

3944

2011-2012 Regular Sessions

I N A S S E M B L Y

January 31, 2011

Introduced by M. of A. ENGLEBRIGHT -- 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 ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. The education law is amended by adding a new section 103-a
2 to read as follows:
3 S 103-A. OFFICE OF OMBUDSMAN FOR PUBLIC SCHOOLS. 1. THE OFFICE OF
4 OMBUDSMAN FOR PUBLIC SCHOOLS IS HEREBY CREATED WITHIN THE DEPARTMENT TO
5 INDEPENDENTLY INVESTIGATE COMPLAINTS OF ENVIRONMENTAL, HEALTH AND SAFETY
6 VIOLATIONS AND CONCERNS IN PUBLIC SCHOOLS; AND TO PROVIDE INFORMATION TO
7 THE PUBLIC ON HOW TO FILE SUCH COMPLAINTS AND THE REQUIREMENTS THAT
8 PUBLIC SCHOOLS MUST COMPLY WITH RELATING TO ENVIRONMENTAL, HEALTH AND
9 SAFETY ISSUES. SUCH OFFICE SHALL ACT INDEPENDENTLY OF THE DEPARTMENT,
10 AND SHALL NOT BE SUBJECT TO THE CONTROL OR SUPERVISION OF THE REGENTS,
11 DEPARTMENT OR COMMISSIONER. THE OFFICE OF THE OMBUDSMAN SHALL BE SUBJECT
12 TO THE CONTROL AND SUPERVISION OF THE BOARD THEREOF.
13 2. THE BOARD OF THE OFFICE OF OMBUDSMAN FOR PUBLIC SCHOOLS SHALL BE
14 COMPOSED OF NINE MEMBERS TO BE APPOINTED BY THE REGENTS. THE MEMBERS OF
15 SUCH BOARD SHALL EACH SERVE A TERM OF OFFICE OF FIVE YEARS; PROVIDED,
16 HOWEVER, THAT THE INITIAL APPOINTEES TO THE BOARD SHALL SERVE THE
17 FOLLOWING TERMS OF OFFICE: TWO MEMBERS SHALL SERVE TERMS OF ONE YEAR;
18 TWO MEMBERS SHALL SERVE TERMS OF TWO YEARS; TWO MEMBERS SHALL SERVE
19 TERMS OF THREE YEARS; TWO MEMBERS SHALL SERVE TERMS OF FOUR YEARS; AND
20 ONE MEMBER SHALL SERVE A TERM OF FIVE YEARS. THE MEMBERS OF SUCH BOARD
21 SHALL BE BROADLY REPRESENTATIVE OF THE GEOGRAPHIC AREAS OF THE STATE,
22 AND SHALL HAVE EXPRESSED AN ACTIVE INTEREST IN OR OBTAINED PROFESSIONAL
23 KNOWLEDGE IN ENVIRONMENTAL, HEALTH AND SAFETY CONDITIONS IN PUBLIC
24 SCHOOLS. THE CHAIR OF THE BOARD SHALL BE DESIGNATED BY THE BOARD FROM
25 AMONGST ITS MEMBERS. VACANCIES IN THE MEMBERSHIP OF THE BOARD SHALL BE

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

LBD05270-01-1

1 FILLED IN THE MANNER PROVIDED FOR ORIGINAL APPOINTMENTS. THE MEMBERS OF
2 THE BOARD SHALL RECEIVE NO COMPENSATION FOR THEIR SERVICES, BUT SHALL BE
3 ALLOWED THEIR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE
4 OF THEIR DUTIES PURSUANT TO THIS SECTION.

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

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

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

14 C. HOLD PUBLIC HEARINGS;

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

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

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

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

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

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

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

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

41 4. THE OFFICE OF OMBUDSMAN FOR PUBLIC SCHOOLS SHALL, NOT LATER THAN
42 SEVEN DAYS AFTER THE RECEIPT OF A COMPLAINT, COMMENCE AN INVESTIGATION
43 OF SUCH COMPLAINT. NOT MORE THAN THIRTY DAYS AFTER COMMENCING AN INVE-
44 TIGATION, SUCH OFFICE SHALL SEND A PRELIMINARY WRITTEN REPORT OF THE
45 INITIAL INVESTIGATION TO THE COMPLAINANT. UPON FINAL COMPLETION OF AN
46 INVESTIGATION, THE OFFICE SHALL SEND A FINAL REPORT OF ITS FINDINGS TO
47 THE COMPLAINANT, THE SCHOOL DISTRICT, AND ANY LOCAL, STATE AND/OR FEDER-
48 AL AGENCY HAVING JURISDICTION OVER THE ISSUE INVESTIGATED, AND TO THE
49 APPROPRIATE DISTRICT ATTORNEY OR THE ATTORNEY GENERAL IF CRIMINAL
50 VIOLATIONS ARE ALLEGED TO HAVE OCCURRED.

51 5. ANNUALLY, ON OR BEFORE SEPTEMBER FIRST, THE OFFICE OF OMBUDSMAN FOR
52 PUBLIC SCHOOLS SHALL SUBMIT A REPORT TO THE GOVERNOR, TEMPORARY PRESI-
53 DENT OF THE SENATE, SPEAKER OF THE ASSEMBLY AND REGENTS, WHICH SHALL
54 INCLUDE THE NUMBER AND TYPES OF COMPLAINTS RECEIVED DURING THE PREVIOUS
55 SCHOOL YEAR, THE RESULTS OF THE INVESTIGATIONS CONDUCTED DURING THE

1 PREVIOUS SCHOOL YEAR, AND RECOMMENDATIONS FOR THE IMPROVEMENT OF ENVI-
2 RONMENTAL, HEALTH AND SAFETY CONDITIONS IN PUBLIC SCHOOLS.
3 S 2. This act shall take effect on the first of July next succeeding
4 the date on which it shall have become a law.