

SENATE, No. 4222

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED DECEMBER 6, 2021

Sponsored by:

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

Co-Sponsored by:

Senator T.Kean

SYNOPSIS

Eliminates requirement for DOE to set certain tuition rates for approved private schools for students with disabilities in certain cases.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/13/2021)

1 **AN ACT** concerning tuition rates for approved private schools for
2 students with disabilities and amending P.L.2021, c.109.

3

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

6

7 1. Section 1 of P.L.2021, c.109 is amended to read as follows:

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 and the individualized education
16 program team determine that the student requires additional or
17 compensatory special education and related services, including
18 transition services, during the 2021-2022 school year. A student
19 receiving special education and related services pursuant to this
20 subsection shall not be eligible to receive such education and
21 services beyond June 30, 2022, unless otherwise provided in a
22 student's individualized education program or as ordered by a
23 hearing officer, complaint investigation, or court of competent
24 jurisdiction.

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 and the individualized education
33 program team determine that the student requires additional or
34 compensatory special education and related services, including
35 transition services, during the 2022-2023 school year. A student
36 receiving special education and related services pursuant to this
37 subsection shall not be eligible to receive such education and
38 services beyond June 30, 2023, unless otherwise provided in a
39 student's individualized education program or as ordered by a
40 hearing officer, complaint investigation, or court of competent
41 jurisdiction.

42 c. 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
45 contrary, a board of education shall, in the 2023-2024 school year,

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.

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

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

25 (1) mediation;

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

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

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

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

1 necessary from the Property Tax Relief Fund to reimburse school
2 districts for these costs.

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

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

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

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

44 (cf: P.L.2021, c.109, s.1)

45

46 2. This act shall take effect immediately.

STATEMENT

This bill deletes a provision of current law under P.L.2021, c.109 which requires the Department of Education (DOE) to, for the 2021-2022 school year through the 2025-2026 school year, set the maximum tentative tuition rate of each approved private school for students with disabilities (APSSDs) at the maximum tentative tuition rate set for the 2020-2021 school year if, during the 2021-2022 school year through the 2023-2024 school year, the school exceeds the total number of students at the approved facility in the 2020-2021 school year.

P.L.2021, c.109 requires a board of education to temporarily provide special education and related services, including transition services, to certain students who attain the age of 21 during the 2020-2021 school year, the 2021-2022 school year, and the 2022-2023 school year. The law extends for one year the age of eligibility for special education and related services for these students, provided that the parent of the student and the individualized education program (IEP) team determine that the student requires additional or compensatory special education and related services, including transition services.

As part of the law, the DOE is required to permit APSSDs to temporarily utilize non-qualifying spaces on school property for instruction and educational purposes in order to serve any additional students receiving special education and related services, including transition services, pursuant to the provisions of the law. The law also requires the DOE to set the maximum tentative tuition rate of each APSSD at the maximum tentative tuition rate set for the 2020-2021 school year if, during the 2021-2022 school year through the 2023-2024 school year, the school exceeds the total number of students at the approved facility in the 2020-2021 school year. This bill deletes the provision related to the setting of tuition for APSSDs.