# SENATE, No. 4245

# STATE OF NEW JERSEY

## 219th LEGISLATURE

INTRODUCED DECEMBER 6, 2021

**Sponsored by:**
**Senator M. TERESA RUIZ**
**District 29 (Essex)**

**SYNOPSIS**

Extends period of time for filing special education due process petitions related to COVID-19 school closures and periods of virtual, remote, hybrid, or in-person instruction.

**CURRENT VERSION OF TEXT**

As introduced.

**AN ACT** concerning special education due process hearings and supplementing chapter 46 of Title 18A of the New Jersey Statutes.

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

1. Notwithstanding the provisions of the "Individuals with Disabilities Education Act," 20 U.S.C. s.1400 et seq., chapter 46 of Title18A of the New Jersey Statutes, regulations promulgated thereto, and any other law, rule, or regulation to the contrary, a request for a due process hearing made by a parent, guardian, or local educational agency regarding the identification, evaluation, educational placement, or the provision of a free and appropriate public education of a child with a disability during a COVID-19 school closure or a period of virtual, remote, hybrid, or in-person instruction occurring between March 18, 2020 and September 1, 2021 shall be filed within four years of the date that the party knew, or should have known, about the alleged action that forms the basis for the due process petition.

2. This act shall take effect immediately and shall be retroactive to March 18, 2020.

STATEMENT

This bill extends the period of time a parent, guardian, or local educational agency has to request a due process hearing regarding the education of a child with disabilities during a COVID-19 school closure or during periods of virtual, remote, hybrid, or in-person instruction.

Under the "Individuals with Disabilities Education Act" (IDEA), a parent or local educational agency may request an impartial due process hearing when there is a disagreement regarding the identification, evaluation, or educational placement of a child with disabilities, or the provision of a free and appropriate public education. An impartial due process hearing is required to be requested by a parent, guardian, or local educational agency within two years from the date the parent, guardian, or agency knew, or should have known, about the alleged action that forms the basis for the complaint. The IDEA permits each State to set its own time limitations for requesting a hearing. Similar to the timeline set by the IDEA, State regulations provide that a party has two years from the date a party knew, or should have known, about the alleged action that forms the basis for the complaint to file a petition for a due process hearing.

The bill would allow a parent, guardian, or local educational agency to file a request for a due process hearing regarding the identification, evaluation, educational placement, or the provision of a free and appropriate public education of a child with a disability during a COVID-19 school closure or a period of virtual, remote, hybrid, or in-person instruction occurring between March 18, 2020 and September 1, 2021 within four years of the date that the party knew, or should have known, about the alleged action that forms the basis for the due process petition.

With many school districts only recently returning to full-time in-person instruction, Individualized Educational Program teams are now beginning the process of holding meetings for students with disabilities. By extending the time period in which due process petitions can be filed, school districts, parents, guardians, and IEP teams will be able to meet and determine the extent to which compensatory education or other relief may be needed.