

[First Reprint]

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 reported by the Senate Education Committee on December 16, 2021, with amendments.



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

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

7
 8 1. ¹a.¹ Notwithstanding the provisions of the “Individuals with
 9 Disabilities Education Act,” 20 U.S.C. s.1400 et seq., chapter 46 of
 10 ¹【Title18A】 Title 18A¹ of the New Jersey Statutes, regulations
 11 promulgated thereto, and any other law, rule, or regulation to the
 12 contrary, a request for a due process hearing made by a parent,
 13 guardian, or local educational agency regarding the identification,
 14 evaluation, educational placement, or the provision of a free and
 15 appropriate public education of a child with a disability during a
 16 COVID-19 school closure or a period of virtual, remote, hybrid, or in-
 17 person instruction ¹【occurring】 accruing¹ between March 18, 2020
 18 and September 1, 2021 ¹【shall】 may¹ be filed ¹【within four years of
 19 ¹the date that the party knew, or should have known, about the alleged
 20 action that forms the basis for the due process petition】 at any time
 21 prior to September 1, 2023¹.

22 ¹b. A local educational agency shall, not later than December 31,
 23 2022, or earlier if requested by a parent or guardian, hold an
 24 Individualized Education Program (IEP) team meeting to discuss the
 25 need for compensatory education and services for every student with a
 26 disability who had an IEP at any time between March 18, 2020 and
 27 September 1, 2021. Notification of the IEP meeting shall indicate that
 28 a purpose of the meeting is to discuss the need for compensatory
 29 education and services for the period from March 18, 2020 to
 30 September 1, 2021. Following the meeting, written notice shall be
 31 provided to a parent or guardian in accordance with N.J.A.C.6A:14-1.1
 32 et seq. and shall indicate all determinations made by the IEP team with
 33 respect to the need for and, if applicable, the provision of,
 34 compensatory education and services. All compensatory education
 35 and services deemed appropriate by the IEP team, including their
 36 frequency, duration, location, and agreed upon time period for
 37 delivery, shall be documented in an IEP in accordance with the
 38 provisions of N.J.A.C.6A:14-1.1 et seq. and provided as indicated
 39 therein. A parent or guardian may file for a due process hearing at any
 40 time, up to and including September 1, 2023, to challenge the
 41 determinations of the IEP team if the parent or guardian disagrees with
 42 the determinations.

43 c. If a local educational agency has held an IEP team meeting
 44 prior to the effective date of this act and discussed the need for
 45 compensatory education and services for a student with a disability

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 SED committee amendments adopted December 16, 2021.

1 who had an IEP at any time between March 18, 2020 and September 1,
2 2021, and documented the IEP team's determinations pursuant to
3 subsection b. of this section, the local educational agency shall not be
4 required to hold an additional IEP meeting for purposes of this section
5 unless agreed to by a parent or guardian and the local educational
6 agency. A parent or guardian may file for a due process hearing at any
7 time, up to and including September 1, 2023, to challenge the
8 determinations of the IEP team.

9 d. If a parent or guardian filed for mediation or a due process
10 hearing with respect to the need for compensatory education and
11 services for a student with a disability who had an IEP at any time
12 between March 18, 2020 and September 1, 2021, and the matter was
13 resolved as a result of the mediation or a settlement agreement
14 executed by the parties or a judicial or administrative order, then the
15 parent or guardian shall be barred from filing the same claims for the
16 same time period addressed in the prior filing.

17 e. The provisions of this section shall not apply to any student
18 subject to the provisions of P.L.2021, c.109 (C.18A:46-6.3), and all
19 claims for compensatory or additional services for the time period
20 from March 18, 2020 through September 1, 2021 for students subject
21 to the provisions of P.L.2021, c.109 (C.18A:46-6.3) shall be addressed
22 pursuant to the provisions of P.L.2021, c.109 (C.18A:46-6.3).¹

23
24 2. This act shall take effect immediately and shall be
25 retroactive to March 18, 2020.