



STATE OF NEW JERSEY

DEPARTMENT OF EDUCATION

A Memo from the New Jersey Department of Education

Date: August 4, 2021

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

Route To: Directors of Special Education

From: Kathy Ehling, Assistant Commissioner
Division of Student Services

Kevin Dehmer, Assistant Commissioner/Chief Financial Officer
Division of Finance

Implementing P.L.2021, c.109: Providing Additional or Compensatory Special Education and Related Services to Students with Disabilities

The purpose of this memorandum is to provide guidance to school districts, students, and parents/guardians of students with disabilities regarding implementation of [P.L.2021, c.109](#), which allows schools to provide additional or compensatory special education and related services to students with disabilities beyond the age of 21.

Overview of P.L.2021, c.109

This new State law applies to students with disabilities who exceed, or will exceed, the current age of eligibility for special education and related services (21 years old) in the 2020-2021 school year, 2021-2022 school year, or the 2022-2023 school year. The law requires boards of education to offer up to one year of additional or compensatory special education and related services, including transition services, to students with disabilities if a determination is made by the student's Individualized Education Program (IEP) team and the student's parent that the student requires such additional or compensatory special education and related services.

Determining the Need for Additional or Compensatory Services

The law does not guarantee that all students exceeding their eligibility will receive additional or compensatory services. Rather, the law makes clear that it is the role of the student's IEP team, which consists of the student, the student's parent/guardian, the student's teachers, related service providers, and other representatives from the student's school district, to determine if the student requires additional or compensatory special education and related services. The IEP team is responsible for determining the type, frequency, and location of additional or compensatory special education and related services.

Dispute Resolution

The student or student's parent/guardian may seek dispute resolution if there is disagreement with the IEP team's determination that the student does not require additional or compensatory education, or if there is disagreement about the IEP team's proposed type, frequency, and/or location of additional or compensatory education. Dispute resolution options include mediation conferences, due process hearings, and/or complaints alleging a violation of special education law.

NJSMART Reporting Requirements

School districts must select the appropriate **School Exit Withdrawal Code** in the NJSMART system that accurately captures each individual student's status at the conclusion of the 2020-2021 school year.

As such, districts must submit through NJSMART one of the following exit codes: (L) student was eligible for a diploma; or (D11) student was to age-out. **This must be completed no later than August 31, 2021 even though the students will continue to receive services during the 2021-2022 school year under P.L.2021, c.109.** Questions regarding NJSMART reporting should be addressed to NJSMART@pcgus.com. Guidance concerning additional reporting requirements for these students is forthcoming.

Reimbursements to School Districts for Services Provided Under P.L.2021, c.109

As indicated in the [Governor's Signing Statement](#), the services provided to students with disabilities under P.L.2021, c.109 will be funded entirely through the American Rescue Plan State Fiscal Recovery Fund. The New Jersey Department of Education (NJDOE) will, on a biannual basis, (likely to occur once during the 2021-2022 school year and once after the 2021-2022 school year), reimburse school districts to cover 100% of the costs associated with providing additional or compensatory services to students with disabilities under the provisions of P.L.2021, c.109. In addition to the special education and related services provided directly to students, districts may also seek reimbursement from the NJDOE for the costs of additional staff, programs, and facilities necessary to comply with this new State law. Additional information about the reimbursement process is forthcoming. Questions about funding the services required by P.L.2021, c.109 should be directed to staid@doe.nj.gov.

c: Members, State Board of Education
Angelica Allen-McMillan, Ed.D., Acting Commissioner of Education
NJDOE Staff
Statewide Parent Advocacy Network
Garden State Coalition of Schools
NJ LEE Group