

# MAKING UP SPECIAL EDUCATION SERVICES IF THE STUDENT GRADUATED AT THE END OF THE 2019-20 SCHOOL YEAR:

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## Frequently Asked Questions

Created in collaboration by:



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New Jersey's designated Protection and Advocacy agency under federal law for people with disabilities.

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## AN INTRODUCTION

The COVID-19 pandemic, which forced schools in New Jersey to close in March 2020, has made it difficult for many students with disabilities to benefit from special education services under the Individuals with Disabilities Education Act (IDEA). In response to the pandemic's disastrous impact, the New Jersey legislature passed [S-3434](#) which became law on June 16, 2021. This new law added another year of eligibility for services under the IDEA for three classes of students: students who either turned or will turn 21 during the 2020-21, 2021-22, and 2022-23 school years.

After S-3434 became law, many individuals raised questions about students classified under the IDEA who either (a) turned 21 during the 2019-20 school year or (b) accepted their high school diplomas at the end of the 2019-20 school year. They want to know if those particular students can still receive make-up services because the services required by their IEPs were either not provided the right way or not provided at all after schools shut down in March 2020. This document provides guidance and answers to frequently asked questions relating to those students.

**Q: DOES S-3434 COVER STUDENTS WITH DISABILITIES WHO (A) EITHER TURNED 21 DURING THE 2019-20 SCHOOL YEAR OR (B) ACCEPTED THEIR HIGH SCHOOL DIPLOMAS AT THE END OF THE 2019-20 SCHOOL YEAR?**

**A:** No. Each school year runs from July 1 until June 30. S-3434 only applies to students with disabilities who turned or will turn 21 during the 2020-21, 2021-22, and 2022-23 school years.

If the school district already graduated the student at the end of 2019-20 school year, S-3434 does not cover the student even if the student turned or will turn 21 during the 2020-21, 2021-22, and 2022-23 school years.

**Q: CAN A STUDENT NOT COVERED UNDER S-3434 SEEK COMPENSATORY EDUCATION TO MAKE UP FOR THE LOSS OF APPROPRIATE SPECIAL EDUCATION SERVICES CAUSED BY THE PANDEMIC DURING THE SPRING SEMESTER OF THE 2019-20 SCHOOL YEAR?**

**A:** Yes. A student not covered under S-3434 can still seek [compensatory education](#) to make up for the loss of appropriate IEP-required special education services such as academic instruction, related services, and transitional services. Related services would include, but not be limited to, speech therapy, physical therapy, and occupational therapy. Transitional services would include job sampling, community outings, and development of daily living skills.

**Q: IS THERE A DEADLINE FOR SEEKING COMPENSATORY EDUCATION?**

**A:** Yes. With limited exceptions, the student has up to two years to seek compensatory education by filing for mediation or due process with the New Jersey Department of Education. The time to seek compensatory education begins to run the first moment the student knew or should have known that appropriate services were not being provided. For example, if the student first learned the school district was not providing an appropriate education on March 18, 2020, then the student should file for mediation or due process to seek compensatory education no later than March 18, 2022.

**Q: WHAT DOES A STUDENT NEED TO DO TO SEEK COMPENSATORY EDUCATION?**

**A:** The student should first write a letter to the school district's special education department (a) to inform them that the student requires additional or compensatory services, and (b) to request an IEP meeting to discuss the student's needs. The letter should be sent either by way of fax or certified mail so the student can confirm the district received it. The district must respond and schedule the meeting within 20 calendar days (excluding school holidays but not summer vacation) from the date it receives the letter. A sample letter requesting an IEP meeting can be found on page 7 of this document.

**Q: WHAT DOES A STUDENT NEED TO BRING TO THE IEP MEETING TO SHOW THE NEED FOR COMPENSATORY EDUCATION?**

**A:** There is no uniform answer to this question as each student's situation is unique. The student should be prepared to outline the reason/s why the school district must provide compensatory education and what services are needed. The student should list all of the academic services, related services or transition services that the student was entitled to receive under the 2019-20 IEP and the dates that the services were either not provided the right way or not provided at all. If the student has any additional documents, such as an evaluation report, to support the need for compensatory education, then the student should also bring those documents to the IEP meeting.

**Q: WHAT SHOULD THE STUDENT DO IF THE SCHOOL DISTRICT REFUSES TO HOLD AN IEP MEETING OR DISAGREES WITH THE NEED TO PROVIDE COMPENSATORY EDUCATION AT THE IEP MEETING?**

**A:** The student should file for mediation or due process with the New Jersey Department of Education as soon as possible but no later than two years from the date the school district did not provide an appropriate education for the student because of the pandemic. The Parental Rights in Special Education (PRISE) booklet contains a mediation/due process request form along with filing instructions on pages 31 through 33. A copy of the PRISE can be accessed [here](#).

### **Q: WHAT SHOULD THE STUDENT SPECIFICALLY ASK FOR IN THE MEDIATION/DUE PROCESS REQUEST?**

**A:** The mediation/due process request form has a section on page 33 of the PRISE where the student can write down how the “problem could be resolved.” The student should, at a minimum, write that the case could be resolved if the school district agrees to provide compensatory education for the failure to provide a free, appropriate public education between March 2020 and the date of the student’s graduation. The student could add that the district should perform the necessary evaluation/s to help determine what should be provided as part of the compensatory education.

### **Q: WHERE CAN THE STUDENT SEEK LEGAL ASSISTANCE?**

**A:** The student may reach out to Disability Rights New Jersey for assistance.

Disability Rights NJ is located at:  
210 South Broad Street, Third Floor, Trenton, NJ 08608

Disability Rights NJ may be reached at:  
800-922-7233 (NJ only) or 609-292-9742  
609-777-0187 (fax) and 609.633.7106 (TTY)

Disability Rights NJ may also be reached by e-mail at [advocate@disabilityrightsnj.org](mailto:advocate@disabilityrightsnj.org) and by visiting [disabilityrightsnj.org](http://disabilityrightsnj.org).

### **SAMPLE LETTER REQUESTING AN IEP MEETING TO ADDRESS THE NEED FOR COMPENSATORY EDUCATION RESULTING FROM THE COVID-19 PANDEMIC**

Date

Child Study Team  
School District  
Address

Dear [    ]:

I hope this letter finds you well. As you may recall, I received special education services under the Individuals with Disabilities Education Act from [school district] until my graduation at the end of the 2019-20 school year.

I would like an IEP meeting to address my need for compensatory services because I do not believe I received an appropriate education during the spring semester of the 2019-20 school year due to the disruptions caused by the COVID-19 pandemic. The IDEA allows up to two years for a student to seek compensatory services.

Thank you for taking the time to read this letter. I look forward to hearing from you regarding the scheduling of the meeting.

Sincerely,

[Adult Student Name or Parent Name, if Adult Student has a Legal Guardian]  
[Contact Information: Email, Phone, Mailing Address]