

## CHAPTER 109

AN ACT concerning education and related services for students with disabilities 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:*

C.18A:46-6.3 Provision of education, related services to students with disabilities.

1. a. Notwithstanding the provisions of N.J.S.18A:46-6, N.J.S.18A:46-8, or of any other law, rule, or regulation concerning the age of eligibility for special education and related services to the contrary, a board of education shall, in the 2021-2022 school year, provide special education and related services contained in an individualized education program to a student with disabilities who attains the age of 21 during the 2020-2021 school year, provided that the parent of the student and the individualized education program team determine that the student requires additional or compensatory special education and related services, including transition services, during the 2021-2022 school year. A student receiving special education and related services pursuant to this subsection shall not be eligible to receive such education and services beyond June 30, 2022, unless otherwise provided in a student's individualized education program or as ordered by a hearing officer, complaint investigation, or court of competent jurisdiction.

b. Notwithstanding the provisions of N.J.S.18A:46-6, N.J.S.18A:46-8, or of any other law, rule, or regulation concerning the age of eligibility for special education and related services to the contrary, a board of education shall, in the 2022-2023 school year, provide special education and related services contained in an individualized education program to a student with disabilities who attains the age of 21 during the 2021-2022 school year, provided that the parent of the student and the individualized education program team determine that the student requires additional or compensatory special education and related services, including transition services, during the 2022-2023 school year. A student receiving special education and related services pursuant to this subsection shall not be eligible to receive such education and services beyond June 30, 2023, unless otherwise provided in a student's individualized education program or as ordered by a hearing officer, complaint investigation, or court of competent jurisdiction.

c. Notwithstanding the provisions of N.J.S.18A:46-6, N.J.S.18A:46-8, or of any other law, rule, or regulation concerning the age of eligibility for special education and related services to the contrary, a board of education shall, in the 2023-2024 school year, provide special education and related services contained in an individualized education program to a student with disabilities who attains the age of 21 during the 2022-2023 school year, provided that the parent of the student and the individualized education program team determine that the student requires additional or compensatory special education and related services, including transition services, during the 2023-2024 school year. A student receiving special education and related services pursuant to this subsection shall not be eligible to receive such education and services beyond June 30, 2024, unless otherwise provided in a student's individualized education program or as ordered by a hearing officer, complaint investigation, or court of competent jurisdiction.

d. A student receiving special education and related services, including transition services, pursuant to this section shall be afforded the same rights, privileges, and remedies provided to students with disabilities pursuant to State law, State Board of Education regulations concerning special education, and the federal "Individuals with Disabilities Education Act," 20 U.S.C. s.1400 et seq. Any disputes that arise with respect to the provision or nature of services provided to a student with disabilities in the additional year as

provided under subsections a., b., and c. of this section may be addressed, as determined by the parent of the student with disabilities, by either:

(1) mediation;

(2) a written request for a complaint investigation submitted to the Director of the Office of Special Education Policy and Dispute Resolution in the Department of Education; or

(3) a special education due process hearing pursuant to 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, or regulations promulgated thereto.

e. (1) The special education and related services, including transition services, provided to students with disabilities pursuant to the provisions of this section shall, to the extent permitted by federal law, be paid for from the monies received by the State or a school district under the federal "Coronavirus Aid, Relief, and Economic Security (CARES) Act," Pub.L.116-136, the federal "Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act, 2021," Pub.L.116-260, the federal "American Rescue Plan (ARP) Act," Pub.L.117-2, or any other federal funding provided to address the impact of the coronavirus pandemic on elementary and secondary schools as it becomes available.

(2) To the extent that the federal funds described in paragraph (1) of this subsection do not cover the costs borne by school districts to provide the special education and related services, including transition services, to students with disabilities pursuant to the provisions of this section, the State shall appropriate funds as necessary from the Property Tax Relief Fund to reimburse school districts for these costs.

(3) The special education and related services funded pursuant to the provisions of this subsection may include, but are not limited to, the additional staff, programs, and facilities deemed necessary by school districts to provide the special education and related services, including transition services, required under this section.

f. Notwithstanding the provisions of chapter 26 of Title 14 of the New Jersey Administrative Code, N.J.A.C.6A:14-4.9, or of any other law, rule, or regulation establishing educational facility planning standards, temporary facility standards, or age range and group size requirements for approved private schools for students with disabilities to the contrary, for the 2021-2022 school year through the 2023-2024 school year, the Department of Education shall permit an approved private school for students with disabilities to temporarily utilize non-qualifying spaces on school property for instruction and educational purposes in order to serve any additional students receiving special education and related services, including transition services, pursuant to the provisions of this section, if the department and the applicable county office of education determine that the school is able to provide suitable accommodations in those spaces for the additional students.

g. Notwithstanding the provisions of N.J.S.18A:46-21, N.J.A.C.6A:23A-18.3, or of any other law, rule, or regulation establishing per diem tuition rates at approved private schools for students with disabilities to the contrary, the Department of Education shall, for the 2021-2022 school year through the 2025-2026 school year, set the maximum tentative tuition rate of each approved private school for students with disabilities at the maximum tentative tuition rate set for the 2020-2021 school year if, during the 2021-2022 school year through the 2023-2024 school year, the school exceeds the total number of students at the approved facility in the 2020-2021 school year.

h. As used in this section, "parent" means the natural or adoptive parent, the legal guardian, resource family parent when willing to so serve, a surrogate parent, or a person acting in the place of a parent, such as a grandparent or stepparent with whom the student lives or a person legally responsible for the student's welfare. Parent shall also include an

adult student who has attained the age of 18, who is not under legal guardianship, and who is entitled to receive special education and related services.

2. This act shall take effect immediately.

Approved June 16, 2021.