



To: Senator Sarlo, Senator Cunningham, and Members of the Senate Budget and Appropriations Committee
From: Education Law Center
Date: March 22, 2021
Re: Senate Bill No. 3434

Thank you for the opportunity to submit written testimony regarding Senate Bill No. 3434 that would require boards of education to provide special education and related services to certain students exceeding age of eligibility for special education and related services. With one amendment, explained below, Education Law Center (ELC) urges you to vote in favor of this legislation.

Education Law Center (ELC) is a non-profit law firm that provides direct legal services to students with disabilities, and other disadvantaged students, in public school cases, and has represented parents and students in special education matters for over 20 years. This is a very important bill for students with disabilities who have been without critically needed services since schools first closed due to the COVID-19 pandemic in March 2020 and who will, without this bill, cease to be eligible for any special education as of the end of June 2021 or June 2022.

Students with disabilities who turned 20 or 21 years of age during school closures have been particularly impacted because during the final years of education, most of their learning is directed at transition and building skills in daily living, community-based instruction, job exploration and training. These all require hands-on instruction and, in many instances, must take place in the community. This training in real world and job skills cannot be replicated with the virtual or hybrid instruction that most New Jersey students received throughout this school year and it is essential that the students are given the opportunity to develop these skills in order to successfully transition from the public school system.

In addition, students with disabilities who continue to receive services through the age of 21 have more challenging disabilities and are more likely to be unable to benefit from virtual instruction even when it is focused on academic learning. Parents have reported that their children are not able to benefit from virtual

instruction and that they are seeing significant regression or loss of skills that their sons and daughters previously possessed.

With respect to the cost of providing an additional nine months of education, the American Rescue Plan will provide pandemic-related education funds to New Jersey, including money for special education, some of which could be used for any additional cost, and some of which are specifically intended to redress instructional losses, including those experienced by students who are aging out without having received appropriate transition services. It is also likely that most school districts incurred some cost savings by not providing the transportation and support personnel needed to implement the community and job exploration and training aspects of these student's programs during the past 12 months.

ELC's one recommended change to the proposed bill pertains to the provision that the "parent of the student in conjunction with the individualized education program [IEP] team determines that the student requires special education and related services during the 2021-2022 school year." This language is inconsistent with the approach taken in proposed Senate Bill 3470 which says that "A request of grade retention by a parent, guardian, or other person having legal custody of a student based solely on concerns surrounding learning loss during the 2020-2021 school year shall be sufficient grounds for retaining a child during the 2021-2022 school." Why shouldn't it also be up to the parent, guardian or other person having legal custody of the student with a disability who is 21 years of age to decide whether there has been a learning loss requiring extending the eligibility age? Of course, the IEP team, including the parent and student (if appropriate), would develop the IEP that sets forth the services to be provided during the additional nine months.

Senate Bill No. 3434, with this recommended amendment, will ensure that additional services to address instructional losses are made available equitably to students with disabilities throughout the state. Thank you for your consideration of this testimony.

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