Division of the Superior Court.

The bill repeals various sections of law concerning the conduct of appeals to the State board.

The committee amended the bill to clarify that all decisions of the commissioner that may currently be appealed to the State board, not just those appeals made pursuant to the provisions of the "Administrative Procedure Act," will no longer be subject to such appeal. The amendments also provide that any request for relief arising out a State Board of Education decision rendered prior to the bill's effective date pursuant to the "Administrative Procedure Act" will be considered and determined by the commissioner. The amendments clarify that the procedure for appeals in regard to the "School Ethics Act" will be conducted in accordance with the provisions of this bill.

As amended and reported by the committee, this bill is identical to Senate Bill No. 1912 with committee amendments which also was reported by the committee on this same date.

**SENATE, No. 1912**

**STATE OF NEW JERSEY**  
**213th LEGISLATURE**

INTRODUCED MAY 22, 2008

**Sponsored by:**  
**Senator SHIRLEY K. TURNER**  
**District 15 (Mercer)**

**SYNOPSIS**

Eliminates role of State Board of Education in the appeal of Commissioner of Education decisions in disputes arising under the State school laws.

**CURRENT VERSION OF TEXT**

As introduced.



S1912 TURNER

2

1 AN ACT concerning controversies and disputes arising under the  
2 school laws and supplementing chapters 6 and 12 of Title 18A of  
3 the New Jersey Statutes.

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

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8 1. a. Notwithstanding the provisions of any law or regulation to  
9 the contrary, on and after the effective date of this act  
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11 controversies and disputes arising under the school laws shall be  
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13 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), and appeal of  
14 that action shall be directly to the Appellate Division of the  
15 Superior Court.

16 b. For all cases pending before the State Board of Education on  
17 the effective date of this act for which the State board has not  
18 rendered a decision, the decision of the commissioner shall be  
19 deemed to be the final agency action under the “Administrative  
20 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.). Any appeal  
21 of the commissioner’s decision to the Appellate Division of the  
22 Superior Court shall be filed within 45 days of the effective date of  
23 this act.

24  
25 2. Notwithstanding the provisions of any law or regulation to the  
26 contrary, any appeal of a determination of the State Board of  
27 Examiners shall be to the Commissioner of Education whose  
28 determination shall be a final agency action under the  
29 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et  
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31 Division of the Superior Court.

32  
33 3. Notwithstanding the provisions of any law or regulation to the  
34 contrary, any appeal of a determination of the School Ethics  
35 Commission shall be to the Commissioner of Education whose  
36 determination shall be a final agency action under the  
37 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et  
38 seq.), and appeal of that action shall be directly to the Appellate  
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41 4. Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-  
42 1 et seq.) to the contrary, the Commissioner of Education may  
43 adopt, immediately upon filing with the Office of Administrative  
44 Law, such rules and regulations as the commissioner deems  
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46 before the Legislature as this bill). The rules and regulations  
47 adopted by the commissioner shall expire no later than 12 months  
48 following the effective date of P.L. , c. (C. ) (pending before the

1 Legislature as this bill). Rules and regulations shall thereafter be  
2 amended, adopted, or re-adopted by the commissioner pursuant to  
3 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1  
4 et seq.).

5

6 5. The following sections are repealed:  
7 N.J.S.18A:6-26 through N.J.S.18A:6-29.

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9 6. This act shall take effect immediately.

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STATEMENT

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14 Under current law the Commissioner of Education hears and  
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17 Education, which is the ultimate administrative fact-finder and  
18 decision-maker in matters arising under the education laws, and  
19 thereafter to the courts. Under this bill an appeal of a  
20 commissioner's decision would go directly to the Appellate  
21 Division of the Superior Court.

22 The bill also provides that after an appeal of a determination by  
23 the School Ethics Commission or the State Board of Examiners the  
24 commissioner's decision would be considered final agency action  
25 appealable directly to the Appellate Division of the Superior Court.

# SENATE EDUCATION COMMITTEE

## STATEMENT TO

### **SENATE, No. 1912**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 5, 2008

The Senate Education Committee favorably reports Senate Bill No. 1912 with committee amendments.

Under current law the Commissioner of Education hears and decides controversies and disputes that arise under the State school laws. Those decisions may be appealed to the State Board of Education, which is the ultimate administrative fact-finder and decision-maker in matters arising under the education laws, and thereafter to the courts. As amended, under this bill an appeal of a commissioner's decision would go directly to the Appellate Division of the Superior Court.

The bill also provides that after an appeal of a determination by the School Ethics Commission or the State Board of Examiners the commissioner's decision would be considered final agency action appealable directly to the Appellate Division of the Superior Court.

The bill repeals various sections of law concerning the conduct of appeals to the State board.

The committee amended the bill to clarify that all decisions of the commissioner that may currently be appealed to the State board, not just those appeals made pursuant to the provisions of the "Administrative Procedure Act," will no longer be subject to such appeal. The amendments also provide that any request for relief arising out a State Board of Education decision rendered prior to the bill's effective date pursuant to the "Administrative Procedure Act" will be considered and determined by the commissioner. The amendments clarify that the procedure for appeals in regard to the "School Ethics Act" will be conducted in accordance with the provisions of this bill.

As amended and reported by the committee, this bill is identical to Assembly Bill No. 45 with committee amendments which also was reported by the committee on this same date.