



STATE OF NEW JERSEY

DEPARTMENT OF EDUCATION

A Memo from the New Jersey Department of Education

Date: December 14, 2022
To: Local Education Agency Leads
Route To: Directors of Special Education
From: Kathy Ehling, Assistant Commissioner
Division of Educational Services

Implementing P.L. 2021, c.109 and P.L. 2022, c.2

Providing Additional or Compensatory Services to Students with Disabilities Beyond Age 21 and Addressing Compensatory Services in the Individualized Education Program

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 eligible students with disabilities beyond the age of 21 and P.L. 2022, c.2 which extends the period to file a due process petition and requires the consideration of compensatory services for students with disabilities.

Overview of P.L.2021, c.109

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. P.L. 2021, c.109 was created to address the impact of remote and/or hybrid instruction due to COVID on students with disabilities who would exceed the age of eligibility for special education and related services (21 years old) in the 2020-2021, 2021-2022, or 2022-2023 school years. Additional or compensatory services under P.L. 2021, c.109 may be provided through the 2023-2024 school year.

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.

Considerations for Boards of Education

- Services provided to students through P.L. 2021, c.109 are funded entirely through the American Rescue Plan State Fiscal Recovery Fund. Local, state or other federal funds are not being used to provide these services. LEAs will receive 100% reimbursement for services provided through P.L. 2021, c.109.
- P.L. 2021, c.109 does not address timelines or deadlines for IEP teams to meet and determine if additional or compensatory services are needed and, when appropriate, the nature and scope of the services to be provided. IEP team are encouraged to hold a meeting when a parent or guardian inquires about services under P.L. 2021, c.109 to discuss the needs of the student and additional or compensatory services.

- Families may not be aware of P.L. 2021, c.109 or that their student with a disability is potentially eligible for services under the law. It is recommended that information on P.L.2021, c.109 is shared through the existing channels of communication each district uses to provide information to the school community.
- Students with disabilities who attend school up until age 21 are typically eligible for adult services offered through state agencies such as the Division of Developmental Disabilities (DDD) and the Division of Vocational Services (DVRS). There are deadlines that families must meet when applying for and coordinating adult services. It is possible that families may be reaching out to discuss additional and compensatory services for a student under P.L. 2021, c.109 early in the school year to allow enough time to apply for appropriate adult services.

Overview of P.L. 2022, c.2

In March 2022, Governor Murphy signed P.L. 2022, c.2, which extends the extends the period of time a parent, guardian, or local educational agency has to request a due process hearing regarding the education of a child with disabilities during a COVID-19 school closure or during periods of virtual, remote, hybrid, or in-person instruction. A parent, guardian or LEA may file a due process request to address special education and related services provided between March 18, 2020, and September 1, 2021, at any time prior to September 1, 2023.

LEAs are required to hold an IEP team meeting by December 31, 2022, for every student with a disability and discuss the need for compensatory services. This meeting does not need to be in addition to any other regularly scheduled IEP meeting; rather, districts are encouraged to discuss the need for any compensatory services at their next scheduled IEP meeting.

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.

c: Members, State Board of Education
NJDOE Staff
Statewide Parent Advocacy Network
Garden State Coalition of Schools
NJ LEE Group