S T A T E O F N E W Y O R K

1592

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. ENGLEBRIGHT, COLTON, EDDINGTON -- Multi-Sponsored by -- M. of A. CLARK, HOOPER, McENENY, PERRY, J. RIVERA -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to establishing the office of ombudsman for public schools

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The education law is amended by adding a new section 103-a to read as follows:

S 103-A. OFFICE OF OMBUDSMAN FOR PUBLIC SCHOOLS. 1. THE OFFICE OF OMBUDSMAN FOR PUBLIC SCHOOLS IS HEREBY CREATED WITHIN THE DEPARTMENT TO INDEPENDENTLY INVESTIGATE COMPLAINTS OF ENVIRONMENTAL, HEALTH AND SAFETY VIOLATIONS AND CONCERNS IN PUBLIC SCHOOLS; AND TO PROVIDE INFORMATION TO THE PUBLIC ON HOW TO FILE SUCH COMPLAINTS AND THE REQUIREMENTS THAT PUBLIC SCHOOLS MUST COMPLY WITH RELATING TO ENVIRONMENTAL, HEALTH AND SAFETY ISSUES. SUCH OFFICE SHALL ACT INDEPENDENTLY OF THE DEPARTMENT, AND SHALL NOT BE SUBJECT TO THE CONTROL OR SUPERVISION OF THE REGENTS, DEPARTMENT OR COMMISSIONER. THE OFFICE OF THE OMBUDSMAN SHALL BE SUBJECT TO THE CONTROL AND SUPERVISION OF THE BOARD THEREOF.

2. THE BOARD OF THE OFFICE OF OMBUDSMAN FOR PUBLIC SCHOOLS SHALL BE COMPOSED OF NINE MEMBERS TO BE APPOINTED BY THE REGENTS. THE MEMBERS OF SUCH BOARD SHALL EACH SERVE A TERM OF OFFICE OF FIVE YEARS; PROVIDED, HOWEVER, THAT THE INITIAL APPOINTEES TO THE BOARD SHALL SERVE THE FOLLOWING TERMS OF OFFICE: TWO MEMBERS SHALL SERVE TERMS OF ONE YEAR; TWO MEMBERS SHALL SERVE TERMS OF TWO YEARS; TWO MEMBERS SHALL SERVE TERMS OF THREE YEARS; TWO MEMBERS SHALL SERVE TERMS OF FOUR YEARS; AND ONE MEMBER SHALL SERVE A TERM OF FIVE YEARS. THE MEMBERS OF SUCH BOARD SHALL BE BROADLY REPRESENTATIVE OF THE GEOGRAPHIC AREAS OF THE STATE, AND SHALL HAVE EXPRESSED AN ACTIVE INTEREST IN OR OBTAINED PROFESSIONAL KNOWLEDGE IN ENVIRONMENTAL, HEALTH AND SAFETY CONDITIONS IN PUBLIC

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD04759-01-9

SCHOOLS. THE CHAIR OF THE BOARD SHALL BE DESIGNATED BY THE BOARD FROM AMONGST ITS MEMBERS. VACANCIES IN THE MEMBERSHIP OF THE BOARD SHALL BE FILLED IN THE MANNER PROVIDED FOR ORIGINAL APPOINTMENTS. THE MEMBERS OF THE BOARD SHALL RECEIVE NO COMPENSATION FOR THEIR SERVICES, BUT SHALL BE ALLOWED THEIR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES PURSUANT TO THIS SECTION.

3. THE BOARD OF THE OFFICE OF OMBUDSMAN FOR PUBLIC SCHOOLS SHALL HAVE A QUORUM OF SIX MEMBERS FOR THE CONDUCT OF BUSINESS. SUCH BOARD SHALL ALSO:

A. PROMULGATE RULES AND REGULATIONS NECESSARY TO EXERCISE THE POWERS AND DUTIES OF THE OFFICE OF OMBUDSMAN FOR PUBLIC SCHOOLS;

B. EMPLOY AND AT PLEASURE REMOVE AN EXECUTIVE DIRECTOR AND SUCH OTHER PERSONNEL AS IT MAY DEEM NECESSARY FOR THE PERFORMANCE OF SUCH OFFICE'S FUNCTIONS, AND FIX THEIR COMPENSATION WITHIN THE AMOUNTS MADE AVAILABLE THEREFOR;

C. HOLD PUBLIC HEARINGS;

D. HAVE ALL THE POWERS OF A LEGISLATIVE COMMITTEE PURSUANT TO THE LEGISLATIVE LAW;

E. BE ENTITLED TO REQUEST AND RECEIVE AND SHALL UTILIZE AND BE PROVIDED WITH SUCH FACILITIES, RESOURCES AND DATA OF THE DEPARTMENT AS IT MAY REASONABLY REQUEST TO CARRY OUT PROPERLY ITS POWERS AND DUTIES, AND THOSE OF THE OFFICE;

F. BE ENTITLED TO REQUEST AND RECEIVE AND SHALL UTILIZE AND BE PROVIDED WITH SUCH RESOURCES, DATA AND INFORMATION OF THE DEPARTMENT OF HEALTH AND THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION AS IT MAY REASONABLY REQUEST TO CARRY OUT PROPERLY IT POWERS AND DUTIES, AND THOSE OF THE OFFICE;

G. BE ENTITLED TO REQUEST AND RECEIVE AND SHALL UTILIZE AND BE PROVIDED WITH SUCH RESOURCES, DATA AND INFORMATION BY ANY SCHOOL DISTRICT AS IT MAY REASONABLY REQUEST TO PROPERLY CONDUCT AN INVESTIGATION OF A COMPLAINT PURSUANT TO THIS SECTION;

H. ESTABLISH AND OPERATE A TOLL-FREE TELEPHONE NUMBER AND AN INTERNET WEBSITE AT WHICH INTERESTED PERSONS CAN OBTAIN INFORMATION ON HOW TO FILE A COMPLAINT WITH THE OFFICE AND INFORMATION ON THE ENVIRONMENTAL, HEALTH AND SAFETY REQUIREMENTS FOR PUBLIC SCHOOLS;

I. ESTABLISH AND CONDUCT A PUBLIC INFORMATION CAMPAIGN TO PROVIDE AWARENESS OF THE POWERS AND DUTIES OF SUCH OFFICE;

J. HAVE SUBPOENA POWERS AND THE POWER TO COMPEL THE SWORN TESTIMONY OF ANY WITNESS WHICH THE EXECUTIVE DIRECTOR DEEMS NECESSARY IN THE SCOPE OF ANY INVESTIGATION AUTHORIZED BY THIS SECTION; AND

K. RECEIVE AND INVESTIGATE COMPLAINTS FROM ANY PERSONS RELATING TO ENVIRONMENTAL, HEALTH AND SAFETY ISSUES IN PUBLIC SCHOOLS.

4. THE OFFICE OF OMBUDSMAN FOR PUBLIC SCHOOLS SHALL, NOT LATER THAN SEVEN DAYS AFTER THE RECEIPT OF A COMPLAINT, COMMENCE AN INVESTIGATION OF SUCH COMPLAINT. NOT MORE THAN THIRTY DAYS AFTER COMMENCING AN INVESTIGATION, SUCH OFFICE SHALL SEND A PRELIMINARY WRITTEN REPORT OF THE INITIAL INVESTIGATION TO THE COMPLAINANT. UPON FINAL COMPLETION OF AN INVESTIGATION, THE OFFICE SHALL SEND A FINAL REPORT OF ITS FINDINGS TO THE COMPLAINANT, THE SCHOOL DISTRICT, AND ANY LOCAL, STATE AND/OR FEDERAL AGENCY HAVING JURISDICTION OVER THE ISSUE INVESTIGATED, AND TO THE APPROPRIATE DISTRICT ATTORNEY OR THE ATTORNEY GENERAL IF CRIMINAL VIOLATIONS ARE ALLEGED TO HAVE OCCURRED.

5. ANNUALLY, ON OR BEFORE SEPTEMBER FIRST, THE OFFICE OF OMBUDSMAN FOR PUBLIC SCHOOLS SHALL SUBMIT A REPORT TO THE GOVERNOR, TEMPORARY PRESIDENT OF THE SENATE, SPEAKER OF THE ASSEMBLY AND REGENTS, WHICH SHALL INCLUDE THE NUMBER AND TYPES OF COMPLAINTS RECEIVED DURING THE PREVIOUS

SCHOOL YEAR, THE RESULTS OF THE INVESTIGATIONS CONDUCTED DURING THE PREVIOUS SCHOOL YEAR, AND RECOMMENDATIONS FOR THE IMPROVEMENT OF ENVIRONMENTAL, HEALTH AND SAFETY CONDITIONS IN PUBLIC SCHOOLS.

S 2. This act shall take effect on the first of July next succeeding the date on which it shall have become a law.