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.
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. **a.** Notwithstanding the provisions of the “Individuals with
Disabilities Education Act,” 20 U.S.C. s.1400 et seq., chapter 46 of
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 between March 18, 2020
and September 1, 2021 may be filed 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.

b. 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
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:

*Senate SED committee amendments adopted December 16, 2021.*
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).

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