



STATE OF NEW JERSEY

# DEPARTMENT OF EDUCATION

A Memo from the New Jersey Department of Education

Date: April 20, 2022  
To: Local Education Agency Leads and Administrators of Approved Private Schools for Students with Disabilities  
Route To: Directors of Special Education  
From: Kathy Ehling, Assistant Commissioner  
Division of Educational Services

## **Implementing P.L. 2021, c.109: Providing Additional or Compensatory Services to Students with Disabilities Beyond Age 21**

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.

### **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. As P.L.2021, c.109 went into effect in June 2021, this law impacts students with disabilities who exceed, or will exceed the current age of eligibility for special education and related services (21 years old) in the 2021-2022 and 2022-2023 school years.

### **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.

### **Additional Information for LEAs**

- 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 teams 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 often 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 or 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.

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

In March 2022, Governor Murphy signed P.L. 2022, c.2, which 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. In addition, 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 separate from any other regularly scheduled IEP meeting; rather, districts are encouraged to discuss the need for any compensatory services at their next scheduled IEP meeting.

The provisions of this bill do not apply to any student subject to the provisions of P.L.2021, c.109. The consideration of the need for additional or compensatory services for learning interruptions due to COVID-19 from March 18, 2020, through September 1, 2021, the provision of services said services, and reimbursement for services provided, are addressed through P.L. 2021, c.109.

**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.

**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 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. In June 2022, school districts must log into the ACSERS system on the Homeroom and submit the final costs for students who received services under P.L.2021, c.109. Reimbursement will be made by July 29, 2022. Questions regarding reimbursements should be directed to [acsers@doe.nj.gov](mailto:acsers@doe.nj.gov).

c: Members, State Board of Education  
Angelica Allen-McMillan, Ed.D., Acting Commissioner of Education  
NJDOE Staff  
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