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 Assembly Education Committee on February 7, 2022, with amendments.
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. 1a. Notwithstanding the provisions of the “Individuals with
Disabilities Education Act,” 20 U.S.C. s.1400 et seq., chapter 46 of
1[T18A] Title 18A 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 1[occurring] accruing 1 between March 18,
2020 and September 1, 2021 1[shall] may 1[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] at
any time prior to September 1, 2023 1.

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

c. If a local educational agency has held an IEP team meeting
prior to the effective date of this act and discussed the need for

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:
Assembly AED committee amendments adopted February 7, 2022.
compensatory education and services for a student with a disability
who had an IEP at any time between March 18, 2020 and
September 1, 2021, and documented the IEP team’s determinations
pursuant to subsection b. of this section, the local educational
agency shall not be required to hold an additional IEP meeting for
purposes of this section unless agreed to by a parent or guardian and
the local educational agency. A parent or guardian may file for a
due process hearing at any time, up to and including September 1,
2023, to challenge the determinations of the IEP team.

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

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

2. This act shall take effect immediately and shall be