

ASSEMBLY, No. 5909

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JUNE 21, 2021

Sponsored by:

Assemblyman STERLEY S. STANLEY

District 18 (Middlesex)

SYNOPSIS

Prohibits twice exceptional students from being denied special education and related services due to average academic performance.

CURRENT VERSION OF TEXT

As introduced.



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1 AN ACT concerning eligibility of twice exceptional students for
2 special education and related services and supplementing chapter
3 46 of Title 18A of the New Jersey Statutes.

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5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

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8 1. a. The evaluation, determination of eligibility for special
9 education and related services pursuant to chapter 46 of Title 18A
10 of the New Jersey Statutes, and, if eligible, development and
11 implementation of a twice exceptional student's individualized
12 education program shall not be denied due to the average academic
13 performance of the student.

14 b. A school district shall provide information to parents and
15 guardians to educate them on the available options for obtaining
16 special education and related services for a twice exceptional
17 student.

18 c. As used in this act, "twice exceptional student" means a
19 student:

20 (1) who shows the potential for performing at an above average
21 level of academic performance when compared to peers in the same
22 grade level; and

23 (2) who has one or more disabilities as defined by federal or
24 State eligibility criteria for special education and related services.

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26 2. This act shall take effect immediately.
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29 STATEMENT

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31 This bill prohibits the denial of special education and related
32 services due to the average academic performance of a twice
33 exceptional student. The bill would also require school districts to
34 provide information and communication strategies for parents and
35 guardians to educate them on the available options for obtaining
36 special education and related services for a twice exceptional
37 student.

38 Twice exceptional students are students who show the potential
39 to perform at above average levels of academic achievement when
40 compared to peers in the same grade level while also having one or
41 more disabilities impacting their ability to learn. For such students,
42 average performance may be evidence of the disability's impact and
43 may indicate that the student requires special education and related
44 services. For this reason, average academic performance in the case
45 of a twice exceptional student cannot be the basis for a school
46 district to deny evaluations or refuse to find eligibility for special
47 education and related services. Refusing to find twice exceptional
48 students eligible based on average performance when a discrepancy

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1 is evidenced between performance and ability denies them access to
2 the appropriately ambitious program in the public school system
3 that is required pursuant to the United States Supreme Court's
4 decision in *Endrew F. v. Douglas County School District*.

5 By prohibiting the denial of twice exceptional students from
6 special education and related services and providing parents and
7 legal guardians the information they need to obtain necessary
8 services for their twice exceptional student, the State can ensure
9 that these students receive a public school education that meets their
10 unique needs.