

## **ACTION ALERT - TIME SENSITIVE**

### **New Law to Extend Eligibility for Special Education Services**

The New Jersey Legislature will soon fully enact legislation to address the negative impact of the COVID 19 pandemic on the delivery of education and related services to students with disabilities. It is expected the Governor will sign the legislation into law soon thereafter.

The law will extend age eligibility under the Individuals with Disabilities Education Act (“IDEA”) one additional year for special education students by requiring boards of education to provide special education and related services, including transition services, to students who turn 21 during the 2020-2021, 2021-2022 and the 2022-2023 school years. It is important for parents to remember, a school year in New Jersey is defined by law as beginning on July 1st and ending on June 30th.

#### **What does this mean for Special Education Students?**

The bill applies to special education students currently between the ages of 19-21 and will extend their age eligibility one year, if the parent and the IEP team “determine that the student requires additional or compensatory special education and related services, including transition services,” during the following school year.

What this means for students and parents is in order to extend age eligibility and receive additional or compensatory services, the parent and IEP team must both agree such additional services are required, and it must be written into the IEP.

The bill also ensures the same rights, privileges and remedies provided to students with disabilities under the IDEA and its regulations including

mediation, complaint investigations and due process hearings are applied during this additional year.

## **What You Need to Know**

Unfortunately, it does not appear the bill will reach the Governor until early June. This is well after many student's IEP meetings will have been held and is within weeks of graduations.

If your child is scheduled to age out in June 2021 and will qualify for an extension in age eligibility under this bill it is imperative you contact your IEP team immediately to discuss the need for additional or compensatory services and document that in the IEP. The best way to do this is to make a written request (email will work) for an IEP meeting. Remember, the district must hold an IEP meeting within 20 days of the parents' request.

We suggest you make a request now and not wait until the Governor signs the bill into law.

If your school district disagrees with you and the IEP team refuses to allow your child to stay an additional year you must file for "Stay Put" immediately. You only have 15 days from the district's refusal to file. For more information on Stay Put, go to: <http://hinkle1.com/understanding-stay-put-in-special-education-2/>.

Additionally, you cannot allow your student to actually graduate and receive a diploma. Once a diploma is actually received all of your rights under the IDEA come to an end. However, your child can still participate in Commencement and all other "senior activities" with his or her class. For more information on this issue, go to: <http://hinkle1.com/graduation-and-students-with-disabilities-what-parents-need-to-know-2/>.

If your child will age out in the next two years, it will be wise to document any regression or loss in services in your current IEP and begin discussions with your IEP team to develop a transition plan including the

additional year of services.

This is a unique and emerging issue in the law so stay tuned for any updates. If you think your child's rights under this new law need protecting, it is critical you obtain legal advice and act immediately so those rights are not forever lost.