

[Second Reprint]

**ASSEMBLY, No. 5366**

**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

INTRODUCED FEBRUARY 23, 2021

**Sponsored by:**

**Assemblywoman VALERIE VAINIERI HUTTLE**

**District 37 (Bergen)**

**Assemblywoman PAMELA R. LAMPITT**

**District 6 (Burlington and Camden)**

**Assemblyman JOHN F. MCKEON**

**District 27 (Essex and Morris)**

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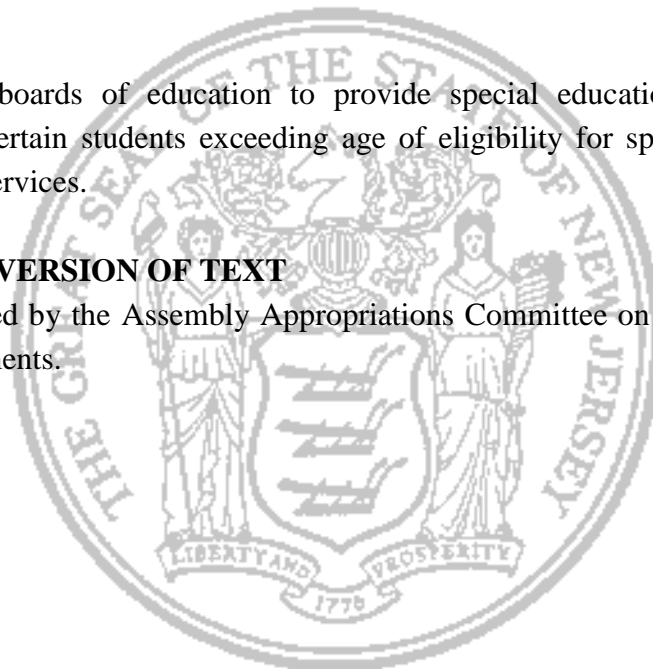
**Assemblyman Benson, Assemblywoman Jasey, Assemblymen Stanley, DePhillips, Wimberly, Caputo, Holley, Assemblywoman N.Munoz, Assemblymen Bergen, Scharfenberger, Webber, Zwicker, Assemblywomen Stanfield, Quijano, Carter, Assemblyman Karabinchak, Assemblywomen Dunn and Tucker**

**SYNOPSIS**

Requires boards of education to provide special education and related services to certain students exceeding age of eligibility for special education and related services.

**CURRENT VERSION OF TEXT**

As reported by the Assembly Appropriations Committee on May 18, 2021, with amendments.



**(Sponsorship Updated As Of: 5/20/2021)**

1 AN ACT concerning education and related services for students with  
2 disabilities and supplementing chapter 46 of Title 18A of the  
3 New Jersey Statutes.

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

7  
8 1. a. Notwithstanding the provisions of N.J.S.18A:46-6,  
9 N.J.S.18A:46-8, or of any other law, rule, or regulation concerning  
10 the age of eligibility for special education and related services to the  
11 contrary, a board of education shall, in the 2021-2022 school year,  
12 provide special education and related services contained in an  
13 individualized education program to a student with disabilities who  
14 attains the age of 21 during the 2020-2021 school year, provided  
15 that the parent of the student <sup>1</sup>**[in conjunction with]** and<sup>1</sup> the  
16 individualized education program team <sup>1</sup>**[determines]** determine<sup>1</sup>  
17 that the student requires <sup>1</sup>additional or compensatory<sup>1</sup> special  
18 education and related services<sup>1</sup>, including transition services,<sup>1</sup>  
19 during the 2021-2022 school year. A student receiving special  
20 education and related services pursuant to this subsection shall not  
21 be eligible to receive such education and services beyond June 30,  
22 2022, unless otherwise provided in a student's individualized  
23 education program <sup>1</sup>or as ordered by a hearing officer, complaint  
24 investigation, or court of competent jurisdiction<sup>1</sup>.

25 b. Notwithstanding the provisions of N.J.S.18A:46-6,  
26 N.J.S.18A:46-8, or of any other law, rule, or regulation concerning  
27 the age of eligibility for special education and related services to the  
28 contrary, a board of education shall, in the 2022-2023 school year,  
29 provide special education and related services contained in an  
30 individualized education program to a student with disabilities who  
31 attains the age of 21 during the 2021-2022 school year, provided  
32 that the parent of the student <sup>1</sup>**[in conjunction with]** and<sup>1</sup> the  
33 individualized education program team <sup>1</sup>**[determines]** determine<sup>1</sup>  
34 that the student requires <sup>1</sup>additional or compensatory<sup>1</sup> special  
35 education and related services<sup>1</sup>, including transition services,<sup>1</sup>  
36 during the 2022-2023 school year. A student receiving special  
37 education and related services pursuant to this subsection shall not  
38 be eligible to receive such education and services beyond June 30,  
39 2023, unless otherwise provided in a student's individualized  
40 education program <sup>1</sup>or as ordered by a hearing officer, complaint  
41 investigation, or court of competent jurisdiction<sup>1</sup>.

42 c. <sup>1</sup>Notwithstanding the provisions of N.J.S.18A:46-6,  
43 N.J.S.18A:46-8, or of any other law, rule, or regulation concerning  
44 the age of eligibility for special education and related services to the

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly AED committee amendments adopted May 12, 2021.

<sup>2</sup>Assembly AAP committee amendments adopted May 18, 2021.

1 contrary, a board of education shall, in the 2023-2024 school year,  
2 provide special education and related services contained in an  
3 individualized education program to a student with disabilities who  
4 attains the age of 21 during the 2022-2023 school year, provided  
5 that the parent of the student and the individualized education  
6 program team determine that the student requires additional or  
7 compensatory special education and related services, including  
8 transition services, during the 2023-2024 school year. A student  
9 receiving special education and related services pursuant to this  
10 subsection shall not be eligible to receive such education and  
11 services beyond June 30, 2024, unless otherwise provided in a  
12 student's individualized education program or as ordered by a  
13 hearing officer, complaint investigation, or court of competent  
14 jurisdiction.

15 d.<sup>1</sup> A student receiving special education and related services<sup>1</sup>,  
16 including transition services,<sup>1</sup> pursuant to this section shall be  
17 afforded the same rights, privileges, and remedies provided to  
18 students with disabilities pursuant to State law, State Board of  
19 Education regulations concerning special education, and the federal  
20 "Individuals with Disabilities Education Act," 20 U.S.C. s.1400 et  
21 seq<sup>1</sup>. Any disputes that arise with respect to the provision or nature  
22 of services provided to a student with disabilities in the additional  
23 year as provided under subsections a., b., and c. of this section may  
24 be addressed, as determined by the parent of the student with  
25 disabilities, by either:

26 (1) mediation;

27 (2) a written request for a complaint investigation submitted to  
28 the Director of the Office of Special Education Policy and Dispute  
29 Resolution in the Department of Education; or

30 (3) a special education due process hearing pursuant to the  
31 provisions of the "Individuals with Disabilities Education Act," 20  
32 U.S.C. s.1400 et seq., chapter 46 of Title 18A of the New Jersey  
33 Statutes, or regulations promulgated thereto.

34 e. (1) The special education and related services, including  
35 transition services, provided to students with disabilities pursuant to  
36 the provisions of this section shall, to the extent permitted by  
37 federal law, be paid for from the monies received by the State or a  
38 school district under the federal "Coronavirus Aid, Relief, and  
39 Economic Security (CARES) Act," Pub.L.116-136, the federal  
40 "Coronavirus Response and Relief Supplemental Appropriations  
41 (CRRSA) Act, 2021," Pub.L.116-260, the federal "American  
42 Rescue Plan (ARP) Act," Pub.L.117-2, or any other federal funding  
43 provided to address the impact of the coronavirus pandemic on  
44 elementary and secondary schools as it becomes available.

45 (2) To the extent that the federal funds described in paragraph  
46 (1) of this subsection do not cover the costs borne by school  
47 districts to provide the special education and related services,  
48 including transition services, to students with disabilities pursuant

1 to the provisions of this section, the State shall appropriate funds as  
2 necessary from the Property Tax Relief Fund to reimburse school  
3 districts for these costs.

4 (3) The special education and related services funded pursuant  
5 to the provisions of this subsection may include, but are not limited  
6 to, the additional staff, programs, and facilities deemed necessary  
7 by school districts to provide the special education and related  
8 services, including transition services, required under this section<sup>1</sup>.

9 <sup>1</sup>[d.] f.<sup>1</sup> <sup>2</sup>Notwithstanding the provisions of chapter 26 of Title  
10 14 of the New Jersey Administrative Code, N.J.A.C.6A:14-4.9, or  
11 of any other law, rule, or regulation establishing educational facility  
12 planning standards, temporary facility standards, or age range and  
13 group size requirements for approved private schools for students  
14 with disabilities to the contrary, for the 2021-2022 school year  
15 through the 2023-2024 school year, the Department of Education  
16 shall permit an approved private school for students with  
17 disabilities to temporarily utilize non-qualifying spaces on school  
18 property for instruction and educational purposes in order to serve  
19 any additional students receiving special education and related  
20 services, including transition services, pursuant to the provisions of  
21 this section, if the department and the applicable county office of  
22 education determine that the school is able to provide suitable  
23 accommodations in those spaces for the additional students.

24 g. Notwithstanding the provisions of N.J.S.18A:46-21,  
25 N.J.A.C.6A:23A-18.3, or of any other law, rule, or regulation  
26 establishing per diem tuition rates at approved private schools for  
27 students with disabilities to the contrary, the Department of  
28 Education shall, for the 2021-2022 school year through the 2025-  
29 2026 school year, set the maximum tentative tuition rate of each  
30 approved private school for students with disabilities at the  
31 maximum tentative tuition rate set for the 2020-2021 school year if,  
32 during the 2021-2022 school year through the 2023-2024 school  
33 year, the school exceeds the total number of students at the  
34 approved facility in the 2020-2021 school year.

35 h.<sup>2</sup> As used in this section, “parent” means the natural or  
36 adoptive parent, the legal guardian, resource family parent when  
37 willing to so serve, a surrogate parent, or a person acting in the  
38 place of a parent, such as a grandparent or stepparent with whom  
39 the student lives or a person legally responsible for the student's  
40 welfare. Parent shall also include an adult student who has attained  
41 the age of 18, who is not under legal guardianship, and who is  
42 entitled to receive special education and related services.

43

44 2. This act shall take effect immediately.