

P.L. 2021, CHAPTER 109, *approved June 16, 2021*
Senate, No. 3434 (*Second Reprint*)

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 ¹**["in conjunction with"]** and¹ the
16 individualized education program team ¹**["determines"]** determine¹
17 that the student requires 'additional or compensatory' special
18 education and related services¹, including transition services,¹
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 'or as ordered by a hearing officer, complaint
24 investigation, or court of competent jurisdiction¹.

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 ¹**["in conjunction with"]** and¹ the
33 individualized education program team ¹**["determines"]** determine¹
34 that the student requires 'additional or compensatory' special
35 education and related services¹, including transition services,¹
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

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:

¹Senate SBA committee amendments adopted March 22, 2021.

²Assembly AAP committee amendments adopted May 18, 2021.

1 education program ¹or as ordered by a hearing officer, complaint
2 investigation, or court of competent jurisdiction¹.

3 c. ¹Notwithstanding the provisions of N.J.S.18A:46-6,
4 N.J.S.18A:46-8, or of any other law, rule, or regulation concerning
5 the age of eligibility for special education and related services to the
6 contrary, a board of education shall, in the 2023-2024 school year,
7 provide special education and related services contained in an
8 individualized education program to a student with disabilities who
9 attains the age of 21 during the 2022-2023 school year, provided
10 that the parent of the student and the individualized education
11 program team determine that the student requires additional or
12 compensatory special education and related services, including
13 transition services, during the 2023-2024 school year. A student
14 receiving special education and related services pursuant to this
15 subsection shall not be eligible to receive such education and
16 services beyond June 30, 2024, unless otherwise provided in a
17 student's individualized education program or as ordered by a
18 hearing officer, complaint investigation, or court of competent
19 jurisdiction.

20 d.¹ A student receiving special education and related services¹,
21 including transition services,¹ pursuant to this section shall be
22 afforded the same rights, privileges, and remedies provided to
23 students with disabilities pursuant to State law, State Board of
24 Education regulations concerning special education, and the federal
25 "Individuals with Disabilities Education Act," 20 U.S.C. s.1400 et
26 seq¹. Any disputes that arise with respect to the provision or nature
27 of services provided to a student with disabilities in the additional
28 year as provided under subsections a., b., and c. of this section may
29 be addressed, as determined by the parent of the student with
30 disabilities, by either:

31 (1) mediation;

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

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

39 e. (1) The special education and related services, including
40 transition services, provided to students with disabilities pursuant to
41 the provisions of this section shall, to the extent permitted by
42 federal law, be paid for from the monies received by the State or a
43 school district under the federal "Coronavirus Aid, Relief, and
44 Economic Security (CARES) Act," Pub.L.116-136, the federal
45 "Coronavirus Response and Relief Supplemental Appropriations
46 (CRRSA) Act, 2021," Pub.L.116-260, the federal "American
47 Rescue Plan (ARP) Act," Pub.L.117-2, or any other federal funding

1 provided to address the impact of the coronavirus pandemic on
2 elementary and secondary schools as it becomes available.

3 (2) To the extent that the federal funds described in paragraph
4 (1) of this subsection do not cover the costs borne by school
5 districts to provide the special education and related services,
6 including transition services, to students with disabilities pursuant
7 to the provisions of this section, the State shall appropriate funds as
8 necessary from the Property Tax Relief Fund to reimburse school
9 districts for these costs.

10 (3) The special education and related services funded pursuant
11 to the provisions of this subsection may include, but are not limited
12 to, the additional staff, programs, and facilities deemed necessary
13 by school districts to provide the special education and related
14 services, including transition services, required under this section¹.

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

30 g. Notwithstanding the provisions of N.J.S.18A:46-21,
31 N.J.A.C.6A:23A-18.3, or of any other law, rule, or regulation
32 establishing per diem tuition rates at approved private schools for
33 students with disabilities to the contrary, the Department of
34 Education shall, for the 2021-2022 school year through the 2025-
35 2026 school year, set the maximum tentative tuition rate of each
36 approved private school for students with disabilities at the
37 maximum tentative tuition rate set for the 2020-2021 school year if,
38 during the 2021-2022 school year through the 2023-2024 school
39 year, the school exceeds the total number of students at the
40 approved facility in the 2020-2021 school year.

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

1 2. This act shall take effect immediately.

2

3

4

5

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