

CHAPTER 2

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:*

C.18A:46-1.3 Due process hearing request, filing deadline.

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 accruing between March 18, 2020 and September 1, 2021 may be filed 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 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).

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

Approved March 3, 2022.