

# SENATE, No. 905

## STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED JANUARY 27, 2022

**Sponsored by:**

**Senator M. TERESA RUIZ**

**District 29 (Essex)**

**Senator VIN GOPAL**

**District 11 (Monmouth)**

**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.



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. a. Notwithstanding the provisions of the “Individuals with  
9 Disabilities Education Act,” 20 U.S.C. s.1400 et seq., chapter 46 of  
10 Title 18A of the New Jersey Statutes, regulations promulgated  
11 thereto, and any other law, rule, or regulation to the contrary, a  
12 request for a due process hearing made by a parent, guardian, or  
13 local educational agency regarding the identification, evaluation,  
14 educational placement, or the provision of a free and appropriate  
15 public education of a child with a disability during a COVID-19  
16 school closure or a period of virtual, remote, hybrid, or in-person  
17 instruction accruing between March 18, 2020 and September 1,  
18 2021 may be filed at any time prior to September 1, 2023.

19 b. A local educational agency shall, not later than December 31,  
20 2022, or earlier if requested by a parent or guardian, hold an  
21 Individualized Education Program (IEP) team meeting to discuss the  
22 need for compensatory education and services for every student with a  
23 disability who had an IEP at any time between March 18, 2020 and  
24 September 1, 2021. Notification of the IEP meeting shall indicate that  
25 a purpose of the meeting is to discuss the need for compensatory  
26 education and services for the period from March 18, 2020 to  
27 September 1, 2021. Following the meeting, written notice shall be  
28 provided to a parent or guardian in accordance with N.J.A.C.6A:14-1.1  
29 et seq. and shall indicate all determinations made by the IEP team with  
30 respect to the need for and, if applicable, the provision of,  
31 compensatory education and services. All compensatory education  
32 and services deemed appropriate by the IEP team, including their  
33 frequency, duration, location, and agreed upon time period for  
34 delivery, shall be documented in an IEP in accordance with the  
35 provisions of N.J.A.C.6A:14-1.1 et seq. and provided as indicated  
36 therein. A parent or guardian may file for a due process hearing at any  
37 time, up to and including September 1, 2023, to challenge the  
38 determinations of the IEP team if the parent or guardian disagrees with  
39 the determinations.

40 c. If a local educational agency has held an IEP team meeting  
41 prior to the effective date of this act and discussed the need for  
42 compensatory education and services for a student with a disability  
43 who had an IEP at any time between March 18, 2020 and September 1,  
44 2021, and documented the IEP team’s determinations pursuant to  
45 subsection b. of this section, the local educational agency shall not be  
46 required to hold an additional IEP meeting for purposes of this section  
47 unless agreed to by a parent or guardian and the local educational  
48 agency. A parent or guardian may file for a due process hearing at any

1 time, up to and including September 1, 2023, to challenge the  
2 determinations of the IEP team.

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

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

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

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#### STATEMENT

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

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

43 This bill would allow a parent, guardian, or local educational  
44 agency to file a request for a due process hearing regarding the  
45 identification, evaluation, educational placement, or the provision of a  
46 free and appropriate public education of a child with a disability  
47 during a COVID-19 school closure or a period of virtual, remote,

1 hybrid, or in-person instruction occurring between March 18, 2020 and  
2 September 1, 2021 at any time prior to September 1, 2023.

3 Under the bill, a local educational agency is required, not later than  
4 December 31, 2022, or earlier if requested by a parent or guardian, to  
5 hold an IEP team meeting to discuss the need for compensatory  
6 education and services for every student with a disability who had an  
7 IEP at any time between March 18, 2020 and September 1, 2021. The  
8 bill provides that a parent or guardian may file for a due process  
9 hearing at any time, up to and including September 1, 2023, to  
10 challenge the determinations of the IEP team if the parent or guardian  
11 disagrees with the determinations.

12 Under the bill, if a local education agency has held an IEP team  
13 meeting prior to the effective date of the bill and discussed the need  
14 for compensatory education and services for a student with a disability  
15 who had an IEP at any time between March 18, 2020 and September 1,  
16 2021, and documented the IEP team's determinations as required by  
17 the bill, the local educational agency is not required to hold an  
18 additional IEP meeting pursuant to the provisions of the bill, unless  
19 agreed to by a parent or guardian and a local educational agency.

20 The bill bars a parent or guardian who filed for mediation or a due  
21 process hearing with respect to the need for compensatory education  
22 and services for a student with a disability who had an IEP at any time  
23 between March 18, 2020 and September 1, 2021 from filing the same  
24 claims for the same time period addressed in that filing if the matter  
25 was resolved as a result of the mediation or a settlement agreement  
26 executed by the parties or a judicial or administrative order.

27 The provisions of the bill do not apply to any student subject to the  
28 provisions of P.L.2021, c.109 (C.18A:46-6.3). All claims for  
29 compensatory or additional services for the time period from March  
30 18, 2020 through September 1, 2021 for students subject to the  
31 provisions of P.L.2021, c.109 (C.18A:46-6.3) shall be addressed  
32 pursuant to the provisions of P.L.2021, c.109 (C.18A:46-6.3).