

Testimony before the Senate Education Committee
Bill S3434
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Mary Ciccone
Director of Policy
Disability Rights New Jersey
For more information: DRNJ-COVID.org

Thank you Chairperson Ruiz and members of the committee for the opportunity to provide written testimony on Senate Bill S3434 which requires boards of education to provide special education and related services to certain students exceeding age of eligibility for special education and related services.

Disability Rights NJ is the federally funded, designated protection and advocacy system for people with disabilities in the State of New Jersey. Under our federal enabling statutes, we provide legal representation, advocacy, education and training, and information and referral to people with disabilities, their families, and the professionals who serve them. Disability Rights NJ advocates for students with disabilities who seek appropriate educational services.

During the past year, many students with disabilities have struggled due to the school districts' remote learning. Although the school districts were required to implement each child's individualized education program, the fact many school districts operated virtually has reduced the impact of the services that the student received. Many of these students have disabilities

Advocating and advancing the human, civil and legal rights of persons with disabilities

that render them unable to benefit from virtual or remote instruction for myriad reasons that include, but are not limited to, the inability to focus for an extended period of time without in-person redirection and the lack of cognitive ability to use educational packets to instruct themselves. A shortage of special education and related services personnel to deliver the necessary in-person instruction and services has also been a significant problem. In addition, for children who need social skills integration, the limited student interaction has prevented the students from fully experiencing the services needed to make substantial gainful progress on these skills.

This bill seeks to address the negative consequences of this school year, and the failures of students with disabilities to receive the services to which they are entitled. Providing students with disabilities an extra year of eligibility will assist these students to gain the skills that they were not able to gain during this past school year. However, it is important to note that the Individuals with Disabilities Education Act provides compensatory education as an available remedy if the school district fails to provide an appropriate education. 20 U.S.C.A. § 1415(i)(2)(c)(iii). The Federal Court of Appeals for the Third Circuit, which encompasses the State of New Jersey, has stressed that a court's discretion to fashion a compensatory education award under the IDEA is very broad. In *Ferren C. v. Sch. Dist. of Phila.*, 612 F.3d 712, 717 (3d Cir. 2010), the Third Circuit upheld a compensatory education award for a 24-year-old woman with autism. As such, we request that the legislation include language such as "nothing in this statute alters the rights of special education students to compensatory services or limits the

delivery of compensatory education services to students who elect to attend an extra year of school," to ensure that students with disabilities continue to maintain all of the rights under IDEA.

Thank you for the opportunity for Disability Rights NJ to provide comments to this bill.