



STATE OF NEW JERSEY

# DEPARTMENT OF EDUCATION

A Memo from the New Jersey Department of Education

Date: June 12, 2020

To: Chief School Administrators, Charter School and Renaissance School Project Leads, Administrators of Approved Private Schools for Students with Disabilities, Nonpublic School Administrators

Route To: Directors of Special Education

From: Peggy McDonald, Ed.D., Assistant Commissioner  
Division of Student Services

## **Providing Additional Services for Students with Disabilities Who Will Graduate or Exceed Eligibility for Special Education Services**

As a result of the COVID-19 global pandemic, students with disabilities who will graduate this year, or who will, on June 30, 2020, exceed the age of eligibility for special education and related services, may not have received all of the services in their Individualized Education Program (IEP) during the period when school buildings were closed. In-person instruction was suspended and non-essential businesses and facilities where adult living, job training, or social skills programs would have occurred were closed to help prevent the spread of COVID-19. Some students with disabilities had difficulty learning virtually while others did not have access to technology or internet connectivity.

Given the unprecedented period of school building closures and aggressive social distancing measures, school districts should consider providing additional services to this group of students who would have received certain types of services during their final school year had it not been for COVID-19. Accordingly, the NJDOE strongly encourages IEP teams to meet with this group of students and their parents/guardians to discuss the need for additional IDEA services beyond June 30, 2020 related to each student's transition goals. Districts are encouraged to coordinate with partner agencies, such as the Division of Vocational Rehabilitation Services (DVRS) and the Division of Developmental Disabilities (DDD) in order to supplement services being provided and to avoid duplication of services. To that end, districts are encouraged to consult with representatives from the DVRS as well as DDD support coordinators when considering the type and frequency of services to be provided.

### **Students Who Will Graduate in 2020**

Graduation for a student with a disability is a change of placement that requires prior written notice to the student's parents/guardians. Prior to graduation, school districts are required to provide the graduating student with a written summary of his or her academic achievement and functional performance as well recommendations to assist the student in meeting postsecondary goals. This summary may be helpful to the IEP team in determining the nature and extent of the additional services the student may receive after graduation. If the student's parents/guardians disagree with the district's proposal to graduate the student, the parents/guardians may file a request for a mediation conference and/or a due process hearing to resolve the disagreement. While is not required by the state's special education regulations, school districts often conduct reevaluations for students with disabilities during their final school year so that students will have updated information for any necessary post-secondary accommodations or to assist students access services offered by the DDD. One service a school district could consider providing to a graduating student is a reevaluation. If a reevaluation commenced prior to the ordered closure of school buildings on March 18, 2020, the NJDOE encourages districts to complete the reevaluation.

### **Students Who Will Exceed Eligibility for IDEA Services on June 30, 2020**

Students with disabilities between the ages of 3 -21 are eligible for special education and related services and are entitled to a free and appropriate public education (FAPE). If a student turns age 21 during the school year (July 1 – June 30), the student is entitled to finish the school year. On June 30 of the student’s final school year, the student is no longer eligible for IDEA services. This is commonly referred to as “aging out.” The NJDOE does not have the flexibility to extend eligibility for IDEA special education services beyond June 30, 2020 for students who have reached the age of 21 during the 2019-2020 school year; however, districts should consider the need for services due to services missed during the period of school building closure.

### **Discussing Services That Were Missed During COVID-19**

Whether a student was due to graduate or reach the age of 21 by June 30, 2020, the NJDOE encourages IEP teams to convene virtual or in-person meetings to discuss the services that were not provided to students and to determine the need for additional services. The additional services are not required to be part of the student’s IEP because students who graduate or age out are no longer eligible for IDEA services beyond June 30, 2020.

However, the NJDOE encourages school districts to provide to the adult student and/or the student’s parents/guardians a written description of the additional services being offered, based on transition goals, as well as notice of their right to seek compensatory services via a special education due process hearing. A student graduating or aging out does not by itself, preclude a claim for compensatory services to make up for services that were not delivered and may have caused a denial of the student’s right to FAPE. Proactive steps on the part of the district to provide additional services can eliminate the need for a future claim for compensatory services.

### **Types of Additional Services That May Be Provided To Students Who Graduate or Age Out**

The NJDOE encourages IEP teams to address the student’s postsecondary plans when considering the <sup>1</sup>type and frequency of additional services to be offered to students who will graduate or age out. Connection to DVR or DDD, as appropriate should be facilitated. The NJDOE encourages IEP teams to consider the following non-exhaustive list of types of services:

- Accessing Agency/Community Resources and Services
- Instruction in activities for daily living including personal finance
- Community-Based Instruction
- Community Participation
- Evaluations/Reevaluations for Post-Secondary Use
- Health and Safety
- Job Sampling, Search and Retention Skills
- Job Coaching/Training Opportunities
- Pre-College Support Services
- Pre-Vocational/Employment Support Services
- Public Transportation Utilization
- Related Services, e.g., Counseling, OT, PT, Speech-Language Services
- Self-Advocacy Skills
- Social Skills
- Structured Learning Experiences
- Supplemental Instruction/Tutoring
- Other Transition Services to ensure Seamless Transition to Adult System

---

<sup>1</sup> School districts are not required to provide a student with compensatory education through the provision of instruction or services, at the postsecondary level. See *Letter to Riffel, U.S. OSEP (August 22, 2000)*.

### **Using Federal Funds to Cover the Costs of Additional Services**

Districts may submit an amendment to their approved 2019-2020 IDEA grant application to cover the costs of providing additional services to students with disabilities. Districts must submit amendments through EWEG no later than June 30, 2020 in accordance with [guidance issued by the Office of Grants Management on May 21, 2020](#). School districts may also consider using federal Coronavirus Aid, Relief, and Economic Security (CARES) Act funds to cover the costs of providing these additional services. More information about CARES Act funding is available here: [CARES Act](#). Districts may contract with NJDOE approved clinics or agencies or other appropriate entities to complete evaluations, transition services or other additional services depending on the individual needs of the student.

Information about the impact of COVID-19 on students with disabilities is available on the NJDOE COVID-19 website at: [NJDOE COVID-19](#). Information about the DDD is available at: [NJDDD](#). Information about services available through DVRS is available at: [NJDVRS](#). Additional information about transition services is available on the National Technical Assistance Center on Transition (NTACT) website at: [NTACT](#).

c:       Members, State Board of Education  
          Lamont O. Repollet, Ed.D., Commissioner  
          NJDOE Staff  
          Garden State Coalition of Schools  
          Statewide Parent Advocacy Network  
          NJ LEE Group