

Special Education Transition Rights

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About Advocates for Children of New Jersey (ACNJ)

ACNJ's work over 40 years as an independent non-profit organization has resulted in better laws and policies, more effective funding and stronger services for children and families, giving more children a chance to grow up safe, healthy and educated. We work closely with state and federal lawmakers and policymakers to bolster their understanding and response to the needs of children and families.

Kidlaw Resource Center provides information and assistance to parents and those working with families about laws and legal processes affecting children, including education and child welfare issues.

You can learn more at www.acnj.org



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This presentation is intended for informational purposes only. It does not constitute legal advice. For assistance with a particular education issue, you may contact Nina Peckman at ACNJ.



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What are Transition Services?

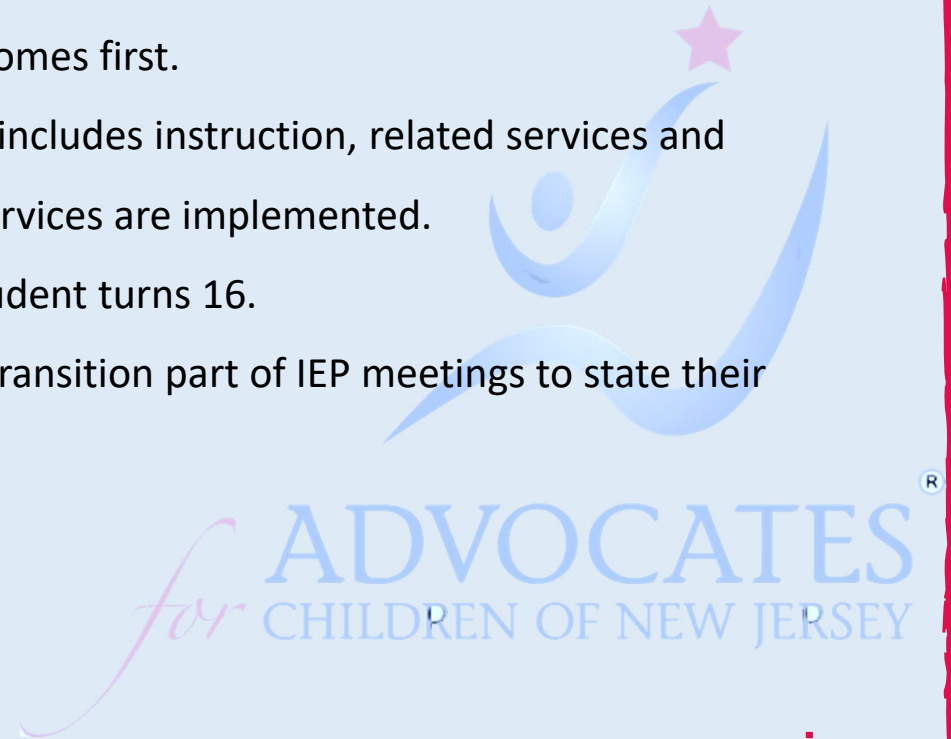
- School based services to prepare students for their goals after high school.
- Individualized - must be based on the student's abilities, strengths, weakness and preferences.
- Appropriate and may be necessary for academics, vocational training and life skills.



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Transition Services: Planning and Implementation

- Planning begins at age 14 or 8th grade, whichever comes first.
- The IEP team starts to develop a plan that possibly includes instruction, related services and evaluations a student will need before transition services are implemented.
- Transition plan must be put into place when the student turns 16.
- As appropriate, students should participate in the transition part of IEP meetings to state their preferences.



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Examples of Transition Services

- Instruction tailored to the student's goals
- Annual interest, skills and vocational assessments
- Training in vocations or career skills
- Community experiences
- Executive functioning skills
- Self-advocacy skills
- Life skills



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Examples of How Transition Services Must Relate to Post High School Goals

- **Executive functioning skill:**
 - Planning, time management, switching tasks, remembering details, paying attention, working memory, inhibition/self-monitoring behavior, multi-tasking and initiating work.
- **For students who are planning to attend a four-year college:**
 - Required pre-college classes, college test prep, necessary supports.
- **For students who plan to enter the workforce or vocational training program after high school:**
 - Computer skills, technology, life skills, financial literacy, pragmatic communication skills, counseling.
- **For students with developmental disabilities whose goals include independent living:**
 - Hygiene, household chores, transportation, computer/phone skills, appropriate work and safety skills.

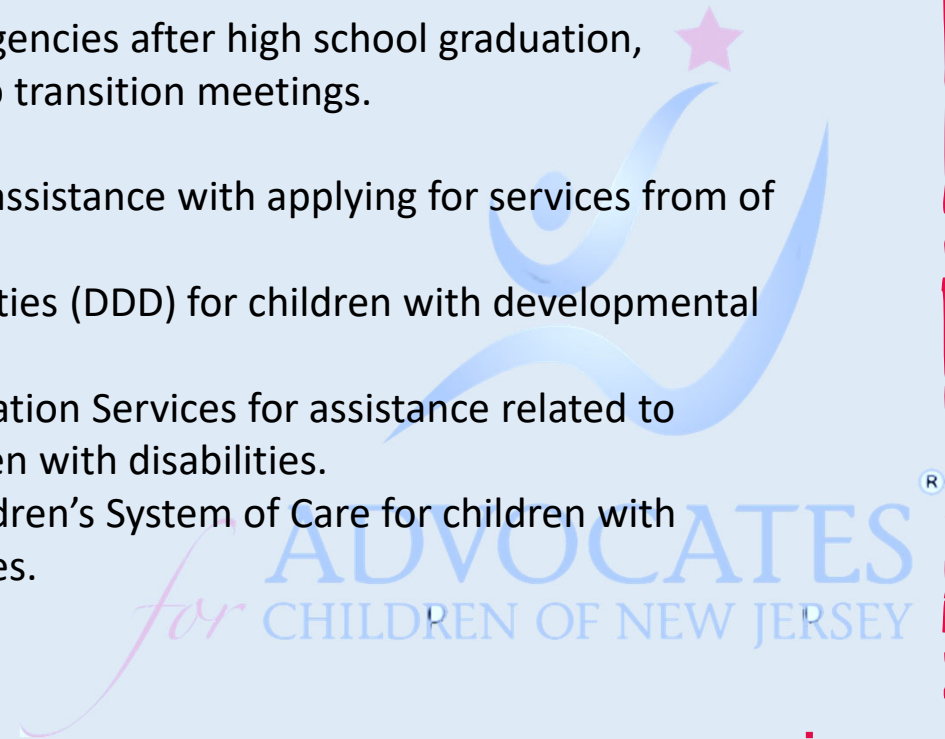


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Assistance Through State Agencies

- For students who will need assistance from state agencies after high school graduation, representatives of these agencies may be invited to transition meetings.
- The child study team can provide information and assistance with applying for services from of other state agencies such as:
 - New Jersey Division of Developmental Disabilities (DDD) for children with developmental disabilities.
 - The Department of Labor, Division of Rehabilitation Services for assistance related to vocational training and employment for children with disabilities.
 - The Department of Children and Families, Children's System of Care for children with developmental delays and behavioral difficulties.



IEP Transition Goals

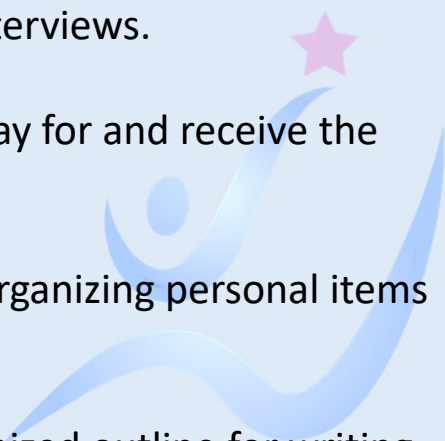
- The IEP must contain a detailed transition plan.
- The transition plan must describe goals for the services that are provided:
 - Specific goals
 - Statement of how mastery of skill will be assessed
 - Objective measurement of progress



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Examples of Detailed Transition Goals

- By the end of the school year, student will have written a resume, developed interview and phone skills, conducted a job search and participated in three job interviews.
- Student will master the math skills relating to money necessary to pay for and receive the correct change with 100% accuracy with minimal prompts.
- Given support and visual cues, the student will create a system for organizing personal items in locker/desk/notebook with 80% success.
- Using learned strategies with fading support, student will draft organized outline for writing assignments.
- Student will independently identify what is a nutritious meal and prepare it and be able to identify and following all appropriate safety and hygiene skills in the preparation of the meal.



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High School Graduation Requirements

The minimum graduation requirements are 120 credits for general and special education students:

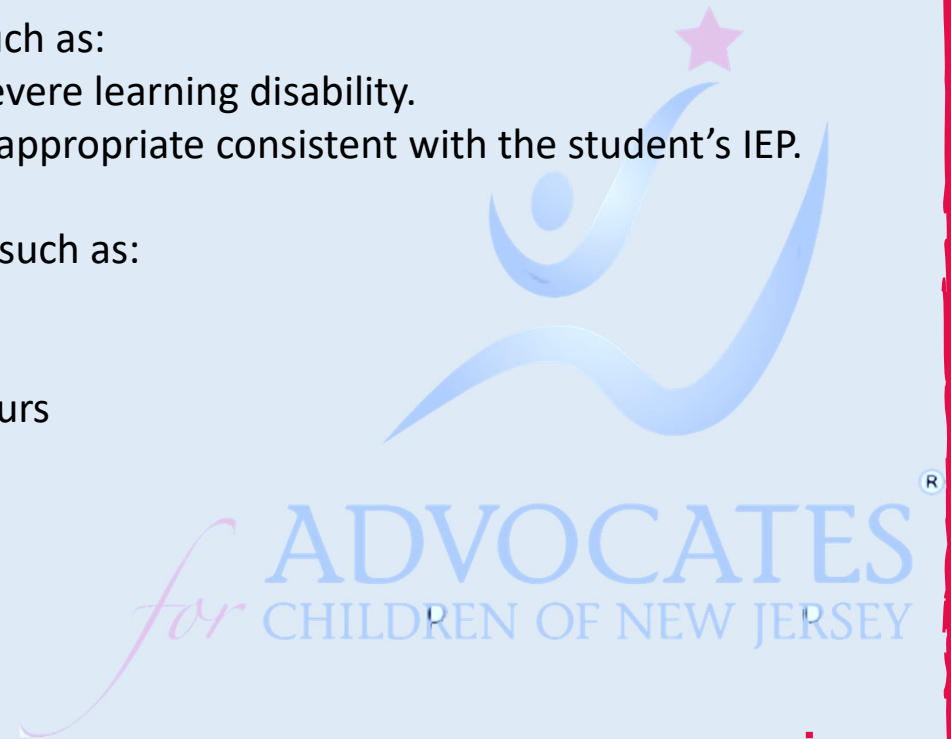
- 20 credits in English Language Arts
- 15 credits each in Mathematics, Science, Social Studies and Health, Safety and Physical Education
- 2.5 credits in Financial, Economic, Business and Entrepreneurial Business Literacy
- 5 credits each in Visual and Performing Arts, World Languages and 21st Century Life and Careers



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High School Graduation Requirements

- Credit requirements may be waived or modified, such as:
 - World Languages modified if a student has a severe learning disability.
 - Adaptive or alternative physical education are appropriate consistent with the student's IEP.
- Students can complete credits in a variety of ways, such as:
 - Work for a half-day
 - Attendance adjusted
 - Making up credits outside of normal school hours
 - Independent studies
 - Credits through assessments
 - Community colleges



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Child Study Team Process to Help Students Transition to College

- Prior to high school graduation, the child study team should provide the student with:
 - a summary of achievement and functional performance.
 - recommendations to assist with meeting postsecondary goals.

Students should be informed that special education rights cease upon high school graduation.

- Students with disabilities have rights to 504 accommodations under Section 504 of the Rehabilitation Act and the Americans with Disabilities Act in college, graduate school programs.
 - These disability rights also apply to workplace.

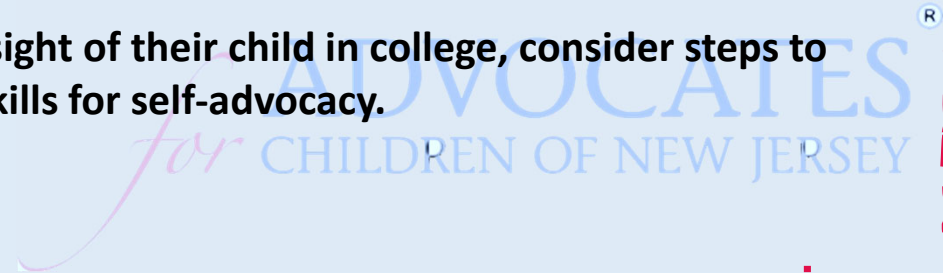


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Disability Rights in Higher Education

- The Americans With Disabilities Act:
 - primarily governs access issues such as physical barriers to learning.
- Section 504 of the Rehabilitation Act:
 - permits reasonable accommodations and supports as long as program is not fundamentally changed.
 - fewer accommodations provided.
 - students must advocate for themselves, including informing staff of their needs.

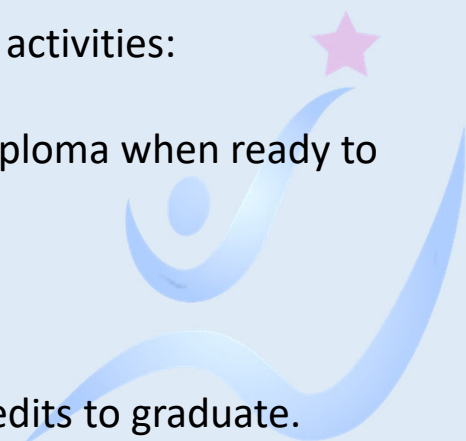
Since parents do not have the same rights and oversight of their child in college, consider steps to take to provide child with skills for self-advocacy.



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High School Graduation Rights

- Participating in graduation ceremonies and end-of-year extra-curricular activities:
 - Even if they continue high school beyond 12th grade.
 - Students can “walk” in the graduation ceremony, but receive the diploma when ready to graduate.
- The right to education through age 21
 - Issue: Has student met the transition goals?
 - Students may be able to stay in school even if they have enough credits to graduate.
- The right to achieve proficiency in the statewide assessments unless their IEP establishes alternative requirements.
 - Portfolio Appeals Process instead of statewide assessments.

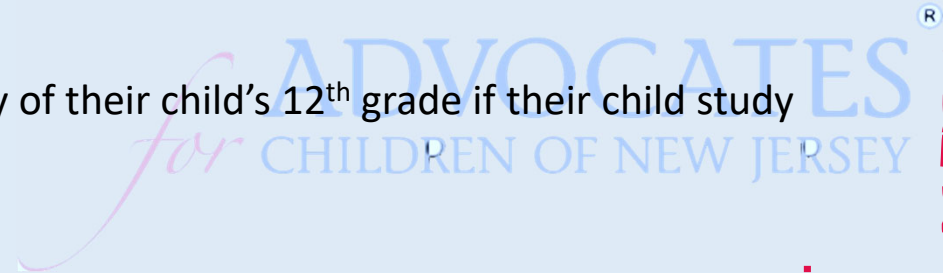


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Written Graduation Notice

- Parents are entitled to receive a notice of graduation from the child study team when the team determines that the student is ready to graduate.
 - Notice should explain the right to file for mediation or due process to stop the graduation from taking place if the parents disagree.
 - Graduation and/or the need for additional education should be discussed at the annual IEP meeting when the student is in 12th grade.
- Parents should request this IEP meeting before May of their child's 12th grade if their child study team has not scheduled this meeting.



How to Challenge a District's Decision to Graduate a Student

If parents do not want their child to graduate, they must file a Petition for Due Process against the school district:

- 15 days from the receipt of the written graduation notice, or prior to the graduation event, **unless** the parent has received an IEP or written acknowledgment stating that the student will continue into the next school year.
- If a diploma is sent home or provided to the parent or student, immediately return it to the principal with a letter to the child study team and principal stating:
 - **“I believe my child requires another year of special education services and do not agree that my child is ready to graduate. I intend to file for due process and emergent relief.”**

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Due Process and Emergent Relief

- The Due Process Petition is the name of the complaint in education disputes.
 - Filed with the New Jersey Department of Education, Office of Special Education Programs through the website, via email or by mail.
- A Due Process Petition and a Request for Emergent Relief must be filed at the same time when:
 - district mails or gives to the parent/student, the diploma, or
 - district notifies the parent of a change in placement that the parent disagrees with, or
 - parent disputes district's decision regarding participation in graduation ceremonies.

See link to forms in the Resource Page of this presentation.



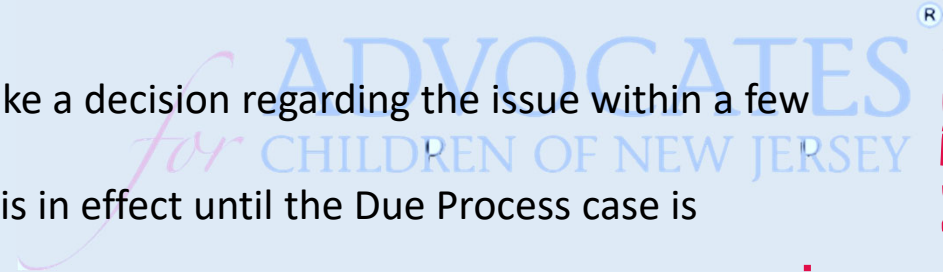
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Preventing the District's Decision from Going into Effect: "Stay-Put"

- Obtain an automatic stop to the district's proposed decision or action by filing for Due Process.
- This automatic stop is known as "stay put" and parents must ask for this in their Petition:
 - to prevent graduation
 - to prevent a change in a current IEP placement and/or service
 - regarding a dispute about graduation ceremonies

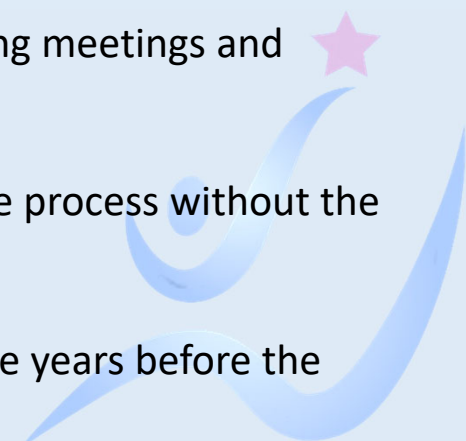
Note, the Stay Put is in effect until the Due Process case is decided by the judge or resolved by an agreement.

- If Emergent Relief is also requested, a judge will make a decision regarding the issue within a few days.
- Judge's decision regarding Emergent Relief request is in effect until the Due Process case is resolved.



Parent and Student Rights When Student Turns 18

- Parents retain the right to school records and notices, including regarding meetings and graduation.
- Parents do not have the right to make education decisions or file for due process without the student's written permission.
- The case manager must inform parents about the transfer of rights three years before the student's 18th birthday and the IEP must include a statement.
- Student can send a letter to the child study team, superintendent and school principal to let parents continue to make education decisions, such as:
 - "I give my parents the authority to make all education decisions, sign consents on my behalf and to attend IEP and other school meetings on my behalf."



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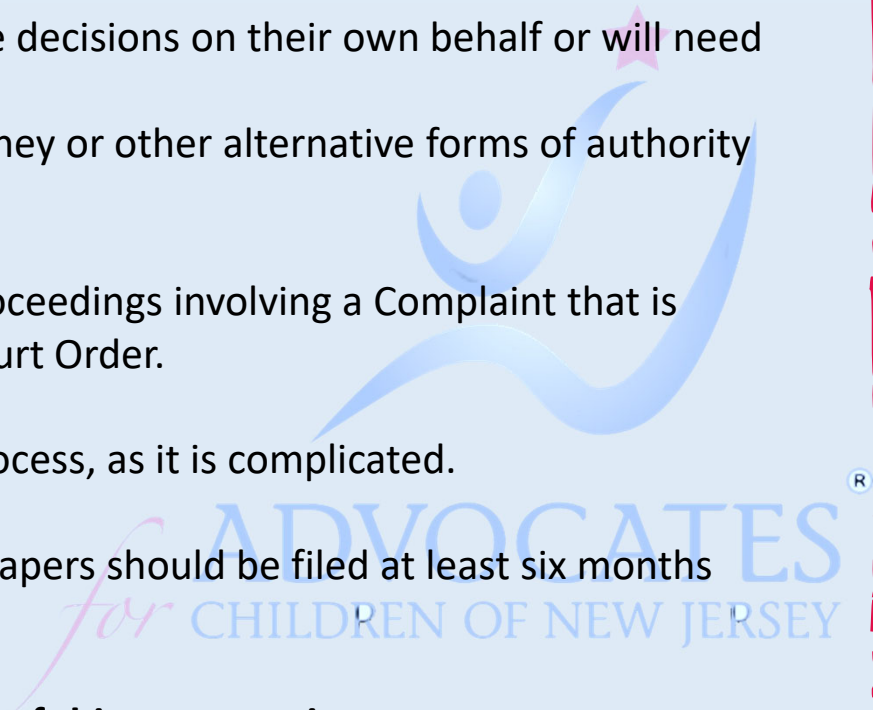
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Guardianship and Alternatives

- To assist an adult student who may not be able to make decisions on their own behalf or will need assistance with decisions, there are several options:
 - guardianship, limited guardianship, power of attorney or other alternative forms of authority for decision-making.
- Guardianships and limited guardianships are formal proceedings involving a Complaint that is filed in the County Surrogate's Office and requires a Court Order.
- It is advisable to consult with an attorney about this process, as it is complicated.
- To obtain guardianship by the student's 18th birthday, papers should be filed at least six months prior.

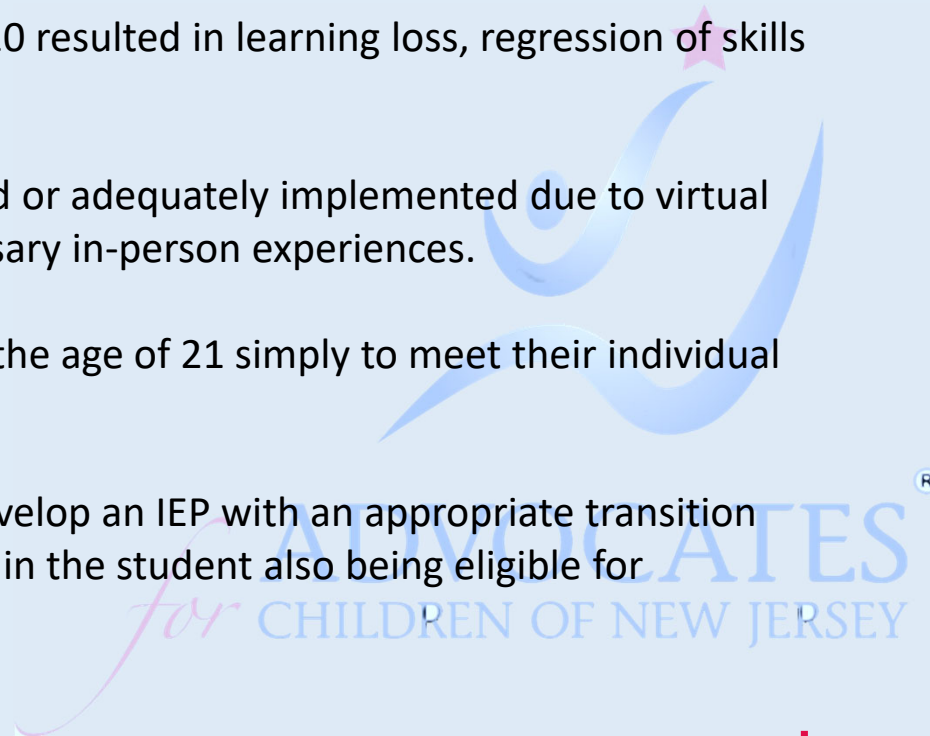
See Link to additional information on the Resource Page of this presentation.

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The Pandemic's Impact on IEP Transition Services

- Pandemic-related school closures on March 18, 2020 resulted in learning loss, regression of skills in academics and behaviors for many students.
- Transition services may not have been implemented or adequately implemented due to virtual learning and social distance rules preventing necessary in-person experiences.
- Some students require education services through the age of 21 simply to meet their individual needs based upon their disability.
- However, a school district's failure or inability to develop an IEP with an appropriate transition plan or to implement transition services may result in the student also being eligible for compensatory education services.



Compensatory Education to Address Transition Rights

- Compensatory education services are meant to make up for services a student should have but did not receive from their school district and may be required, for example:
 - to provide students with additional services before high school graduation.
 - for students who have already graduated.
 - for vocational and college classes.
 - to create a fund a money for future services.

For more information about compensatory education, see the Resource Page.



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Basic Facts about Compensatory Education

- Typically, Due Process Complaint for Compensatory Education must be filed two years from the date parents knew or should have known that the district violated the student's rights.
- A NJ law, S905, passed on March 3, 2022, extends the time to file for Due Process up to September 1, 2023 for claims related to education violations between March 18, 2020 to September 1, 2021.
 - This law requires school districts to conduct IEP meetings by December 31, 2022 **or earlier** upon the parent's request to discuss the need for compensatory education services.
- Students who turn 21 during the 2022-2023 or 2023-2024 school years may be eligible for up to another school year if the IEP team agrees according to law S3434, passed in June, 2021.
 - Parents should ask for an IEP meeting no later than May in the year the student turns 21.

See links to these laws on the Resource Page.

Resource Page

Transition Services and Resources: <https://www.nj.gov/education/specialed/transition/>

Guardianship and Alternatives:

<https://www.nj.gov/education/specialed/transition/GuardianshipBrochure2.pdf>

504 of the Rehabilitation Act: <https://www.state.nj.us/education/students/safety/behavior/504/>

The Americans with Disabilities Act: <https://www.state.nj.us/humanservices/home/ada.html>

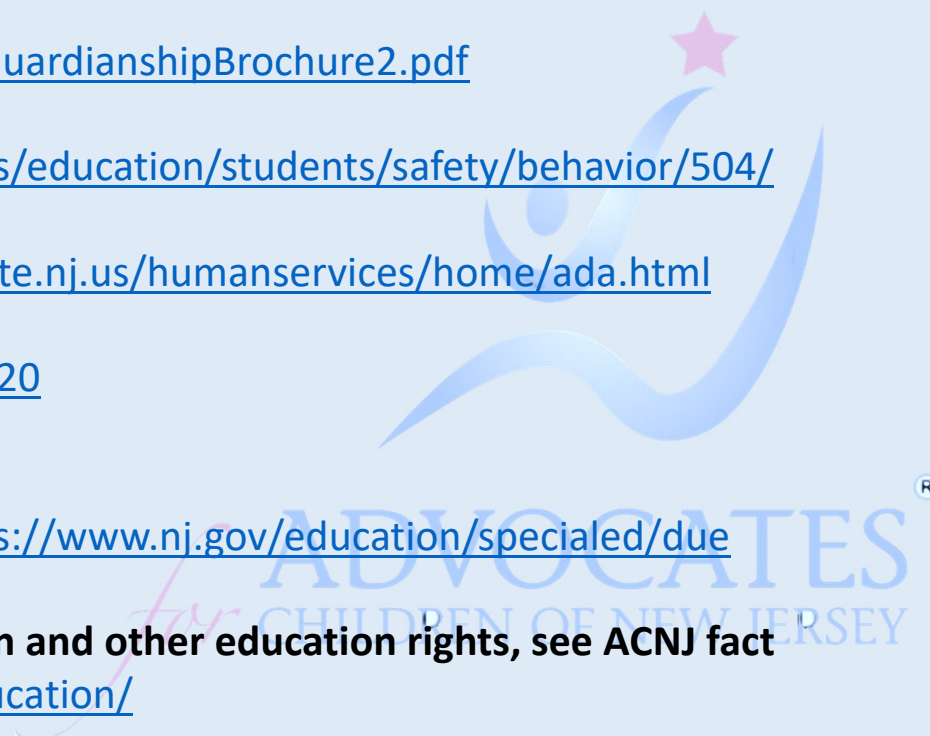
NJ Bill S3434: <https://legiscan.com/NJ/text/S3434/2020>

NJ Bill S905: <https://legiscan.com/NJ/bill/S905/2022>

Due Process/Mediation/Emergent Relief forms: <https://www.nj.gov/education/specialed/du>

For more information about compensatory education and other education rights, see ACNJ fact sheets, guides and blogs: <https://acnj.org/kidlaw/education/>

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Thank you for Listening to this Presentation Today!

For more information or for advocacy assistance, you may also contact me,
Nina Peckman, at npeckman@acnj.org or at 973-643-3876, ext. 226



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