

[First Reprint]

ASSEMBLY, No. 1281

STATE OF NEW JERSEY
220th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

Sponsored by:

Assemblyman STERLEY S. STANLEY

District 18 (Middlesex)

Assemblywoman LINDA S. CARTER

District 22 (Middlesex, Somerset and Union)

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

Co-Sponsored by:

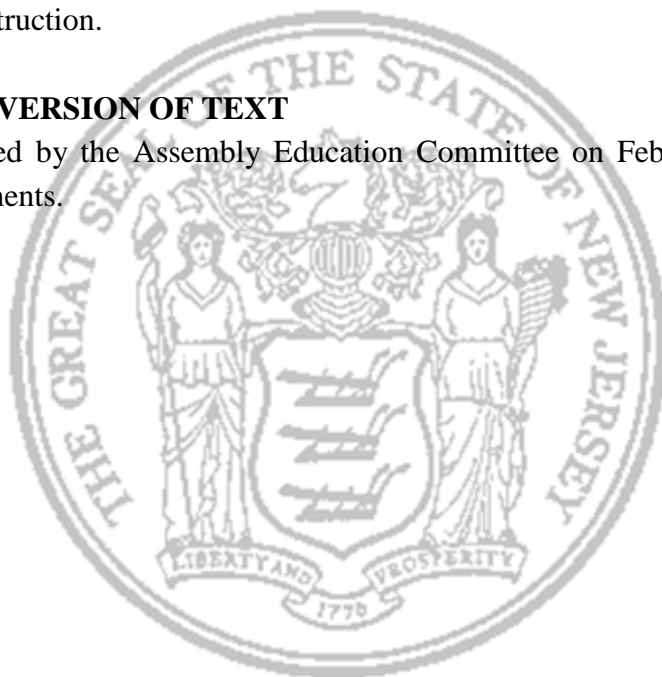
Assemblywoman Jasey and Assemblyman Danielsen

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.



(Sponsorship Updated As Of: 2/7/2022)

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
17 in-person instruction **1[occurring] accruing¹** between March 18,
18 2020 and September 1, 2021 **1[shall] may¹** be filed **1[within four**
19 **years of the date that the party knew, or should have known, about**
20 **the alleged action that forms the basis for the due process petition]**
21 **at any time prior to September 1, 2023¹.**

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

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:

¹Assembly AED committee amendments adopted February 7, 2022.

1 compensatory education and services for a student with a disability
2 who had an IEP at any time between March 18, 2020 and
3 September 1, 2021, and documented the IEP team's determinations
4 pursuant to subsection b. of this section, the local educational
5 agency shall not be required to hold an additional IEP meeting for
6 purposes of this section unless agreed to by a parent or guardian and
7 the local educational agency. A parent or guardian may file for a
8 due process hearing at any time, up to and including September 1,
9 2023, to challenge the determinations of the IEP team.

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

18 e. The provisions of this section shall not apply to any student
19 subject to the provisions of P.L.2021, c.109 (C.18A:46-6.3), and all
20 claims for compensatory or additional services for the time period
21 from March 18, 2020 through September 1, 2021 for students
22 subject to the provisions of P.L.2021, c.109 (C.18A:46-6.3) shall be
23 addressed pursuant to the provisions of P.L.2021, c.109 (C.18A:46-
24 6.3).¹

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