



General Assembly

January Session, 2005

**Raised Bill No. 6576**

LCO No. 2871

\*02871\_\_\_\_\_JUD\*

Referred to Committee on Judiciary

Introduced by:  
(JUD)

**AN ACT CONCERNING THE ESTABLISHMENT OF AN OFFICE OF ADMINISTRATIVE HEARINGS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2005*) There shall be within the  
2 Executive Department an Office of Administrative Hearings for the  
3 purpose of impartial administration and conduct of hearings of  
4 contested cases in accordance with the provisions of sections 1 to 9,  
5 inclusive, and 20 of this act and chapter 54 of the general statutes. A  
6 central office shall be established and, within available appropriations,  
7 one or more regional offices may be established and maintained as the  
8 Chief Administrative Law Judge may determine. Administrative law  
9 judges, assistants and other employees of the Office of Administrative  
10 Hearings shall be exempt from the classified service.

11 Sec. 2. (NEW) (*Effective October 1, 2005*) (a) A Chief Administrative  
12 Law Judge shall be appointed by the Governor, to serve a term  
13 expiring on March 1, 2007. Thereafter, the Governor shall, with the  
14 advice and consent of the General Assembly, appoint the Chief  
15 Administrative Law Judge to serve for a four-year term or until his or  
16 her successor has been appointed and qualified. To be eligible for

17 appointment, the Chief Administrative Law Judge shall have been  
18 admitted to the practice of law in this state for at least ten years and  
19 shall be knowledgeable on the subject of administrative law. The Chief  
20 Administrative Law Judge shall devote full time to the duties of his or  
21 her office and shall not engage in the private practice of law.

22 (b) The Chief Administrative Law Judge may be removed during  
23 his or her term by the Governor for good cause shown.

24 (c) The Chief Administrative Law Judge shall be exempt from the  
25 classified service, shall receive an annual salary in the amount of  
26 eighty-five per cent of the annual salary received by a judge of the  
27 Superior Court and shall be eligible for longevity payments under  
28 section 5-213 of the general statutes.

29 (d) The Chief Administrative Law Judge, administrative law judges,  
30 assistants and other employees of the Office of Administrative  
31 Hearings shall be entitled to the fringe benefits applicable to other state  
32 employees, shall be included under the provisions of chapters 65 and  
33 66 of the general statutes regarding disability and retirement of state  
34 employees and shall receive full retirement credit for each year or  
35 portion thereof for which retirement benefits are paid for service as  
36 such Chief Administrative Law Judge, administrative law judge,  
37 assistant or other employee.

38 Sec. 3. (NEW) (*Effective October 1, 2005*) (a) The Chief Administrative  
39 Law Judge shall be the chief executive officer of the Office of  
40 Administrative Hearings and shall:

41 (1) Have all of the powers specifically granted in the general statutes  
42 and any additional powers that are reasonable and necessary to enable  
43 the Chief Administrative Law Judge to carry out the duties of his or  
44 her office, including, but not limited to, the powers and duties  
45 specified in section 4-8 of the general statutes;

46 (2) Have the power to administer the Office of Administrative

47 Hearings, establish, consolidate, alter or abolish any division or other  
48 unit in said office, appoint the heads of such units and fix their duties,  
49 and establish, consolidate or alter any position in said office;

50 (3) Have the power to appoint, prescribe the duties of and, subject to  
51 the provisions of subsection (e) of section 4 of this act, remove for  
52 cause such administrative law judges, assistants and other employees  
53 as may be necessary for the Office of Administrative Hearings;

54 (4) Have all the powers and duties of an administrative law judge;

55 (5) Develop and implement a program of evaluation of  
56 administrative law judges, including consideration of competence,  
57 productivity and demeanor, to aid the Chief Administrative Law  
58 Judge in the performance of his or her duties and to assist in the  
59 promotion, demotion, removal or transfer of administrative law  
60 judges;

61 (6) Prepare an edited version of a proposed final decision and final  
62 decision that shall not disclose protected information in any case  
63 where any provision of the general statutes, federal law, state or  
64 federal regulations or an order of a court of competent jurisdiction bars  
65 the disclosure of the identity of any person or party or bars the  
66 disclosure of any other information;

67 (7) Collect, compile and prepare statistics and other data with  
68 respect to the operations of the Office of Administrative Hearings and  
69 submit annually to the Governor and the General Assembly a report  
70 on such operations, including, but not limited to, the number of  
71 hearings initiated, the number of proposed final decisions rendered,  
72 the number of partial or total reversals of such decisions by the  
73 agencies, the number of final decisions rendered and the number of  
74 proceedings pending;

75 (8) Study the subject of administrative adjudication in all its aspects  
76 and develop recommendations to promote the goals of impartiality,

77 fairness, uniformity and cost-effectiveness in the administration and  
78 conduct of hearings of contested cases;

79 (9) Adopt regulations, in accordance with chapter 54 of the general  
80 statutes, to carry out the provisions of sections 1 to 9, inclusive, and 20  
81 of this act and sections 4-176e to 4-181a, inclusive, of the general  
82 statutes, as amended by this act, and the policies of the Office of  
83 Administrative Hearings in connection therewith. Such regulations,  
84 with respect to contested cases heard by said office, shall supersede  
85 any inconsistent agency regulations, policies or procedures, except  
86 those mandated by the general statutes or federal law, and shall  
87 include, but not be limited to, standards related to time limits for  
88 agency action in contested cases pursuant to applicable provisions of  
89 the general statutes, and standards for the giving of notices of  
90 hearings, for the scheduling of hearings and for the assignment of  
91 administrative law judges;

92 (10) Develop and maintain a program for the continuing training  
93 and education of administrative law judges and ancillary personnel  
94 and, as far as practicable, assign administrative law judges to enable  
95 them to develop experience in hearing specific types of cases;

96 (11) Index, by name and subject, all written orders and final  
97 decisions and make all indices, proposed final decisions and final  
98 decisions available for public inspection and copying electronically  
99 and to the extent required by the Freedom of Information Act, as  
100 defined in section 1-200 of the general statutes;

101 (12) In the discretion of the Chief Administrative Law Judge, assign  
102 to an administrative law judge, who has been transferred to the Office  
103 of Administrative Hearings pursuant to section 9 of this act but who  
104 has not been admitted to the practice of law in this state for at least ten  
105 years, matters and duties consistent with the experience and expertise  
106 of such administrative law judge, including, but not limited to, finding  
107 facts, conducting hearings, making recommended decisions for  
108 approval by an administrative law judge designated by the Chief

109 Administrative Law Judge, and making proposed final decisions and  
110 final decisions; and

111 (13) Determine whether any contested case referred to the Office of  
112 Administrative Hearings that was assigned to a hearing officer prior to  
113 the effective date of this section shall remain with such hearing officer  
114 or be assigned to an administrative law judge.

115 (b) Any Deputy Chief Administrative Law Judge of the Office of  
116 Administrative Hearings shall be appointed by the Chief  
117 Administrative Law Judge from among the administrative law judges.

118 Sec. 4. (NEW) (*Effective October 1, 2005*) (a) Each administrative law  
119 judge of the Office of Administrative Hearings shall be appointed,  
120 with the advice and consent of the General Assembly, by the Chief  
121 Administrative Law Judge. Each administrative law judge shall have  
122 been admitted to the practice of law in this state for at least ten years  
123 and shall be knowledgeable on the subject of administrative law. The  
124 provisions of this subsection do not apply to human rights referees,  
125 hearing adjudicators and hearing officers transferred to the Office of  
126 Administrative Hearings pursuant to section 9 of this act.

127 (b) An administrative law judge shall receive an annual salary in the  
128 amount of seventy-five per cent of the annual salary received by a  
129 judge of the Superior Court and shall be eligible for longevity  
130 payments under section 5-213 of the general statutes. Each  
131 administrative law judge shall devote full time to the duties of an  
132 administrative law judge and shall not engage in the private practice of  
133 law.

134 (c) The Chief Administrative Law Judge may appoint qualified  
135 individuals to serve as temporary administrative law judges when  
136 administrative law judges are not available or when the Chief  
137 Administrative Law Judge finds that the subject matter or other  
138 circumstances of a specific case requires the appointment of a  
139 temporary administrative law judge having expertise in such subject

140 matter or circumstances. Temporary administrative law judges shall  
141 not be employees of the Office of Administrative Hearings and shall be  
142 compensated for their services on a contractual basis for each hearing  
143 pursuant to a reasonable fee schedule established by the Chief  
144 Administrative Law Judge. Temporary administrative law judges shall  
145 have the same qualifications for appointment as administrative law  
146 judges, as provided in subsection (a) of this section. Any provision of  
147 the general statutes referring to an administrative law judge shall be  
148 deemed to include a temporary administrative law judge, unless the  
149 context otherwise requires.

150 (d) All administrative law judges shall comply with the Code of  
151 Judicial Conduct adopted by the judges of the Superior Court, except  
152 that the Chief Administrative Law Judge shall, by regulation,  
153 determine which provisions of the code are not applicable to a  
154 temporary administrative law judge. The Chief Administrative Law  
155 Judge, on finding a wilful violation of the code by an administrative  
156 law judge, may discipline such administrative law judge by  
157 reprimand, suspension or removal from office.

158 (e) An administrative law judge, assistant or other employee of the  
159 Office of Administrative Hearings removed, suspended, demoted or  
160 subjected to disciplinary action or other adverse employment action  
161 may appeal to the Employees' Review Board in accordance with  
162 chapter 67 of the general statutes.

163 Sec. 5. (NEW) (*Effective October 1, 2005*) (a) All hearings in contested  
164 cases conducted by the Office of Administrative Hearings shall be  
165 conducted by an administrative law judge assigned by the Chief  
166 Administrative Law Judge and shall be conducted in accordance with  
167 sections 1 to 9, inclusive, and 20 of this act and sections 4-176e to 4-  
168 181a of the general statutes, as amended by this act.

169 (b) The Chief Administrative Law Judge shall assign an  
170 administrative law judge to conduct each proceeding that the Office of  
171 Administrative Hearings is required to conduct by any provision of

172 the general statutes. The Chief Administrative Law Judge may assign  
173 an administrative law judge, if requested by an agency or a  
174 municipality, to conduct or assist in a proceeding other than a  
175 proceeding that said office is required to conduct. Any proceeding  
176 conducted for a municipality pursuant to any requirement of the  
177 general statutes or by agreement shall be on a contract basis with the  
178 municipality.

179 (c) Unless different time limits are provided by any provision of the  
180 general statutes for contested cases before an agency, the time limits  
181 provided in sections 4-176e to 4-181a of the general statutes, as  
182 amended by this act, apply to all contested cases conducted by the  
183 Office of Administrative Hearings.

184 Sec. 6. (NEW) (*Effective October 1, 2005*) An administrative law judge  
185 may conduct hearings, settlement conferences and settlement  
186 negotiations held by the Office of Administrative Hearings. If a  
187 contested case is not resolved through mediation or settlement, either  
188 party may proceed to a hearing. An administrative law judge who  
189 attempted to settle or mediate a matter may not thereafter be assigned  
190 to hear the matter. If a contested case is resolved by stipulation, agreed  
191 settlement or consent order to the administrative law judge, the  
192 administrative law judge shall issue an order dismissing the contested  
193 case. The order shall incorporate by reference such stipulation, agreed  
194 settlement or consent order which shall be attached thereto. The order  
195 shall further provide that no findings of fact or conclusions of law have  
196 been made regarding any alleged violations of the law. The order and  
197 stipulation, agreed settlement or consent order may be enforceable by  
198 any party in Superior Court. A party may petition the superior court  
199 for the judicial district of New Britain for enforcement of the order and  
200 stipulation, agreed settlement or consent order and for appropriate  
201 temporary relief or a restraining order.

202 Sec. 7. (NEW) (*Effective October 1, 2005*) (a) Notwithstanding any  
203 provision of law, and except as set forth in subsection (b) of this

204 section, the Office of Administrative Hearings shall conduct hearings  
205 in contested cases and render proposed final decisions or, if authorized  
206 or required by law, final decisions on behalf of agencies designated  
207 pursuant to section 8 of this act and sections 4-61dd, 10-76h, 10-186, 10-  
208 187, 10-233d, 46a-57, 46a-68a, 46a-68h, 46a-68i, 46a-83, 46a-84 and 46a-  
209 86 of the general statutes, as amended by this act, and hearings filed  
210 pursuant to Section 504 of the federal Rehabilitation Act of 1973, 29  
211 USC 791 et seq., involving a local or regional education agency or a  
212 regional vocational technical school and the constituent units of the  
213 state system of higher education.

214 (b) No administrative law judge may be assigned by the Chief  
215 Administrative Law Judge to hear a contested case with respect to:

216 (1) Any hearing that is required by federal law to be conducted by a  
217 specific agency or other hearing authority;

218 (2) Any matter where the head of the agency, or one or more of the  
219 members of a multimember agency, presides at the hearing in a  
220 contested case; or

221 (3) Any matter exempted under sections 4-186 and 4-188a of the  
222 general statutes, as amended by this act, unless a request is made by an  
223 agency and agreed to by the Chief Administrative Law Judge.

224 Sec. 8. (NEW) (*Effective October 1, 2005*) (a) On and after the effective  
225 date of this section, contested cases brought by or before the  
226 Department of Social Services pursuant to chapter 319q of the general  
227 statutes, the Department of Mental Retardation, the Bureau of  
228 Rehabilitation Services within the Department of Social Services and  
229 the Department of Transportation shall be referred to the Office of  
230 Administrative Hearings for hearing.

231 (b) On and after the effective date of this section, contested cases  
232 brought by or before the Department of Consumer Protection shall be  
233 referred to the Office of Administrative Hearings for hearing, except

234 for contested cases involving licensing that are heard by the  
235 Commissioner of Consumer Protection.

236 (c) (1) Notwithstanding the provisions of section 20-8a of the general  
237 statutes, on and after the effective date of this section, all statements of  
238 charges regarding a physician brought by the Department of Public  
239 Health pursuant to section 20-13e of the general statutes shall be  
240 referred to the Office of Administrative Hearings for hearing and final  
241 decision.

242 (2) On and after the effective date of this section, contested cases  
243 brought by or before the Department of Public Health shall be referred  
244 to the Office of Administrative Hearings for hearing, except for  
245 contested cases that are heard by multimember professional licensing  
246 boards, but not including such contested cases that are required to be  
247 referred pursuant to subdivision (1) of this subsection.

248 (d) Notwithstanding the provisions of subsection (b) of section 1-82  
249 of the general statutes and subsection (b) of section 1-93 of the general  
250 statutes, on and after the effective date of this section, a finding that  
251 probable cause exists for the violation of any provision of part I or II of  
252 chapter 10 of the general statutes regarding the codes of ethics for  
253 public officials and lobbyists shall be referred to the Office of  
254 Administrative Hearings for hearing and final decision.

255 (e) Notwithstanding any provision of the general statutes, any  
256 agency or head of the agency that is not required to refer contested  
257 cases to the Office of Administrative Hearings pursuant to this section  
258 or any other provision of the general statutes may refer any contested  
259 case brought by or before such agency to the Office of Administrative  
260 Hearings for purposes of a full adjudication of the contested case by an  
261 administrative law judge.

262 (f) Nothing in this section shall preclude any agency or municipality  
263 from referring any matter pending before such agency or municipality  
264 to the Office of Administrative Hearings, with the consent of the Chief

265 Administrative Law Judge, for purposes of mediation or settlement  
266 before such matter becomes a contested case.

267 Sec. 9. (NEW) (*Effective October 1, 2005*) Notwithstanding any  
268 provision of the general statutes, each human rights referee serving at  
269 the Commission on Human Rights and Opportunities on the effective  
270 date of this section and each full-time hearing adjudicator or hearing  
271 officer employed at the Department of Public Health, the Department  
272 of Social Services or the Department of Transportation on the effective  
273 date of this section shall be transferred to the Office of Administrative  
274 Hearings for the purpose of performing duties as an administrative  
275 law judge.

276 Sec. 10. Section 4-166 of the general statutes is repealed and the  
277 following is substituted in lieu thereof (*Effective October 1, 2005*):

278 As used in this chapter and sections 1 to 9, inclusive, and 20 of this  
279 act:

280 (1) "Agency" means each state board, commission, department or  
281 officer authorized by law to make regulations or to determine  
282 contested cases, but does not include either house or any committee of  
283 the General Assembly, the courts, the Council on Probate Judicial  
284 Conduct, the Governor, Lieutenant Governor or Attorney General, or  
285 town or regional boards of education, or automobile dispute  
286 settlement panels established pursuant to section 42-181;

287 (2) "Contested case" means a proceeding, including but not  
288 restricted to rate-making, price fixing and licensing, in which the legal  
289 rights, duties or privileges of a party are required by state statute or  
290 regulation to be determined by an agency or by the Office of  
291 Administrative Hearings after an opportunity for hearing or in which a  
292 hearing is in fact held, but does not include proceedings on a petition  
293 for a declaratory ruling under section 4-176, as amended by this act,  
294 hearings referred to in section 4-168 or hearings conducted by the  
295 Department of Correction or the Board of Pardons and Paroles;

296 (3) "Final decision" means (A) the [agency] determination in a  
297 contested case made pursuant to section 4-179, as amended by this act,  
298 section 20 of this act and section 4-180, as amended by this act, (B) a  
299 declaratory ruling issued by an agency pursuant to section 4-176, as  
300 amended by this act, or (C) [an agency] a decision made after  
301 reconsideration of a final decision. The term does not include a  
302 preliminary or intermediate ruling or order, [of an agency,] or a ruling  
303 [of an agency] granting or denying a petition for reconsideration;

304 (4) "Hearing officer" means an individual appointed by an agency to  
305 conduct a hearing in an agency proceeding that is not conducted by an  
306 administrative law judge pursuant to section 7 of this act. Such  
307 individual may be a staff employee of the agency;

308 (5) "Intervenor" means a person, other than a party, granted status  
309 as an intervenor by an agency in accordance with the provisions of  
310 subsection (d) of section 4-176 or subsection (b) of section 4-177a, as  
311 amended by this act;

312 (6) "License" includes the whole or part of any agency permit,  
313 certificate, approval, registration, charter or similar form of permission  
314 required by law, but does not include a license required solely for  
315 revenue purposes;

316 (7) "Licensing" includes the agency process respecting the grant,  
317 denial, renewal, revocation, suspension, annulment, withdrawal or  
318 amendment of a license;

319 (8) "Party" means each person (A) whose legal rights, duties or  
320 privileges are required by statute to be determined by an agency  
321 proceeding and who is named or admitted as a party, (B) who is  
322 required by law to be a party in an agency proceeding or (C) who is  
323 granted status as a party under subsection (a) of section 4-177a, as  
324 amended by this act;

325 (9) "Person" means any individual, partnership, corporation, limited

326 liability company, association, governmental subdivision, agency or  
327 public or private organization of any character, but does not include  
328 the agency conducting the proceeding;

329 (10) "Presiding officer" means the head of the agency presiding at a  
330 hearing, the member of [an] a multimember agency or the hearing  
331 officer designated by the head of the agency to preside at [the] a  
332 hearing, or an administrative law judge presiding at a hearing;

333 (11) "Proposed final decision" means a final decision proposed [by  
334 an agency or a presiding officer] under section 4-179, as amended by  
335 this act, or section 20 of this act;

336 (12) "Proposed regulation" means a proposal by an agency under  
337 the provisions of section 4-168 for a new regulation or for a change in,  
338 addition to or repeal of an existing regulation;

339 (13) "Regulation" means each agency statement of general  
340 applicability, without regard to its designation, that implements,  
341 interprets, or prescribes law or policy, or describes the organization,  
342 procedure, or practice requirements of any agency. The term includes  
343 the amendment or repeal of a prior regulation, but does not include  
344 (A) statements concerning only the internal management of any  
345 agency and not affecting private rights or procedures available to the  
346 public, (B) declaratory rulings issued pursuant to section 4-176, as  
347 amended by this act, or (C) intra-agency or interagency memoranda;

348 (14) "Regulation-making" means the process for formulation and  
349 adoption of a regulation;

350 (15) "Administrative law judge" means an administrative law judge  
351 or temporary administrative law judge appointed in accordance with  
352 sections 4 and 9 of this act;

353 (16) "Head of the agency" means the individual or group of  
354 individuals constituting the highest authority within an agency.

355 Sec. 11. Subsection (g) of section 4-176 of the general statutes is  
356 repealed and the following is substituted in lieu thereof (*Effective*  
357 *October 1, 2005*):

358 (g) If the agency conducts a hearing in a proceeding for a  
359 declaratory ruling, the provisions of subsection [(b)] (e) of section [4-  
360 177c] 4-177a, as amended by this act, section 4-178, as amended by this  
361 act, and section 4-179, as amended by this act, shall apply to the  
362 hearing.

363 Sec. 12. Section 4-176e of the general statutes is repealed and the  
364 following is substituted in lieu thereof (*Effective October 1, 2005*):

365 Except as otherwise required by the general statutes, a [hearing in  
366 an agency proceeding may be held before (1)] contested case shall be  
367 heard by (1) an administrative law judge, (2) the head of the agency,  
368 (3) one or more of the members of a multimember agency, or (4) one or  
369 more hearing officers, provided no individual who has personally  
370 carried out the function of an investigator in a contested case may  
371 serve as a hearing officer in that case. [, or (2) one or more of the  
372 members of the agency.]

373 Sec. 13. Section 4-177 of the general statutes is repealed and the  
374 following is substituted in lieu thereof (*Effective October 1, 2005*):

375 (a) In a contested case, all parties shall be afforded an opportunity  
376 for hearing after reasonable notice from the agency.

377 (b) The notice shall be in writing and shall include: (1) A statement  
378 of the time, place, and nature of the hearing or, if the contested case  
379 has been referred to the Office of Administrative Hearings, a statement  
380 that the matter has been referred to the Office of Administrative  
381 Hearings, that the time and place of the hearing will be set by an  
382 administrative law judge and that describes the nature of the hearing;  
383 (2) a statement of the legal authority and jurisdiction under which the  
384 hearing is to be held; (3) a reference to the particular sections of the

385 statutes and regulations involved; and (4) a short and plain statement  
386 of the matters asserted. If the agency or party is unable to state the  
387 matters in detail at the time the notice is served, the initial notice may  
388 be limited to a statement of the issues involved. Thereafter, upon  
389 application, a more definite and detailed statement shall be furnished.

390 (c) After an agency refers a contested case to the Office of  
391 Administrative Hearings, the agency shall certify the official record in  
392 such contested case to the Office of Administrative Hearings.  
393 Thereafter, a party shall file all documents that are to become part of  
394 such record with the Office of Administrative Hearings. The filing of  
395 such documents with the agency rather than with the Office of  
396 Administrative Hearings shall not be a jurisdictional defect and shall  
397 not be grounds for termination of the proceeding, provided the  
398 administrative law judge may assess appropriate costs and sanctions  
399 against a party who misfiles such documents on a showing of  
400 prejudice resulting from a wilful misfiling. The Office of  
401 Administrative Hearings shall maintain the official record of a  
402 contested case referred to said office.

403 ~~[(c)]~~ (d) Unless precluded by law, a contested case may be resolved  
404 by stipulation, agreed settlement, or consent order or by the default of  
405 a party.

406 ~~[(d)]~~ (e) The record in a contested case shall include: (1) Written  
407 notices related to the case; (2) all petitions, pleadings, motions and  
408 intermediate rulings; (3) evidence received or considered; (4) questions  
409 and offers of proof, objections and rulings thereon; (5) the official  
410 transcript, if any, of proceedings relating to the case, or, if not  
411 transcribed, any recording or stenographic record of the proceedings;  
412 (6) proposed final decisions and exceptions thereto; and (7) the final  
413 decision.

414 ~~[(e)]~~ (f) Any recording or stenographic record of the proceedings  
415 shall be transcribed on request of any party. The requesting party shall  
416 pay the cost of such transcript, unless otherwise provided by law.

417 Nothing in this section shall relieve an agency of its responsibility  
418 under section 4-183, as amended by this act, to transcribe the record for  
419 an appeal.

420 Sec. 14. Section 4-177a of the general statutes is repealed and the  
421 following is substituted in lieu thereof (*Effective October 1, 2005*):

422 (a) The presiding officer shall grant a person status as a party in a  
423 contested case if that officer finds that: (1) Such person has submitted a  
424 written petition to the agency or presiding officer and mailed copies to  
425 all parties, at least five days before the date of hearing; and (2) the  
426 petition states facts that demonstrate that the petitioner's legal rights,  
427 duties or privileges shall be specifically affected by [the agency's] a  
428 decision in the contested case.

429 (b) The presiding officer may grant any person status as an  
430 intervenor in a contested case if that officer finds that: (1) Such person  
431 has submitted a written petition to the agency or presiding officer and  
432 mailed copies to all parties, at least five days before the date of  
433 hearing; and (2) the petition states facts that demonstrate that the  
434 petitioner's participation is in the interests of justice and will not  
435 impair the orderly conduct of the proceedings.

436 (c) The five-day requirement in subsections (a) and (b) of this  
437 section may be waived at any time before or after commencement of  
438 the hearing by the presiding officer on a showing of good cause.

439 (d) If a petition is granted pursuant to subsection (b) of this section,  
440 the presiding officer may limit the intervenor's participation to  
441 designated issues in which the intervenor has a particular interest as  
442 demonstrated by the petition and shall define the intervenor's rights to  
443 inspect and copy records, physical evidence, papers and documents, to  
444 introduce evidence, and to argue and cross-examine on those issues.  
445 The presiding officer may further restrict the participation of an  
446 intervenor in the proceedings, including the rights to inspect and copy  
447 records, to introduce evidence and to cross-examine, so as to promote

448 the orderly conduct of the proceedings.

449 (e) Persons not named as parties or intervenors may, in the  
450 discretion of the presiding officer, be given an opportunity to present  
451 oral or written statements. The presiding officer may require any such  
452 statement to be given under oath or affirmation.

453 Sec. 15. Section 4-177b of the general statutes is repealed and the  
454 following is substituted in lieu thereof (*Effective October 1, 2005*):

455 In a contested case, the presiding officer may administer oaths, take  
456 testimony under oath relative to the case, subpoena witnesses and  
457 require the production of records, physical evidence, papers and  
458 documents to any hearing held in the case. If any person disobeys the  
459 subpoena or, having appeared, refuses to answer any question put to  
460 him or to produce any records, physical evidence, papers and  
461 documents requested by the presiding officer, the administrative law  
462 judge or, if the hearing is conducted by the agency, the agency may  
463 apply to the superior court for the judicial district of Hartford or for  
464 the judicial district in which the person resides, or to any judge of that  
465 court if it is not in session, setting forth the disobedience to the  
466 subpoena or refusal to answer or produce, and the court or judge shall  
467 cite the person to appear before the court or judge to show cause why  
468 the records, physical evidence, papers and documents should not be  
469 produced or why a question put to him should not be answered.  
470 Nothing in this section shall be construed to limit the authority of the  
471 agency, the administrative law judge or any party as otherwise  
472 allowed by law.

473 Sec. 16. Section 4-177c of the general statutes is repealed and the  
474 following is substituted in lieu thereof (*Effective October 1, 2005*):

475 [(a)] In a contested case, each party and the agency, including an  
476 agency conducting the proceeding, shall be afforded the opportunity  
477 (1) to inspect and copy relevant and material records, papers and  
478 documents not in the possession of the party or such agency, except as

479 otherwise provided by federal law or any other provision of the  
480 general statutes, and (2) at a hearing, to respond, to cross-examine  
481 other parties, intervenors, and witnesses, and to present evidence and  
482 argument on all issues involved.

483 [(b) Persons not named as parties or intervenors may, in the  
484 discretion of the presiding officer, be given an opportunity to present  
485 oral or written statements. The presiding officer may require any such  
486 statement to be given under oath or affirmation.]

487 Sec. 17. Section 4-178 of the general statutes is repealed and the  
488 following is substituted in lieu thereof (*Effective October 1, 2005*):

489 In contested cases: (1) Any oral or documentary evidence may be  
490 received, but the [agency] presiding officer shall, as a matter of policy,  
491 provide for the exclusion of irrelevant, immaterial or unduly  
492 repetitious evidence; (2) [agencies shall give effect to] the rules of  
493 privilege recognized by law shall be given effect; (3) when a hearing  
494 will be expedited and the interests of the parties will not be prejudiced  
495 substantially, any part of the evidence may be received in written  
496 form; (4) documentary evidence may be received in the form of copies  
497 or excerpts, if the original is not readily available, and upon request,  
498 parties and the agency, including an agency conducting the  
499 proceeding, shall be given an opportunity to compare the copy with  
500 the original; (5) a party and [such] the agency, including an agency  
501 conducting the proceeding, may conduct cross-examinations required  
502 for a full and true disclosure of the facts; (6) notice may be taken of  
503 judicially cognizable facts; [and of] (7) in a proceeding conducted by  
504 the agency or in an agency review of a proposed final decision, notice  
505 may be taken of generally recognized technical or scientific facts  
506 within the agency's specialized knowledge; [(7)] (8) parties shall be  
507 notified in a timely manner of any material noticed, including any  
508 agency memoranda or data, and they shall be afforded an opportunity  
509 to contest the material so noticed; and [(8) the agency's] (9) in a  
510 proceeding conducted by the agency or in an agency review of a

511 proposed final decision, the agency may use its experience, technical  
512 competence [,] and specialized knowledge [may be used] in the  
513 evaluation of the evidence.

514 Sec. 18. Section 4-178a of the general statutes is repealed and the  
515 following is substituted in lieu thereof (*Effective October 1, 2005*):

516 If a hearing in a contested case or in a declaratory ruling proceeding  
517 is held before a hearing officer or before less than a majority of the  
518 members of the agency who are authorized by law to render a final  
519 decision, a party, if permitted by regulation and before rendition of the  
520 final decision, may request a review by a majority of the members of  
521 the agency, of any preliminary, procedural or evidentiary ruling made  
522 at the hearing. The majority of the members may make an appropriate  
523 order, including the reconvening of the hearing. The provisions of this  
524 section do not apply to a hearing conducted by an administrative law  
525 judge.

526 Sec. 19. Section 4-179 of the general statutes is repealed and the  
527 following is substituted in lieu thereof (*Effective October 1, 2005*):

528 (a) When, in an agency proceeding that is not conducted by an  
529 administrative law judge, a majority of the members of the agency  
530 who are to render the final decision have not heard the matter or read  
531 the record, the decision, if adverse to a party, shall not be rendered  
532 until a proposed final decision is served upon the parties, and an  
533 opportunity is afforded to each party adversely affected to file  
534 exceptions and present briefs and oral argument to the members of the  
535 agency who are to render the final decision.

536 (b) A proposed final decision made under this section shall be in  
537 writing and [contain a statement of the reasons for the decision and a  
538 finding of facts and conclusion of law on each issue of fact or law  
539 necessary to the decision] shall comply with the requirements of  
540 subsection (c) of section 4-180, as amended by this act.

541 (c) Except when authorized by law to render a final decision for an  
542 agency, a hearing officer shall, after hearing a matter, make a proposed  
543 final decision.

544 (d) The parties and the agency conducting the proceeding, by  
545 written stipulation, may waive compliance with this section.

546 Sec. 20. (NEW) (*Effective October 1, 2005*) (a) Unless a shorter time  
547 period is otherwise required by law, an administrative law judge shall  
548 render a proposed final decision or, if required by law, a final decision  
549 in a contested case not later than forty-five days following the close of  
550 evidence or the due date for the filing of briefs, whichever is later,  
551 provided such time period may, for good cause, be extended for not  
552 more than an additional forty-five days with the approval of the Chief  
553 Administrative Law Judge. An application for any such extension shall  
554 be filed by the administrative law judge with the Chief Administrative  
555 Law Judge, and any such approval shall be granted, before the  
556 expiration of the initial forty-five-day time period.

557 (b) A proposed final decision rendered by an administrative law  
558 judge shall be delivered promptly to each party or the party's  
559 authorized representative, and to the agency, personally or by United  
560 States mail, certified or registered, postage prepaid, return receipt  
561 requested. After such proposed final decision is rendered, the record in  
562 the contested case shall be delivered promptly to the agency.

563 (c) A proposed final decision rendered by an administrative law  
564 judge shall become a final decision of the agency unless the head of the  
565 agency, not later than twenty-one days following the date the  
566 proposed final decision is delivered or mailed to the agency, modifies  
567 or rejects the proposed final decision, provided the head of the agency  
568 may, before expiration of such time period and for good cause, certify  
569 the extension of such time period for not more than an additional  
570 twenty-one days. If the head of the agency modifies or rejects the  
571 proposed final decision, the head of the agency shall state the reason  
572 for the modification or rejection on the record. In reviewing a proposed

573 final decision rendered by an administrative law judge, the head of the  
574 agency shall afford each party, including the agency, an opportunity to  
575 present briefs and may afford each party, including the agency, an  
576 opportunity to present oral argument.

577 (d) If, within the time period provided in subsection (c) of this  
578 section, the head of the agency, in reviewing a proposed final decision  
579 rendered by an administrative law judge, determines that additional  
580 evidence is necessary, the head of the agency shall refer the matter to  
581 the Office of Administrative Hearings. The Chief Administrative Law  
582 Judge shall assign the administrative law judge who rendered such  
583 proposed final decision to take the additional evidence unless such  
584 administrative law judge is unavailable. After taking the additional  
585 evidence, the administrative law judge shall, not later than thirty days  
586 following such referral, prepare a proposed final decision as provided  
587 in this section based on such additional evidence and the record of the  
588 prior hearing.

589 (e) A proposed final decision made under this section shall be in  
590 writing and shall comply with the requirements of subsection (c) of  
591 section 4-180 of the general statutes, as amended by this act.

592 Sec. 21. Section 4-180 of the general statutes is repealed and the  
593 following is substituted in lieu thereof (*Effective October 1, 2005*):

594 (a) Each agency shall proceed with reasonable dispatch to conclude  
595 any matter pending before it and, in all hearings of contested cases  
596 conducted by the agency, shall render a final decision within ninety  
597 days following the close of evidence or the due date for the filing of  
598 briefs, whichever is later. [, in such proceedings.]

599 (b) If, in any contested case, any agency fails to comply with the  
600 provisions of subsection (a) of this section [in any contested case] or  
601 subsection (a) of section 4-179, as amended by this act, or if any agency  
602 or administrative law judge fails to comply with the provisions of  
603 section 20 of this act, any party [thereto] to such contested case may

604 apply to the superior court for the judicial district of [Hartford] New  
605 Britain for an order requiring the agency or administrative law judge  
606 to render a final decision or proposed final decision forthwith. The  
607 court, after hearing, shall issue an appropriate order.

608 (c) A final decision in a contested case shall be in writing or, if there  
609 is no proposed final decision, orally stated on the record. [and, if  
610 adverse to a party,] A proposed final decision and a final decision in a  
611 contested case shall include [the agency's] findings of fact and  
612 conclusions of law necessary to [its] the decision and shall be made by  
613 applying all pertinent provisions of law. Findings of fact shall be based  
614 exclusively on the evidence in the record and on matters noticed. The  
615 [agency shall state in] proposed final decision and the final decision  
616 shall contain the name of each party and the most recent mailing  
617 address, provided to the agency, of the party or his authorized  
618 representative. If the final decision is orally stated on the record, each  
619 such name and mailing address shall be included in the record.

620 (d) The final decision shall be delivered promptly to each party or  
621 his authorized representative and, in the case of a final decision by an  
622 administrative law judge authorized by law to render such decision, to  
623 the agency, personally or by United States mail, certified or registered,  
624 postage prepaid, return receipt requested. [The] An agency rendering a  
625 final decision shall immediately transmit a copy of such decision to the  
626 Office of Administrative Hearings. A proposed final decision that  
627 becomes a final decision because of agency inaction, as provided in  
628 subsection (c) of section 20 of this act, shall become effective at the  
629 expiration of the time period specified in said subsection or on a later  
630 date specified in such proposed final decision. Any other final decision  
631 shall be effective when personally delivered or mailed or on a later  
632 date specified [by the agency] in such final decision. The date of  
633 delivery or mailing of a proposed final decision and a final decision  
634 shall be endorsed on the front of the decision or on a transmittal sheet  
635 included with the decision.

636 Sec. 22. Subsection (a) of section 4-180a of the general statutes is  
637 repealed and the following is substituted in lieu thereof (*Effective*  
638 *October 1, 2005*):

639 (a) In addition to other requirements imposed by any provision of  
640 law, each agency shall index, by name and subject, all written orders  
641 and final decisions rendered on or after October 1, 1989, and shall  
642 make [them] all proposed final decisions and final decisions available  
643 for public inspection and copying, to the extent required by the  
644 Freedom of Information Act, as defined in section 1-200.

645 Sec. 23. Subsection (a) of section 4-181 of the general statutes is  
646 repealed and the following is substituted in lieu thereof (*Effective*  
647 *October 1, 2005*):

648 (a) Unless required for the disposition of ex parte matters  
649 authorized by law, no hearing officer, administrative law judge or  
650 member of an agency who, in a contested case, is to render a final  
651 decision or to make a proposed final decision shall communicate,  
652 directly or indirectly, in connection with any issue of fact, with any  
653 person or party, or, in connection with any issue of law, with any party  
654 or the party's representative, without notice and opportunity for all  
655 parties to participate.

656 Sec. 24. Section 4-181a of the general statutes is repealed and the  
657 following is substituted in lieu thereof (*Effective October 1, 2005*):

658 (a) (1) Unless otherwise provided by law, a party or the agency in a  
659 contested case may, within fifteen days after the personal delivery or  
660 mailing of the final decision or within fifteen days after the date that a  
661 proposed final decision becomes a final decision because of agency  
662 inaction, as provided in subsection (c) of section 20 of this act, file with  
663 the [agency] authority that rendered the decision a petition for  
664 reconsideration of the decision on the ground that: (A) An error of fact  
665 or law should be corrected; (B) new evidence has been discovered  
666 which materially affects the merits of the case and which for good

667 reasons was not presented in the agency proceeding; or (C) other good  
668 cause for reconsideration has been shown. Within twenty-five days of  
669 the filing of the petition, the [agency] authority that rendered the  
670 decision shall decide whether to reconsider the final decision. The  
671 failure of the [agency] authority that rendered the decision to make  
672 that determination within twenty-five days of such filing shall  
673 constitute a denial of the petition.

674 (2) Within forty days of the personal delivery or mailing of the final  
675 decision, the [agency] authority that rendered the decision, regardless  
676 of whether a petition for reconsideration has been filed, may decide to  
677 reconsider the final decision.

678 (3) If the [agency] authority that rendered the decision decides to  
679 reconsider a final decision, pursuant to subdivision (1) or (2) of this  
680 subsection, the [agency] authority that rendered the decision shall  
681 proceed in a reasonable time to conduct such additional proceedings  
682 as may be necessary to render a decision modifying, affirming, or  
683 reversing the final decision.

684 (b) On a showing of changed conditions, the [agency] authority that  
685 rendered the decision may reverse or modify the final decision, at any  
686 time, at the request of any person or on [the agency's own] motion of  
687 the authority that rendered the decision. The procedure set forth in this  
688 chapter for contested cases shall be applicable to any proceeding in  
689 which such reversal or modification of any final decision is to be  
690 considered. The party or parties who were the subject of the original  
691 final decision, or their successors, if known, and intervenors in the  
692 original contested case, shall be notified of the proceeding and shall be  
693 given the opportunity to participate in the proceeding. Any decision to  
694 reverse or modify a final decision shall make provision for the rights or  
695 privileges of any person who has been shown to have relied on such  
696 final decision.

697 (c) The [agency] authority that rendered the decision may, without  
698 further proceedings, modify a final decision to correct any clerical

699 error. A person may appeal that modification under the provisions of  
700 section 4-183, as amended by this act, or, if an appeal is pending when  
701 the modification is made, may amend the appeal.

702 (d) For the purposes of this section and section 4-183, as amended  
703 by this act, in the case of a proposed final decision that becomes a final  
704 decision because of agency inaction, as provided in subsection (c) of  
705 section 20 of this act, the authority that rendered the decision shall be  
706 deemed to be the agency.

707 Sec. 25. Section 4-183 of the general statutes is repealed and the  
708 following is substituted in lieu thereof (*Effective October 1, 2005*):

709 (a) A person who has exhausted all administrative remedies  
710 available within the agency and who is aggrieved by a final decision  
711 may appeal to the Superior Court as provided in this section. The filing  
712 of a petition for reconsideration is not a prerequisite to the filing of  
713 such an appeal.

714 (b) A person may appeal a preliminary, procedural or intermediate  
715 agency action or ruling to the Superior Court if (1) it appears likely that  
716 the person will otherwise qualify under this chapter to appeal from the  
717 final agency action or ruling, and (2) postponement of the appeal  
718 would result in an inadequate remedy.

719 (c) Within forty-five days after mailing of the final decision under  
720 section 4-180, as amended by this act, or, if there is no mailing, within  
721 forty-five days after personal delivery of the final decision under said  
722 section or, if a proposed final decision becomes a final decision because  
723 of agency inaction, as provided in subsection (c) of section 20 of this  
724 act, within forty-five days after the decision becomes final, a person  
725 appealing as provided in this section shall serve a copy of the appeal  
726 on the agency [that rendered the final decision] at its office or at the  
727 office of the Attorney General in Hartford and file the appeal with the  
728 clerk of the superior court for the judicial district of New Britain or for  
729 the judicial district wherein the person appealing resides or, if that

730 person is not a resident of this state, with the clerk of the court for the  
731 judicial district of New Britain. An appeal of a final decision under this  
732 section shall be taken within such applicable forty-five-day period  
733 regardless of the effective date of the final decision. Within that time,  
734 the person appealing shall also serve a copy of the appeal on each  
735 party listed in the final decision at the address shown in the decision,  
736 provided failure to make such service within forty-five days on parties  
737 other than the agency [that rendered the final decision] shall not  
738 deprive the court of jurisdiction over the appeal. Service of the appeal  
739 shall be made by (1) United States mail, certified or registered, postage  
740 prepaid, return receipt requested, without the use of a state marshal or  
741 other officer, or (2) personal service by a proper officer or indifferent  
742 person making service in the same manner as complaints are served in  
743 ordinary civil actions. If service of the appeal is made by mail, service  
744 shall be effective upon deposit of the appeal in the mail.

745 (d) The person appealing, not later than fifteen days after filing the  
746 appeal, shall file or cause to be filed with the clerk of the court an  
747 affidavit, or the state marshal's return, stating the date and manner in  
748 which a copy of the appeal was served on each party and on the  
749 agency [that rendered the final decision,] and, if service was not made  
750 on a party, the reason for failure to make service. If the failure to make  
751 service causes prejudice to any party to the appeal or to the agency, the  
752 court, after hearing, may dismiss the appeal.

753 (e) If service has not been made on a party, the court, on motion,  
754 shall make such orders of notice of the appeal as are reasonably  
755 calculated to notify each party not yet served.

756 (f) The filing of an appeal shall not, of itself, stay enforcement of [an  
757 agency] a final decision. An application for a stay may be made to the  
758 agency, to the court or to both. Filing of an application with the agency  
759 shall not preclude action by the court. A stay, if granted, shall be on  
760 appropriate terms.

761 (g) Within thirty days after the service of the appeal, or within such

762 further time as may be allowed by the court, the agency shall  
763 transcribe any portion of the record that has not been transcribed and  
764 transmit to the reviewing court the original or a certified copy of the  
765 entire record of the proceeding appealed from, which shall include the  
766 [agency's] findings of fact and conclusions of law, separately stated. By  
767 stipulation of all parties to such appeal proceedings, the record may be  
768 shortened. A party unreasonably refusing to stipulate to limit the  
769 record may be taxed by the court for the additional costs. The court  
770 may require or permit subsequent corrections or additions to the  
771 record.

772 (h) If, before the date set for hearing on the merits of an appeal,  
773 application is made to the court for leave to present additional  
774 evidence, and it is shown to the satisfaction of the court that the  
775 additional evidence is material and that there were good reasons for  
776 failure to present it in the proceeding before the [agency] authority that  
777 rendered the decision, the court may order that the additional  
778 evidence be taken before the [agency] authority that rendered the  
779 decision upon conditions determined by the court. The [agency]  
780 authority that rendered the decision may modify its findings and  
781 decision by reason of the additional evidence and shall file that  
782 evidence and any modifications, new findings, or decisions with the  
783 reviewing court.

784 (i) [The] Except as otherwise provided by law, the appeal shall be  
785 conducted by the court without a jury and shall be confined to the  
786 record. If alleged irregularities in procedure before the [agency]  
787 presiding officer are not shown in the record or if facts necessary to  
788 establish aggrievement are not shown in the record, proof limited  
789 thereto may be taken in the court. The court, upon request, shall hear  
790 oral argument and receive written briefs.

791 (j) [The] Unless a different standard of review is provided by law,  
792 the court shall not substitute its judgment for that of the [agency]  
793 authority that rendered the decision as to the weight of the evidence

794 on questions of fact. The court shall affirm the final decision [of the  
795 agency] unless the court finds that substantial rights of the person  
796 appealing have been prejudiced because the administrative findings,  
797 inferences, conclusions, or decisions are: (1) In violation of  
798 constitutional or statutory provisions; (2) in excess of the statutory  
799 authority of the agency; (3) made upon unlawful procedure; (4)  
800 affected by other error of law; (5) clearly erroneous in view of the  
801 reliable, probative, and substantial evidence on the whole record; or (6)  
802 arbitrary or capricious or characterized by abuse of discretion or  
803 clearly unwarranted exercise of discretion. If the court finds such  
804 prejudice, it shall sustain the appeal and, if appropriate, may render a  
805 judgment under subsection (k) of this section or remand the case for  
806 further proceedings. For the purposes of this section, a remand is a  
807 final judgment.

808 (k) If a particular agency action is required by law, the court, on  
809 sustaining the appeal, may render a judgment that modifies the  
810 [agency] final decision, orders the particular agency action, or orders  
811 the agency to take such action as may be necessary to effect the  
812 particular action.

813 (l) In all appeals taken under this section, costs may be taxed in  
814 favor of the prevailing party in the same manner, and to the same  
815 extent, that costs are allowed in judgments rendered by the Superior  
816 Court. No costs shall be taxed against the state, except as provided in  
817 section 4-184a.

818 (m) In any case in which a person appealing claims that he cannot  
819 pay the costs of an appeal under this section, he shall, within the time  
820 permitted for filing the appeal, file with the clerk of the court to which  
821 the appeal is to be taken an application for waiver of payment of such  
822 fees, costs and necessary expenses, including the requirements of  
823 bond, if any. The application shall conform to the requirements  
824 prescribed by rule of the judges of the Superior Court. After such  
825 hearing as the court determines is necessary, the court shall render its

826 judgment on the application, which judgment shall contain a statement  
827 of the facts the court has found, with its conclusions thereon. The filing  
828 of the application for the waiver shall toll the time limits for the filing  
829 of an appeal until such time as a judgment on such application is  
830 rendered.

831 Sec. 26. Section 4-188a of the general statutes is repealed and the  
832 following is substituted in lieu thereof (*Effective October 1, 2005*):

833 [The] Except for student discipline matters and hearings brought  
834 pursuant to Section 504 of the federal Rehabilitation Act of 1973, 29  
835 USC 791 et seq., the provisions of this chapter shall not apply to the  
836 constituent units of the state system of higher education, provided the  
837 board of trustees for each such constituent unit shall (1) after providing  
838 a reasonable opportunity for interested persons to present their views,  
839 promulgate written statements of policy concerning personnel policies,  
840 [and student discipline,] which shall be made available to members of  
841 the public, and (2) in cases of dismissal of tenured, unclassified  
842 employees, dismissal of nontenured, unclassified employees prior to  
843 the end of their appointment, and proposed disciplinary action against  
844 a student, promulgate procedures which shall provide (A) written  
845 notice to affected persons of the reasons for the proposed action; (B) a  
846 statement that the affected person is entitled to a hearing if he so  
847 requests; and (C) a written decision following the hearing.

848 Sec. 27. Subsection (e) of section 1-82a of the general statutes is  
849 repealed and the following is substituted in lieu thereof (*Effective*  
850 *October 1, 2005*):

851 (e) The commission shall make public a finding of probable cause  
852 not later than five business days after the termination of the  
853 investigation. At such time the entire record of the investigation shall  
854 become public, except that the commission may postpone examination  
855 or release of such public records for a period not to exceed fourteen  
856 days for the purpose of reaching a stipulation agreement pursuant to  
857 subsection [(c)] (d) of section 4-177, as amended by this act.

858 Sec. 28. Subsection (e) of section 1-93a of the general statutes is  
859 repealed and the following is substituted in lieu thereof (*Effective*  
860 *October 1, 2005*):

861 (e) The commission shall make public a finding of probable cause  
862 not later than five business days after the termination of the  
863 investigation. At such time the entire record of the investigation shall  
864 become public, except that the commission may postpone examination  
865 or release of such public records for a period not to exceed fourteen  
866 days for the purpose of reaching a stipulation agreement pursuant to  
867 subsection [(c)] (d) of section 4-177, as amended by this act.

868 Sec. 29. Subsection (b) of section 4-61dd of the general statutes is  
869 repealed and the following is substituted in lieu thereof (*Effective*  
870 *October 1, 2005*):

871 (b) (1) No state officer or employee, as defined in section 4-141, no  
872 quasi-public agency officer or employee, no officer or employee of a  
873 large state contractor and no appointing authority shall take or  
874 threaten to take any personnel action against any state or quasi-public  
875 agency employee or any employee of a large state contractor in  
876 retaliation for such employee's disclosure of information to the  
877 Auditors of Public Accounts or the Attorney General under the  
878 provisions of subsection (a) of this section.

879 (2) If a state or quasi-public agency employee or an employee of a  
880 large state contractor alleges that a personnel action has been  
881 threatened or taken in retaliation for such employee's disclosure of  
882 information to the Auditors of Public Accounts or the Attorney  
883 General under the provisions of subsection (a) of this section, the  
884 employee may notify the Attorney General, who shall investigate  
885 pursuant to subsection (a) of this section. After the conclusion of such  
886 investigation, the Attorney General, the employee or the employee's  
887 attorney may file a complaint concerning such personnel action with  
888 the [Chief Human Rights Referee designated under section 46a-57]  
889 Office of Administrative Hearings. The Chief [Human Rights Referee]

890 Administrative Law Judge shall assign the complaint to [a human  
891 rights referee appointed under said section 46a-57] an administrative  
892 law judge, who shall conduct a hearing and issue a decision  
893 concerning whether the officer or employee taking or threatening to  
894 take the personnel action violated any provision of this section. If the  
895 [human rights referee] administrative law judge finds such a violation,  
896 the [referee] administrative law judge may award the aggrieved  
897 employee reinstatement to the employee's former position, back pay  
898 and reestablishment of any employee benefits to which the employee  
899 would otherwise have been eligible if such violation had not occurred,  
900 reasonable attorneys' fees, and any other damages. For the purposes of  
901 this subsection, such [human rights referee] administrative law judge  
902 shall act as an independent hearing officer. The decision of [a human  
903 rights referee] an administrative law judge under this subsection may  
904 be appealed by any person who was a party at such hearing, in  
905 accordance with the provisions of section 4-183, as amended by this  
906 act.

907 (3) The Chief [Human Rights Referee] Administrative Law Judge  
908 shall adopt regulations, in accordance with the provisions of chapter  
909 54, establishing the procedure for filing complaints and noticing and  
910 conducting hearings under subdivision (2) of this subsection.

911 (4) As an alternative to the provisions of subdivisions (2) and (3) of  
912 this subsection (A) a state or quasi-public agency employee who  
913 alleges that a personnel action has been threatened or taken may file an  
914 appeal within thirty days of knowledge of the specific incident giving  
915 rise to such claim with the Employees' Review Board under section 5-  
916 202, or, in the case of a state or quasi-public agency employee covered  
917 by a collective bargaining contract, in accordance with the procedure  
918 provided by such contract, or (B) an employee of a large state  
919 contractor alleging that such action has been threatened or taken may,  
920 after exhausting all available administrative remedies, bring a civil  
921 action in accordance with the provisions of subsection (c) of section 31-  
922 51m.

923 (5) In any proceeding under subdivision (2), (3) or (4) of this  
924 subsection concerning a personnel action taken or threatened against  
925 any state or quasi-public agency employee or any employee of a large  
926 state contractor, which personnel action occurs within one year after  
927 the employee first transmits facts and information concerning a matter  
928 under subsection (a) of this section to the Auditors of Public Accounts  
929 or the Attorney General, there shall be a rebuttable presumption that  
930 the personnel action is in retaliation for the action taken by the  
931 employee under subsection (a) of this section.

932 Sec. 30. Section 10-76h of the general statutes is repealed and the  
933 following is substituted in lieu thereof (*Effective October 1, 2005*):

934 (a) (1) A parent or guardian of a child requiring special education  
935 and related services pursuant to sections 10-76a to 10-76g, inclusive, a  
936 pupil if such pupil is an emancipated minor or eighteen years of age or  
937 older requiring such services, a surrogate parent appointed pursuant  
938 to section 10-94g, or the Commissioner of Children and Families, or a  
939 designee of said commissioner, on behalf of any such child in the  
940 custody of said commissioner, may request, in writing, a hearing of the  
941 local or regional board of education or the unified school district  
942 responsible for providing such services whenever such board or  
943 district proposes or refuses to initiate or change the identification,  
944 evaluation or educational placement of or the provision of a free  
945 appropriate public education to such child or pupil. The local or  
946 regional board of education or the unified school district shall, not later  
947 than seven calendar days after receipt of a request for a hearing, notify  
948 the Department of Education of such request. The local or regional  
949 board of education or the unified school district responsible for  
950 providing special education and related services for a child or pupil  
951 requiring such services under sections 10-76a to 10-76g, inclusive, may  
952 request, upon written notice to the parent or guardian of such child,  
953 the pupil if such pupil is an emancipated minor or is eighteen years of  
954 age or older, the surrogate parent appointed pursuant to section 10-  
955 94g, or the Commissioner of Children and Families, or a designee of

956 said commissioner, on behalf of any such child or pupil in the custody  
957 of said commissioner, a hearing concerning the decision of the  
958 planning and placement team established pursuant to section 10-76d,  
959 whenever such board or district proposes or refuses to initiate or  
960 change the identification, evaluation or educational placement of or  
961 the provision of a free appropriate public education placement to such  
962 child or pupil, including, but not limited to, refusal of the parent or  
963 guardian, pupil if such pupil is an emancipated minor or is eighteen  
964 years of age or older or the surrogate parent appointed pursuant to  
965 section 10-94g, to give consent for initial evaluation or reevaluation or  
966 the withdrawal of such consent. In the event a planning and placement  
967 team proposes private placement for a child or pupil who requires or  
968 may require special education and related services and the parent,  
969 guardian, pupil if such pupil is an emancipated minor or is eighteen  
970 years of age or older or surrogate parent appointed pursuant to section  
971 10-94g withholds or revokes consent for such placement, the local or  
972 regional board of education shall request a hearing in accordance with  
973 this section and may request mediation pursuant to subsection (f) of  
974 this section, provided such action may be taken only in the event such  
975 parent, guardian, pupil or surrogate parent has consented to the initial  
976 receipt of special education and related services and subsequent to the  
977 initial placement of the child, the local or regional board of education  
978 seeks a private placement. For purposes of this section, [a] "local or  
979 regional board of education or unified school district" includes any  
980 public agency which is responsible for the provision of special  
981 education and related services to children requiring special education  
982 and related services.

983 (2) The request for a hearing shall contain a statement of the specific  
984 issues in dispute.

985 (3) A party shall have two years to request a hearing from the time  
986 the board of education proposed or refused to initiate or change the  
987 identification, evaluation or educational placement or the provision of  
988 a free appropriate public education placement to such child or pupil

989 provided, if such parent, guardian, pupil or surrogate parent is not  
990 given notice of the procedural safeguards, in accordance with  
991 regulations adopted by the State Board of Education, including notice  
992 of the limitations contained in this section, such two-year limitation  
993 shall be calculated from the time notice of the safeguards is properly  
994 given.

995 (b) Upon receipt of a written request for a special education hearing  
996 made in accordance with subsection (a) of this section, the Department  
997 of Education shall immediately refer the matter to the Office of  
998 Administrative Hearings. The Office of Administrative Hearings shall  
999 schedule a hearing which shall be held and the decision written and  
1000 mailed within forty-five days of the receipt by the Department of  
1001 Education of the request for the hearing. An extension of the forty-five-  
1002 day time limit may be granted by the [hearing officer] administrative  
1003 law judge at the request of either party to the hearing.

1004 (c) (1) [The Department of Education shall, upon receipt of a request  
1005 for a special education hearing made in accordance with subsection (a)  
1006 of this section, appoint an impartial hearing officer or hearing board.]  
1007 The Department of Education shall provide training to [hearing  
1008 officers in administrative hearing procedures, including due process,  
1009 and] administrative law judges in the special educational needs of  
1010 children. [Hearing officers and members of hearing boards shall not be  
1011 employees of the Department of Education or any local or regional  
1012 board of education, unified school district or public agency involved in  
1013 the education or care of the child. A person who is paid to serve as a  
1014 hearing officer] An administrative law judge who conducts a hearing  
1015 under this section is not deemed to be an employee of the Department  
1016 of Education. No person who participated in the previous  
1017 identification, evaluation or educational placement of or the provision  
1018 of a free appropriate public education to the child or pupil, [nor any]  
1019 and no member of the board of education of the school district under  
1020 review, shall be [a hearing officer or a member of a hearing board] the  
1021 administrative law judge assigned to hear the matter.

1022 (2) Both parties shall participate in a prehearing conference to  
1023 resolve the issues in dispute, if possible and narrow the scope of the  
1024 issues. Each party to the hearing shall disclose, not later than five  
1025 business days prior to the date the hearing commences, (A)  
1026 documentary evidence such party plans to present at the hearing and a  
1027 list of witnesses such party plans to call at the hearing, and (B) all  
1028 completed evaluations and recommendations based on the offering  
1029 party's evaluations that the party intends to use at the hearing. Except  
1030 for good cause shown, the [hearing officer] administrative law judge  
1031 shall limit each party to such documentary evidence and witnesses as  
1032 were properly disclosed and are relevant to the issues in dispute. [A  
1033 hearing officer] The administrative law judge may bar any party who  
1034 fails to comply with the requirements concerning disclosure of  
1035 evaluations and recommendations from introducing any undisclosed  
1036 evaluation or recommendation at the hearing without the consent of  
1037 the other party.

1038 (3) The [hearing officer or board] administrative law judge shall  
1039 hear testimony relevant to the issues in dispute offered by the party  
1040 requesting the hearing and any other party directly involved, and may  
1041 hear any additional testimony the [hearing officer or board]  
1042 administrative law judge deems relevant. The [hearing officer or  
1043 board] administrative law judge may require a complete and  
1044 independent evaluation or prescription of educational programs by  
1045 qualified persons, the cost of which shall be paid by the board of  
1046 education or the unified school district. The [hearing officer or board]  
1047 administrative law judge shall cause all formal sessions of the hearing  
1048 and review to be recorded in order to provide a verbatim record.

1049 (d) (1) The [hearing officer or board] administrative law judge shall  
1050 have the authority to confirm, modify, or reject the identification,  
1051 evaluation or educational placement of or the provision of a free  
1052 appropriate public education to the child or pupil, to determine the  
1053 appropriateness of an educational placement where the parent or  
1054 guardian of a child requiring special education or the pupil if such

1055 pupil is an emancipated minor or eighteen years of age or older, has  
1056 placed the child or pupil in a program other than that prescribed by  
1057 the planning and placement team, or to prescribe alternate special  
1058 educational programs for the child or pupil. In the case where a parent  
1059 or guardian, or pupil if such pupil is an emancipated minor or is  
1060 eighteen years of age or older, or a surrogate parent appointed  
1061 pursuant to section 10-94g, has refused consent for initial evaluation or  
1062 reevaluation, the [hearing officer or board] administrative law judge  
1063 may order an initial evaluation or reevaluation without the consent of  
1064 such parent, guardian, pupil or surrogate parent, except that if the  
1065 parent, guardian, pupil or surrogate parent appeals such decision  
1066 pursuant to subdivision (4) of this subsection, the child or pupil may  
1067 not be evaluated or placed pending the disposition of the appeal. The  
1068 [hearing officer or board] administrative law judge shall inform the  
1069 parent or guardian, or the emancipated minor or pupil eighteen years  
1070 of age or older, or the surrogate parent appointed pursuant to section  
1071 10-94g, or the Commissioner of Children and Families, as the case may  
1072 be, and the board of education of the school district or the unified  
1073 school district of the decision in writing and mail such decision within  
1074 forty-five days after receipt by the board of the request for a hearing  
1075 made in accordance with the provisions of subsection (a) of this  
1076 section, except that [a hearing officer or board] the administrative law  
1077 judge may grant specific extensions of such forty-five-day period in  
1078 order to comply with the provisions of subsection (b) of this section.  
1079 The [hearing officer] administrative law judge may include in his or  
1080 her decision a comment on the conduct of the proceedings. The  
1081 findings of fact, conclusions of law and decision shall be written  
1082 without personally identifiable information concerning such child or  
1083 pupil, so that such decisions may be available for public inspections  
1084 pursuant to sections 4-167 and 4-180a, as amended by this act.

1085 (2) If the local or regional board of education or the unified school  
1086 district responsible for providing special education for such child or  
1087 pupil requiring special education does not take action on the findings  
1088 or prescription of the [hearing officer or board] administrative law

1089 judge within fifteen days after receipt thereof, the State Board of  
1090 Education shall take appropriate action to enforce the findings or  
1091 prescriptions of the [hearing officer or board] administrative law  
1092 judge. Such action may include application to the Superior Court for  
1093 injunctive relief to compel such local or regional board or school  
1094 district to implement the findings or prescription of the [hearing officer  
1095 or board] administrative law judge without the necessity of  
1096 establishing irreparable harm or inadequate remedy at law.

1097 (3) If the [hearing officer or board] administrative law judge  
1098 upholds the local or regional board of education or the unified school  
1099 district responsible for providing special education and related  
1100 services for such child or pupil who requires or may require special  
1101 education on the issue of evaluation, reevaluation or placement in a  
1102 private school or facility, such board or district may evaluate or  
1103 provide such services to the child or pupil without the consent of the  
1104 parent or guardian, pupil if such pupil is an emancipated minor or is  
1105 eighteen years of age or older, or the surrogate parent appointed  
1106 pursuant to section 10-94g, subject to an appeal pursuant to  
1107 subdivision (4) of this subsection.

1108 (4) Appeals from the decision of the [hearing officer or board]  
1109 administrative law judge shall be taken in the manner set forth in  
1110 section 4-183, as amended by this act, except the court shall hear  
1111 additional evidence at the request of a party. Notwithstanding the  
1112 provisions of section 4-183, as amended by this act, such appeal shall  
1113 be taken to the judicial district wherein the child or pupil resides. In  
1114 the event of an appeal, upon request and at the expense of the State  
1115 Board of Education, said board shall supply a copy of the transcript of  
1116 the formal sessions of the hearing [officer or board] to the parent or  
1117 guardian or the emancipated minor or pupil eighteen years of age or  
1118 older or surrogate parent or said commissioner and to the board of  
1119 education of the school district or the unified school district.

1120 (e) [Hearing officers and members of the hearing board] The Office

1121 of Administrative Hearings shall be paid reasonable fees and expenses  
1122 as established by the Office of Administrative Hearings, in  
1123 consultation with the State Board of Education, for hearings and  
1124 mediations conducted by administrative law judges under this section.

1125 (f) (1) In lieu of proceeding directly to a hearing, pursuant to  
1126 subsection (a) of this section, the parties may agree in writing to  
1127 request the [Commissioner of Education] Chief Administrative Law  
1128 Judge to appoint [a state mediator] an administrative law judge to  
1129 mediate the matter. Upon the receipt of a written request for  
1130 mediation, signed by both parties, the [commissioner] Chief  
1131 Administrative Law Judge shall appoint [a mediator] an  
1132 administrative law judge knowledgeable in the fields and areas  
1133 significant to the review of the special educational needs of the child or  
1134 pupil to act as the mediator. The mediator shall attempt to resolve the  
1135 issues in a manner which is acceptable to the parties within thirty days  
1136 from the request for mediation. The mediator shall certify in writing to  
1137 the Department of Education and to the parties, within the thirty-day  
1138 period, whether the mediation was successful or unsuccessful.

1139 (2) If the dispute is not resolved through mediation, either party  
1140 may proceed to a hearing.

1141 Sec. 31. Section 10-186 of the general statutes is repealed and the  
1142 following is substituted in lieu thereof (*Effective October 1, 2005*):

1143 (a) Each local or regional board of education shall furnish, by  
1144 transportation or otherwise, school accommodations so that each child  
1145 five years of age and over and under twenty-one years of age who is  
1146 not a graduate of a high school or vocational school may attend public  
1147 school, except as provided in section 10-233c, and subsection (d) of  
1148 section 10-233d, as amended by this act. Any board of education which  
1149 denies school accommodations, including a denial based on an issue of  
1150 residency, to any such child shall inform the parent or guardian of  
1151 such child or the child, in the case of an emancipated minor or a pupil  
1152 eighteen years of age or older, of his right to request a hearing by the

1153 board of education in accordance with the provisions of subdivision (1)  
1154 of subsection (b) of this section. A board of education which has  
1155 denied school accommodations shall advise the board of education  
1156 under whose jurisdiction it claims such child should be attending  
1157 school of the denial. For purposes of this section, (1) a "parent or  
1158 guardian" shall include a surrogate parent appointed pursuant to  
1159 section 10-94g, and (2) a child residing in a dwelling located in more  
1160 than one town in this state shall be considered a resident of each town  
1161 in which the dwelling is located and may attend school in any one of  
1162 such towns. For purposes of this subsection, "dwelling" means a single,  
1163 two or three family house or a condominium unit.

1164 (b) (1) If any board of education denies such accommodations, the  
1165 parent or guardian of any child who is denied schooling, or an  
1166 emancipated minor or a pupil eighteen years of age or older who is  
1167 denied schooling, or an agent or officer charged with the enforcement  
1168 of the laws concerning attendance at school, may, in writing, request a  
1169 hearing by the board of education. The board of education may (A)  
1170 conduct the hearing, (B) designate a subcommittee of the board  
1171 composed of three board members to conduct the hearing or (C)  
1172 establish a local impartial hearing board of one or more persons not  
1173 members of the board of education to conduct the hearing. The board,  
1174 subcommittee or local impartial hearing board shall give such person a  
1175 hearing within ten days after receipt of the written request, make a  
1176 stenographic record or tape recording of the hearing and make a  
1177 finding within ten days after the hearing. Hearings shall be conducted  
1178 in accordance with the provisions of sections 4-176e to 4-180a,  
1179 inclusive, and section 4-181a, as amended by this act. Any child,  
1180 emancipated minor or pupil eighteen years of age or older who is  
1181 denied accommodations on the basis of residency may continue in  
1182 attendance in the school district at the request of the parent or  
1183 guardian of such child or emancipated minor or pupil eighteen years  
1184 of age or older, pending a hearing pursuant to this subdivision. The  
1185 party claiming ineligibility for school accommodations shall have the  
1186 burden of proving such ineligibility by a preponderance of the

1187 evidence, except in cases of denial of schooling based on residency, the  
1188 party denied schooling shall have the burden of proving residency by  
1189 a preponderance of the evidence.

1190 (2) Any such parent, guardian, emancipated minor, pupil eighteen  
1191 years of age or older, or agent or officer, aggrieved by the finding shall,  
1192 upon request, be provided with a transcript of the hearing within  
1193 thirty days after such request and may take an appeal from the finding  
1194 to the [State Board of Education] Office of Administrative Hearings. A  
1195 copy of each notice of appeal shall be filed simultaneously with the  
1196 local or regional board of education and the [State Board of Education]  
1197 Office of Administrative Hearings. Any child, emancipated minor or  
1198 pupil eighteen years of age or older who is denied accommodations by  
1199 a board of education as the result of a determination by such board, or  
1200 a subcommittee of the board or local impartial hearing board, that the  
1201 child is not a resident of the school district and therefore is not entitled  
1202 to school accommodations in the district may continue in attendance in  
1203 the school district at the request of the parent or guardian of such child  
1204 or such minor or pupil, pending a determination of such appeal. If an  
1205 appeal is not taken to the [State Board of Education] Office of  
1206 Administrative Hearings within twenty days of the mailing of the  
1207 finding to the aggrieved party, the decision of the board, subcommittee  
1208 or local impartial hearing board shall be final. The local or regional  
1209 board of education shall, within ten days after receipt of notice of an  
1210 appeal, forward the record of the hearing to the [State Board of  
1211 Education] Office of Administrative Hearings. The [State Board of  
1212 Education] Chief Administrative Law Judge shall, on receipt of a  
1213 written request for a hearing made in accordance with the provisions  
1214 of this subsection, [establish an impartial hearing board of one or more  
1215 persons] assign an administrative law judge to hold a public hearing in  
1216 the local or regional school district in which the cause of the complaint  
1217 arises. [Members of the hearing board may be employees of the state  
1218 Department of Education or may be qualified persons from outside the  
1219 department. No member of the board of education under review nor  
1220 any employee of such board of education shall be a member of the

1221 hearing board. Members of the hearing board, other than those  
1222 employed by the state of Connecticut, shall be paid reasonable fees and  
1223 expenses as established by the State Board of Education within the  
1224 limits of available appropriations. Such hearing board] The  
1225 administrative law judge may examine witnesses and shall maintain a  
1226 verbatim record of all formal sessions of the hearing. Either party to  
1227 the hearing may request that the [hearing board] administrative law  
1228 judge join all interested parties to the hearing, or the [hearing board]  
1229 administrative law judge may join any interested party on [its] his or  
1230 her own motion. The [hearing board] administrative law judge shall  
1231 have no authority to make a determination of the rights and  
1232 responsibilities of a board of education if such board is not a party to  
1233 the hearing. The [hearing board] administrative law judge may render  
1234 a determination of actual residence of any child, emancipated minor or  
1235 pupil eighteen years of age or older where residency is at issue.

1236 (3) The [hearing board] administrative law judge shall render [its]  
1237 his or her decision within forty-five days after receipt of the notice of  
1238 appeal, except that an extension may be granted by the [Commissioner  
1239 of Education] Chief Administrative Law Judge upon an application by  
1240 a party or the [hearing board] administrative law judge describing  
1241 circumstances related to the hearing which require an extension.

1242 (4) If, after the hearing, the [hearing board] administrative law judge  
1243 finds that any child is illegally or unreasonably denied schooling, the  
1244 [hearing board] administrative law judge shall order the board of  
1245 education under whose jurisdiction it has been found such child  
1246 should be attending school to make arrangements to enable the child  
1247 to attend public school. Except in the case of a residency  
1248 determination, the finding of the local or regional board of education,  
1249 subcommittee of such board or a local impartial hearing board shall be  
1250 upheld unless it is determined by the [hearing board] administrative  
1251 law judge that the finding was arbitrary, capricious or unreasonable. If  
1252 such school officers fail to take action upon such order in any case in  
1253 which such child is currently denied schooling and no suitable

1254 provision is made for such child within fifteen days after receipt of the  
1255 order and in all other cases, within thirty days after receipt of the  
1256 order, there shall be a forfeiture of the money appropriated by the state  
1257 for the support of schools amounting to fifty dollars for each child for  
1258 each day such child is denied schooling. If the [hearing board]  
1259 administrative law judge makes a determination that the child was not  
1260 a resident of the school district and therefore not entitled to school  
1261 accommodations from such district, the board of education may assess  
1262 tuition against the parent or guardian of the child or the emancipated  
1263 minor or pupil eighteen years of age or older based on the following:  
1264 One one-hundred-eightieth of the town's net current local educational  
1265 expenditure, as defined in section 10-261, per pupil multiplied by the  
1266 number of days of school attendance of the child in the district while  
1267 not entitled to school accommodations provided by that district. The  
1268 local board of education may seek to recover the amount of the  
1269 assessment through available civil remedies.

1270 (c) In the event of an appeal pursuant to section 10-187, as amended  
1271 by this act, from a decision of [a hearing board established] an  
1272 administrative law judge pursuant to subsection (b) of this section,  
1273 upon request, the [State Board of Education] Office of Administrative  
1274 Hearings shall supply, for the fee per page specified in section 1-212, a  
1275 copy of the transcript of the formal sessions of the hearing [board] to  
1276 the parent or guardian or emancipated minor or a pupil eighteen years  
1277 of age or older and to the local or regional board of education.

1278 (d) If a child sixteen years of age or older voluntarily terminates  
1279 enrollment in a school district and subsequently seeks readmission, the  
1280 local or regional board of education for the school district may deny  
1281 school accommodations to such child for up to ninety school days from  
1282 the date of such termination.

1283 Sec. 32. Section 10-187 of the general statutes is repealed and the  
1284 following is substituted in lieu thereof (*Effective October 1, 2005*):

1285 Any parent or guardian or emancipated minor or a pupil eighteen

1286 years of age or older or local or regional board of education aggrieved  
1287 by the finding of [the hearing board established by the State Board of  
1288 Education] an administrative law judge rendered under the provisions  
1289 of section 10-186, as amended by this act, may appeal therefrom in  
1290 accordance with the provisions of section 4-183, as amended by this  
1291 act, except venue for such appeal shall be in the judicial district within  
1292 which [such board] the local or regional board of education is situated.

1293 Sec. 33. Section 10-233d of the general statutes is repealed and the  
1294 following is substituted in lieu thereof (*Effective October 1, 2005*):

1295 (a) (1) Any local or regional board of education, at a meeting at  
1296 which three or more members of such board are present, [or the  
1297 impartial hearing board established pursuant to subsection (b) of this  
1298 section] or any regional vocational-technical school, may seek to expel,  
1299 subject to the provisions of this subsection, any pupil whose conduct  
1300 on school grounds or at a school-sponsored activity is violative of a  
1301 publicized policy of such board or is seriously disruptive of the  
1302 educational process or endangers persons or property or whose  
1303 conduct off school grounds is violative of such policy and is seriously  
1304 disruptive of the educational process. [, provided a majority of the  
1305 board members sitting in the expulsion hearing vote to expel and that  
1306 at least three affirmative votes for expulsion are cast.] The board or  
1307 school shall forward its request for expulsion to the Office of  
1308 Administrative Hearings for a hearing and determination as to  
1309 whether to expel the pupil. In making a determination as to whether  
1310 conduct is seriously disruptive of the educational process, the [board  
1311 of education or impartial hearing board] administrative law judge  
1312 assigned to the matter may consider, but such consideration shall not  
1313 be limited to: (A) Whether the incident occurred within close  
1314 proximity of a school; (B) whether other students from the school were  
1315 involved or whether there was any gang involvement; (C) whether the  
1316 conduct involved violence, threats of violence or the unlawful use of a  
1317 weapon, as defined in section 29-38, and whether any injuries  
1318 occurred; and (D) whether the conduct involved the use of alcohol.

1319 (2) Expulsion proceedings pursuant to this section, except as  
1320 provided in subsection (i) of this section shall be required whenever  
1321 there is reason to believe that any pupil (A) on school grounds or at a  
1322 school sponsored activity, was in possession of a firearm, as defined in  
1323 18 USC 921, as amended from time to time, or deadly weapon,  
1324 dangerous instrument or martial arts weapon, as defined in section  
1325 53a-3, (B) off school grounds, did possess such a firearm in violation of  
1326 section 29-35 or did possess and use such a firearm, instrument or  
1327 weapon in the commission of a crime under chapter 952, or (C) on or  
1328 off school grounds, offered for sale or distribution a controlled  
1329 substance, as defined in subdivision (9) of section 21a-240, whose  
1330 manufacture, distribution, sale, prescription, dispensing, transporting  
1331 or possessing with intent to sell or dispense, offering, or administering  
1332 is subject to criminal penalties under sections 21a-277 and 21a-278.  
1333 Such a pupil shall be expelled for one calendar year if the [local or  
1334 regional board of education or impartial hearing board] administrative  
1335 law judge finds that the pupil did so possess or so possess and use, as  
1336 appropriate, such a firearm, instrument or weapon or did so offer for  
1337 sale or distribution such a controlled substance, provided the [board of  
1338 education or the hearing board] administrative law judge may modify  
1339 the period of expulsion for a pupil on a case by case basis.

1340 (3) Unless an emergency exists, no pupil shall be expelled without a  
1341 formal hearing held pursuant to sections 4-176e to [4-180a] 4-181a,  
1342 inclusive, as amended by this act, and section [4-181a] 4-183, as  
1343 amended by this act, provided whenever such pupil is a minor, the  
1344 notice required by section 4-177, as amended by this act, and section 4-  
1345 180, as amended by this act, shall also be given to the parents or  
1346 guardian of the pupil. If an emergency exists, such hearing shall be  
1347 held as soon after the expulsion as possible.

1348 (b) For purposes of conducting expulsion hearings as required by  
1349 subsection (a) of this section, [any local or regional board of education  
1350 or any two or more of such boards in cooperation may establish an  
1351 impartial hearing board of one or more persons. No member of any

1352 such board or boards shall be a member of the hearing board. The  
1353 hearing board] an administrative law judge shall have the authority to  
1354 conduct the expulsion hearing and render a final decision in  
1355 accordance with the provisions of sections 4-176e to [4-180a] 4-181a,  
1356 inclusive, as amended by this act, and section [4-181a] 4-183, as  
1357 amended by this act.

1358 (c) In determining the length of an expulsion and the nature of the  
1359 alternative educational opportunity to be offered under subsection (d)  
1360 of this section, the [local or regional board of education, or the  
1361 impartial hearing board established pursuant to subsection (b) of this  
1362 section,] administrative law judge may receive and consider evidence  
1363 of past disciplinary problems which have led to removal from a  
1364 classroom, suspension or expulsion of such pupil.

1365 (d) Notwithstanding the provisions of subsection (a) of section 10-  
1366 220, local and regional boards of education and regional vocational-  
1367 technical schools shall only be required to offer an alternative  
1368 educational opportunity in accordance with this section. Any pupil  
1369 under sixteen years of age who is expelled shall be offered an  
1370 alternative educational opportunity during the period of expulsion,  
1371 provided any parent or guardian of such pupil who does not choose to  
1372 have his or her child enrolled in an alternative program shall not be  
1373 subject to the provisions of section 10-184. Any pupil expelled for the  
1374 first time who is between the ages of sixteen and eighteen and who  
1375 wishes to continue his or her education shall be offered an alternative  
1376 educational opportunity if he or she complies with conditions  
1377 established by [his or her local or regional board of education] the  
1378 administrative law judge. Such alternative may include, but shall not  
1379 be limited to, the placement of a pupil who is at least sixteen years of  
1380 age in an adult education program pursuant to section 10-69. [A local  
1381 or regional board of education] An administrative law judge shall  
1382 count the expulsion of a pupil when he was under sixteen years of age  
1383 for purposes of determining whether an alternative educational  
1384 opportunity is required for such pupil when he is between the ages of

1385 sixteen and eighteen. A local or regional board of education or regional  
1386 vocational-technical school may offer an alternative educational  
1387 opportunity to a pupil for whom such alternative educational  
1388 opportunity is not required pursuant to this section.

1389 (e) Notwithstanding the provisions of subsection (d) of this section  
1390 concerning the provision of an alternative educational opportunity for  
1391 pupils between the ages of sixteen and eighteen, local and regional  
1392 boards of education and regional vocational-technical schools shall not  
1393 be required to offer such alternative to any pupil between the ages of  
1394 sixteen and eighteen who is expelled because of conduct which  
1395 endangers persons if it is determined at the expulsion hearing that the  
1396 conduct for which the pupil is expelled involved (1) possession of a  
1397 firearm, as defined in 18 USC 921, as amended from time to time, or  
1398 deadly weapon, dangerous instrument or martial arts weapon, as  
1399 defined in section 53a-3, on school property or at a school-sponsored  
1400 activity, or (2) offering for sale or distribution on school property or at  
1401 a school-sponsored activity a controlled substance, as defined in  
1402 subdivision (9) of section 21a-240, whose manufacture, distribution,  
1403 sale, prescription, dispensing, transporting or possessing with the  
1404 intent to sell or dispense, offering, or administration is subject to  
1405 criminal penalties under sections 21a-277 and 21a-278. If a pupil is  
1406 expelled pursuant to this section for possession of a firearm or deadly  
1407 weapon, the board of education or regional vocational-technical school  
1408 shall report the violation to the local police department or, in the case  
1409 of a student enrolled in a regional vocational-technical school, to the  
1410 state police. If a pupil is expelled pursuant to this section for the sale or  
1411 distribution of such a controlled substance, the board of education or  
1412 regional vocational-technical school shall refer the pupil to an  
1413 appropriate state or local agency for rehabilitation, intervention or job  
1414 training, or any combination thereof, and inform the agency of its  
1415 action. Whenever a local or regional board of education or regional  
1416 vocational-technical school notifies a pupil between the ages of sixteen  
1417 and eighteen or the parents or guardian of such pupil that an  
1418 expulsion hearing will be held, the notification shall include a

1419 statement that the board of education or regional vocational-technical  
1420 school is not required to offer an alternative educational opportunity  
1421 to any pupil who is found to have engaged in the conduct described in  
1422 this subsection.

1423 (f) Whenever a pupil is expelled pursuant to the provisions of this  
1424 section, notice of the expulsion and the conduct for which the pupil  
1425 was expelled shall be included on the pupil's cumulative educational  
1426 record. Such notice, except for notice of an expulsion based on  
1427 possession of a firearm or deadly weapon as described in subsection  
1428 (a) of this section, shall be expunged from the cumulative educational  
1429 record by the local or regional board of education or the regional  
1430 vocational-technical school if a pupil graduates from high school.

1431 (g) A local or regional board of education or a regional vocational-  
1432 technical school may adopt the decision of an administrative law judge  
1433 regarding a pupil expulsion hearing conducted by an administrative  
1434 hearing office with respect to a pupil's conduct while he or she was a  
1435 pupil in another school district, provided [such local or regional board  
1436 of education or impartial hearing board] an administrative law judge  
1437 shall hold a hearing pursuant to the provisions of subsection (a) of this  
1438 section which shall be limited to a determination of whether the  
1439 conduct which was the basis for the expulsion would also warrant  
1440 expulsion under the policies of such board of education or regional  
1441 vocational-technical school. The pupil shall be excluded from school  
1442 pending such hearing. The excluded student shall be offered an  
1443 alternative educational opportunity in accordance with the provisions  
1444 of subsections (d) and (e) of this section.

1445 (h) Whenever a pupil against whom an expulsion hearing is  
1446 pending withdraws from school after notification of such hearing but  
1447 before the hearing is completed and a decision rendered pursuant to  
1448 this section, (1) notice of the pending expulsion hearing shall be  
1449 included on the pupil's cumulative educational record, and (2) the  
1450 [local or regional board of education or impartial hearing board]

1451 administrative law judge shall complete the expulsion hearing and  
1452 render a decision. If such pupil enrolls in school in another school  
1453 district, such pupil shall not be excluded from school in the other  
1454 district pending completion of the expulsion hearing pursuant to this  
1455 subsection unless an emergency exists, provided nothing in this  
1456 subsection shall limit the authority of the local or regional board of  
1457 education for such district or a regional vocational-technical school to  
1458 suspend the pupil or to [conduct its own] have an expulsion hearing  
1459 conducted by an administrative law judge in accordance with this  
1460 section.

1461 (i) Prior to conducting an expulsion hearing for a child requiring  
1462 special education and related services described in subparagraph (A)  
1463 of subdivision (5) of section 10-76a, a planning and placement team  
1464 shall convene to determine whether the misconduct was caused by the  
1465 child's disability. If it is determined that the misconduct was caused by  
1466 the child's disability, the child shall not be expelled. The planning and  
1467 placement team shall reevaluate the child for the purpose of modifying  
1468 the child's individualized education program to address the  
1469 misconduct and to ensure the safety of other children and staff in the  
1470 school. If it is determined that the misconduct was not caused by the  
1471 child's disability, the child may be expelled in accordance with the  
1472 provisions of this section applicable to children who do not require  
1473 special education and related services. Notwithstanding the provisions  
1474 of subsections (d) and (e) of this section, whenever a child requiring  
1475 such special education and related services is expelled, an alternative  
1476 educational opportunity, consistent with such child's educational  
1477 needs shall be provided during the period of expulsion.

1478 (j) An expelled pupil may apply for early readmission to school.  
1479 Except as provided in this subsection, such readmission shall be at the  
1480 discretion of the local or regional board of education or regional  
1481 vocational-technical school. The board of education or regional  
1482 vocational-technical school may delegate authority for readmission  
1483 decisions to the superintendent of schools for the school district or the

1484 director of the regional vocational-technical school. If the board of  
1485 education or the regional vocational-technical school delegates such  
1486 authority, readmission shall be at the discretion of the superintendent  
1487 or director. Readmission decisions shall not be subject to appeal to  
1488 Superior Court. The board, [or] superintendent or director, as  
1489 appropriate, may condition such readmission on specified criteria.

1490 (k) Local and regional boards of education and regional vocational-  
1491 technical schools shall submit to the Commissioner of Education such  
1492 information on expulsions for the possession of weapons as required  
1493 for purposes of the Gun-Free Schools Act of 1994, 20 USC 8921 et seq.,  
1494 as amended from time to time.

1495 (l) Any parent, guardian, emancipated minor, pupil eighteen years  
1496 of age or older, local or regional board of education or regional  
1497 vocational-technical school aggrieved by the finding of an  
1498 administrative law judge rendered under the provisions of this section  
1499 may appeal therefrom in accordance with the provisions of section 4-  
1500 183, as amended by this act.

1501 Sec. 34. Section 46a-51 of the general statutes is amended by adding  
1502 subdivision (21) as follows (*Effective October 1, 2005*):

1503 (NEW) (21) "Presiding officer" means an administrative law judge  
1504 appointed by the Chief Administrative Law Judge.

1505 Sec. 35. Subdivisions (9) and (10) of section 46a-54 of the general  
1506 statutes are repealed and the following is substituted in lieu thereof  
1507 (*Effective October 1, 2005*):

1508 (9) [By itself or with or by hearing officers or human rights referees,  
1509 to] To hold hearings, subpoena witnesses and compel their attendance,  
1510 administer oaths, take the testimony of any person under oath and  
1511 require the production for examination of any books and papers  
1512 relating to any matter under investigation or in question;

1513 (10) To make rules as to the procedure for the issuance of subpoenas

1514 by individual commissioners. [, hearing officers and human rights  
1515 referees;]

1516 Sec. 36. Section 46a-57 of the general statutes is repealed and the  
1517 following is substituted in lieu thereof (*Effective October 1, 2005*):

1518 [(a) (1) The Governor shall appoint three human rights referees for  
1519 terms commencing October 1, 1998, and four human rights referees for  
1520 terms commencing January 1, 1999. The human rights referees so  
1521 appointed shall serve for a term of one year.

1522 (2) (A) On and after October 1, 1999, the Governor shall appoint  
1523 seven human rights referees with the advice and consent of both  
1524 houses of the General Assembly. The Governor shall appoint three  
1525 human rights referees to serve for a term of two years commencing  
1526 October 1, 1999. The Governor shall appoint four human rights  
1527 referees to serve for a term of three years commencing January 1, 2000.  
1528 Thereafter, human rights referees shall serve for a term of three years.

1529 (B) On and after July 1, 2001, there shall be five human rights  
1530 referees. Each of the human rights referees serving on July 1, 2001,  
1531 shall complete the term to which such referee was appointed.  
1532 Thereafter, human rights referees shall be appointed by the Governor,  
1533 with the advice and consent of both houses of the General Assembly,  
1534 to serve for a term of three years.

1535 (C) On and after July 1, 2004, there shall be seven human rights  
1536 referees. Each of the human rights referees serving on July 1, 2004,  
1537 shall complete the term to which such referee was appointed and shall  
1538 serve until his successor is appointed and qualified. Thereafter, human  
1539 rights referees shall be appointed by the Governor, with the advice and  
1540 consent of both houses of the General Assembly, to serve for a term of  
1541 three years.

1542 (3) When the General Assembly is not in session, any vacancy shall  
1543 be filled pursuant to the provisions of section 4-19. The Governor may

1544 remove any human rights referee for cause.

1545 (b) Human rights referees shall serve full-time and shall conduct the  
1546 settlement negotiations and hearings authorized by the provisions of  
1547 this chapter. A human rights referee shall have the powers granted to  
1548 hearing officers and presiding officers by chapter 54 and this chapter.  
1549 A human rights referee shall be an attorney admitted to the practice of  
1550 law in this state. Any commissioner of the Superior Court who is able  
1551 and willing to hear discriminatory practice complaints may submit his  
1552 or her name to the Governor for consideration for appointment as a  
1553 human rights referee. No human rights referee shall appear before the  
1554 commission or another hearing officer for one year after leaving office.

1555 (c) On or after October 1, 1998, the executive director shall designate  
1556 one human rights referee to serve as Chief Human Rights Referee for a  
1557 term of one year. The Chief Human Rights Referee, in consultation  
1558 with the executive director, shall supervise and assign the human  
1559 rights referees to conduct settlement negotiations and hearings on  
1560 complaints, including complaints for which a trial on the merits has  
1561 not commenced prior to October 1, 1998, on a rotating basis. The  
1562 commission, in consultation with the executive director and Chief  
1563 Human Rights Referee, shall adopt regulations and rules of practice, in  
1564 accordance with chapter 54, to ensure consistent procedures governing  
1565 contested case proceedings.]

1566 (a) Administrative law judges shall conduct the settlement  
1567 negotiations and hearings authorized by the provisions of this chapter.  
1568 The Chief Administrative Law Judge shall adopt regulations and rules  
1569 of practice, in accordance with chapter 54, to ensure consistent  
1570 procedures governing contested case proceedings.

1571 [(d)] (b) When serving as a presiding officer as provided in section  
1572 46a-84, as amended by this act, each [human rights referee or hearing  
1573 officer] administrative law judge shall have the same subpoena powers  
1574 as are granted to commissioners by subdivision (9) of section 46a-54, as  
1575 amended by this act. Each presiding officer shall also have the power

1576 to determine a reasonable fee to be paid to an expert witness,  
1577 including, but not limited to, any practitioner of the healing arts, as  
1578 defined in section 20-1, dentist, registered nurse or licensed practical  
1579 nurse, as defined in section 20-87a, and real estate appraiser when any  
1580 such expert witness is summoned by the commission to give expert  
1581 testimony, in person or by deposition, in any contested case  
1582 proceeding, pursuant to section 46a-84, as amended by this act. Such  
1583 fee shall be paid to the expert witness by the party calling such expert  
1584 witness in lieu of all other witness fees.

1585 Sec. 37. Subsection (b) of section 46a-68a of the general statutes is  
1586 repealed and the following is substituted in lieu thereof (*Effective*  
1587 *October 1, 2005*):

1588 (b) The issuance of a certificate of noncompliance shall bar the  
1589 agency, department, board or commission in noncompliance with  
1590 section 46a-68 from filling a position or position classification by hire  
1591 or promotion upon receipt of the certificate, the provisions of any state  
1592 law or regulation to the contrary notwithstanding, until: (1) The  
1593 commission determines that the agency has achieved compliance with  
1594 section 46a-68 and withdraws the certificate; or (2) the commission, at a  
1595 hearing requested by the agency, department, board or commission  
1596 receiving the certificate and conducted by a presiding officer,  
1597 [appointed by the chairperson of the commission,] is unable to show  
1598 cause why the certificate of noncompliance should not be rescinded or  
1599 a court, upon appeal, so determines; or (3) the Commissioner of  
1600 Administrative Services and the Secretary of the Office of Policy and  
1601 Management certify to the commission that the agency in  
1602 noncompliance with section 46a-68 requires immediate filling of the  
1603 vacancy because failure to fill the position or position classification will  
1604 cause an emergency situation to exist jeopardizing the public welfare.  
1605 A separate certificate of exemption shall be required for each vacancy  
1606 in a position or position classification with respect to which the  
1607 Commissioner of Administrative Services and the Secretary of the  
1608 Office of Policy and Management certify that an emergency situation

1609 exists.

1610 Sec. 38. Section 46a-68h of the general statutes is repealed and the  
1611 following is substituted in lieu thereof (*Effective October 1, 2005*):

1612 If the commission issues an order pursuant to subdivision (5) of  
1613 subsection (c) of section 46a-56, the contractor or subcontractor may  
1614 request a hearing within fifteen days of receipt of such order to allow  
1615 such contractor or subcontractor to show cause why the commission's  
1616 order should not be implemented. Upon receipt of a request for a  
1617 hearing, the commission shall [appoint a hearing officer or human  
1618 rights referee pursuant to the procedures adopted by the commission]  
1619 forward the request to the Office of Administrative Hearings. The  
1620 Chief Administrative Law Judge shall appoint a presiding officer to  
1621 conduct such hearing. Any hearing requested pursuant to this section  
1622 shall be conducted in accordance with the provisions of sections 4-177  
1623 to 4-182, inclusive, as amended by this act.

1624 Sec. 39. Section 46a-68i of the general statutes is repealed and the  
1625 following is substituted in lieu thereof (*Effective October 1, 2005*):

1626 The commission or any contractor or subcontractor aggrieved by a  
1627 decision of the [hearing officer or human rights referee] presiding  
1628 officer pursuant to section 46a-68h, as amended by this act, shall have  
1629 a right of appeal to the Superior Court as provided for in section 4-183,  
1630 as amended by this act. Such appeal shall be privileged in order of  
1631 assignment of trial.

1632 Sec. 40. Subsection (i) of section 46a-83 of the general statutes is  
1633 repealed and the following is substituted in lieu thereof (*Effective*  
1634 *October 1, 2005*):

1635 (i) The executive director of the commission or his designee may  
1636 enter an order of default against a respondent (1) who, after notice,  
1637 fails to answer a complaint in accordance with subsection (a) of this  
1638 section or within such extension of time as may have been granted, [or]

1639 (2) who fails to answer interrogatories issued pursuant to subdivision  
1640 (11) of section 46a-54 or fails to respond to a subpoena issued pursuant  
1641 to subsection (h) of this section and subdivision (9) of section 46a-54, as  
1642 amended by this act, provided the executive director or his designee  
1643 shall consider any timely filed objection, or (3) who, after notice and  
1644 without good cause, fails to attend a mandatory mediation session.  
1645 Upon entry of an order of default, the executive director or his  
1646 designee shall forward the complaint and order to the Office of  
1647 Administrative Hearings. The Chief Administrative Law Judge shall  
1648 appoint a presiding officer to enter, after notice and hearing, an order  
1649 eliminating the discriminatory practice complained of and making the  
1650 complainant whole. The commission or the complainant may petition  
1651 the Superior Court for enforcement of any order for relief pursuant to  
1652 section 46a-95.

1653 Sec. 41. Section 46a-84 of the general statutes is repealed and the  
1654 following is substituted in lieu thereof (*Effective October 1, 2005*):

1655 (a) If the investigator fails to eliminate a discriminatory practice  
1656 complained of pursuant to section 46a-82 within fifty days of a finding  
1657 of reasonable cause, he shall, within ten days, certify the complaint and  
1658 the results of the investigation to the executive director of the  
1659 commission and to the Attorney General.

1660 (b) Upon certification of the complaint, the executive director of the  
1661 commission, or [his] the executive director's designee, [shall] may  
1662 appoint a [hearing officer,] hearing adjudicator [or human rights  
1663 referee to act as a presiding officer to hear the complaint or] to conduct  
1664 settlement negotiations. [and] The executive director, or the executive  
1665 director's designee, shall cause to be issued and served in the name of  
1666 the commission a written notice, complying with subsection (b) of  
1667 section 4-177, as amended by this act, together with a copy of the  
1668 complaint, as the same may have been amended, requiring the  
1669 respondent to file a written answer to the charges of the complaint [at  
1670 a hearing before the presiding officer or hearing adjudicator at a time

1671 and place to be] with the Office of Administrative Hearings not later  
1672 than a date specified in the notice.

1673 (c) After the executive director of the commission, or the executive  
1674 director's designee, refers a case to the Office of Administrative  
1675 Hearings under this section, the executive director, or the executive  
1676 director's designee, shall certify the notice to the respondent, the  
1677 complaint and any amendments thereto, and the certification of the  
1678 complaint made under subsection (a) of this section to the Office of  
1679 Administrative Hearings. Thereafter, a party shall file all documents  
1680 that are to become part of the record with the Office of Administrative  
1681 Hearings. The filing of such documents with the commission rather  
1682 than with the Office of Administrative Hearings shall not be a  
1683 jurisdictional defect and shall not be grounds for termination of the  
1684 proceeding, provided the administrative law judge may assess  
1685 appropriate costs and sanctions against a party who misfiles such  
1686 documents on a showing of prejudice resulting from a wilful misfiling.  
1687 The Office of Administrative Hearings shall maintain the official  
1688 record of a case referred to said office under this section.

1689 (d) Upon receipt of the certified notice to the respondent, complaint  
1690 and any amendments thereto, and certification of the complaint as  
1691 provided in subsection (c) of this section, the Chief Administrative  
1692 Law Judge shall appoint a presiding officer to conduct a hearing. The  
1693 Chief Administrative Law Judge shall cause to be issued and served on  
1694 the parties notice of the hearing, provided such hearing shall be  
1695 commenced by convening a hearing conference not later than forty-  
1696 five days after the [certification of the complaint] Office of  
1697 Administrative Hearings receives such certified notice to the  
1698 respondent, complaint and any amendments thereto, and certification  
1699 of the complaint. The hearing shall be a de novo hearing on the merits  
1700 of the complaint and not an appeal of the commission's processing of  
1701 the complaint prior to its certification. The hearing shall proceed with  
1702 reasonable dispatch and be concluded in accordance with the  
1703 provisions of section 4-180, as amended by this act.

1704 [(c)] (e) The place of any hearing may be the [office of the  
1705 commission] central office or any regional office of the Office of  
1706 Administrative Hearings or another place designated by [it] the Chief  
1707 Administrative Law Judge.

1708 [(d)] (f) The case in support of the complaint shall be presented at  
1709 the hearing by the Attorney General, who shall be counsel for the  
1710 commission, or by a commission legal counsel as provided in section  
1711 46a-55, as the case may be. If the Attorney General or the commission  
1712 legal counsel determines that a material mistake of law or fact has been  
1713 made in the finding of reasonable cause, he may withdraw the  
1714 certification of the complaint made under subsection (a) of this section  
1715 and remand the file to the investigator for further action. The  
1716 complainant may be represented by an attorney of his own choice. If  
1717 the Attorney General or the commission legal counsel, as the case may  
1718 be, determines that the interests of the state will not be adversely  
1719 affected, the attorney for the complainant shall present all or part of  
1720 the case in support of the complaint. No commissioner may participate  
1721 in the deliberations of the presiding officer in the case.

1722 [(e)] (g) [A hearing officer] An administrative law judge, hearing  
1723 adjudicator [, human rights referee] or attorney who volunteers service  
1724 pursuant to subdivision (18) of section 46a-54 may supervise  
1725 settlement endeavors, or, in employment discrimination cases only, the  
1726 complainant and respondent, with the permission of the commission,  
1727 may engage in alternate dispute resolution endeavors for not more  
1728 than three months. The cost of such alternate dispute resolution  
1729 endeavors shall be borne by the complainant or the respondent or both  
1730 and not by the commission. Any endeavors or negotiations for  
1731 conciliation, settlement or alternate dispute resolution shall not be  
1732 received in evidence.

1733 [(f)] (h) The respondent may file a written answer to the complaint  
1734 under oath and appear at the hearing in person or otherwise, with or  
1735 without counsel, and submit testimony and be fully heard. If the

1736 respondent fails to file a written answer prior to the hearing within the  
1737 time limits established by regulation adopted by the [commission]  
1738 Chief Administrative Law Judge in accordance with chapter 54 or fails  
1739 to appear at the hearing after notice in accordance with section 4-177,  
1740 as amended by this act, the presiding officer [or hearing adjudicator]  
1741 may enter an order of default and order such relief as is necessary to  
1742 eliminate the discriminatory practice and make the complainant  
1743 whole. The commission or the complainant may petition the Superior  
1744 Court for enforcement of any such order for relief pursuant to the  
1745 provisions of section 46a-95.

1746 [(g)] (i) The presiding officer [or hearing adjudicator] conducting  
1747 any hearing under this section shall permit reasonable amendment to  
1748 any complaint or answer and the testimony taken at the hearing shall  
1749 be under oath and be transcribed at the request of any party.

1750 Sec. 42. Section 46a-86 of the general statutes is repealed and the  
1751 following is substituted in lieu thereof (*Effective October 1, 2005*):

1752 (a) If, upon all the evidence presented at the hearing conducted  
1753 pursuant to section 46a-84, as amended by this act, the presiding  
1754 officer finds that a respondent has engaged in any discriminatory  
1755 practice, the presiding officer shall state his findings of fact and shall  
1756 issue and file with the commission and the Office of Administrative  
1757 Hearings and cause to be served on the respondent an order requiring  
1758 the respondent to cease and desist from the discriminatory practice  
1759 and further requiring the respondent to take such affirmative action as  
1760 in the judgment of the presiding officer will effectuate the purpose of  
1761 this chapter.

1762 (b) In addition to any other action taken [hereunder] under this  
1763 section, upon a finding of a discriminatory employment practice, the  
1764 presiding officer may order the hiring or reinstatement of employees,  
1765 with or without back pay, or restoration to membership in any  
1766 respondent labor organization, provided, liability for back pay shall  
1767 not accrue from a date more than two years prior to the filing or

1768 issuance of the complaint and, provided further, interim earnings,  
1769 including unemployment compensation and welfare assistance or  
1770 amounts which could have been earned with reasonable diligence on  
1771 the part of the person to whom back pay is awarded shall be deducted  
1772 from the amount of back pay to which such person is otherwise  
1773 entitled. The amount of any such deduction for interim unemployment  
1774 compensation or welfare assistance shall be paid by the respondent to  
1775 the commission which shall transfer such amount to the appropriate  
1776 state or local agency.

1777 (c) In addition to any other action taken [hereunder] under this  
1778 section, upon a finding of a discriminatory practice prohibited by  
1779 section 46a-58, 46a-59, 46a-64, 46a-64c, 46a-81b, 46a-81d or 46a-81e, the  
1780 presiding officer shall determine the damage suffered by the  
1781 complainant, which damage shall include, but not be limited to, the  
1782 expense incurred by the complainant for obtaining alternate housing  
1783 or space, storage of goods and effects, moving costs and other costs  
1784 actually incurred by him as a result of such discriminatory practice  
1785 and shall allow reasonable attorney's fees and costs.

1786 (d) In addition to any other action taken [hereunder] under this  
1787 section, upon a finding of a discriminatory practice prohibited by  
1788 section 46a-66 or 46a-81f, the presiding officer shall issue and file with  
1789 the commission and the Office of Administrative Hearings and cause  
1790 to be served on the respondent an order requiring the respondent to  
1791 pay the complainant the damages resulting from the discriminatory  
1792 practice.

1793 (e) If, upon all the evidence and after a complete hearing, the  
1794 presiding officer finds that the respondent has not engaged in any  
1795 alleged discriminatory practice, the presiding officer shall state his  
1796 findings of fact and shall issue and file with the commission and the  
1797 Office of Administrative Hearings and cause to be served on the  
1798 respondent an order dismissing the complaint.

|   |                        |                    |
|---|------------------------|--------------------|
| This act shall take effect as follows and shall amend the following sections: |                        |                    |
| Section 1   | <i>October 1, 2005</i> | New section        |
| Sec. 2  | <i>October 1, 2005</i> | New section        |
| Sec. 3  | <i>October 1, 2005</i> | New section        |
| Sec. 4  | <i>October 1, 2005</i> | New section        |
| Sec. 5  | <i>October 1, 2005</i> | New section        |
| Sec. 6  | <i>October 1, 2005</i> | New section        |
| Sec. 7  | <i>October 1, 2005</i> | New section        |
| Sec. 8  | <i>October 1, 2005</i> | New section        |
| Sec. 9  | <i>October 1, 2005</i> | New section        |
| Sec. 10   | <i>October 1, 2005</i> | 4-166              |
| Sec. 11   | <i>October 1, 2005</i> | 4-176(g)           |
| Sec. 12   | <i>October 1, 2005</i> | 4-176e             |
| Sec. 13   | <i>October 1, 2005</i> | 4-177              |
| Sec. 14   | <i>October 1, 2005</i> | 4-177a             |
| Sec. 15   | <i>October 1, 2005</i> | 4-177b             |
| Sec. 16   | <i>October 1, 2005</i> | 4-177c             |
| Sec. 17   | <i>October 1, 2005</i> | 4-178              |
| Sec. 18   | <i>October 1, 2005</i> | 4-178a             |
| Sec. 19   | <i>October 1, 2005</i> | 4-179              |
| Sec. 20   | <i>October 1, 2005</i> | New section        |
| Sec. 21   | <i>October 1, 2005</i> | 4-180              |
| Sec. 22   | <i>October 1, 2005</i> | 4-180a(a)          |
| Sec. 23   | <i>October 1, 2005</i> | 4-181(a)           |
| Sec. 24   | <i>October 1, 2005</i> | 4-181a             |
| Sec. 25   | <i>October 1, 2005</i> | 4-183              |
| Sec. 26   | <i>October 1, 2005</i> | 4-188a             |
| Sec. 27   | <i>October 1, 2005</i> | 1-82a(e)           |
| Sec. 28   | <i>October 1, 2005</i> | 1-93a(e)           |
| Sec. 29   | <i>October 1, 2005</i> | 4-61dd(b)          |
| Sec. 30   | <i>October 1, 2005</i> | 10-76h             |
| Sec. 31   | <i>October 1, 2005</i> | 10-186             |
| Sec. 32   | <i>October 1, 2005</i> | 10-187             |
| Sec. 33   | <i>October 1, 2005</i> | 10-233d            |
| Sec. 34   | <i>October 1, 2005</i> | 46a-51             |
| Sec. 35   | <i>October 1, 2005</i> | 46a-54(9) and (10) |
| Sec. 36   | <i>October 1, 2005</i> | 46a-57             |
| Sec. 37   | <i>October 1, 2005</i> | 46a-68a(b)         |

|         |                        |           |
|---------|------------------------|-----------|
| Sec. 38 | <i>October 1, 2005</i> | 46a-68h   |
| Sec. 39 | <i>October 1, 2005</i> | 46a-68i   |
| Sec. 40 | <i>October 1, 2005</i> | 46a-83(i) |
| Sec. 41 | <i>October 1, 2005</i> | 46a-84    |
| Sec. 42 | <i>October 1, 2005</i> | 46a-86    |

**Statement of Purpose:**

To establish an Office of Administrative Hearings for purposes of ensuring the impartial administration and conduct of hearings of contested cases.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*