

Extended School Year (ESY)

Technical Assistance

ESY services are special education and related services that are provided to a child with a disability beyond the normal school year of the local education agency (LEA), in accordance with the Individualized Education Program (IEP), at no costs to the parents, and meet the ESY standards of the State.

The right of an individual child to receive ESY services is based on that child's entitlement to a Free Appropriate Public Education (FAPE). FAPE is available to all children with disabilities residing in the State between the ages of 3 and 21.

ESY services must be provided ONLY if a child's IEP Team determines, on an individual basis, in accordance with the IEP that the ESY services are necessary for the provision of FAPE to the child. It should not be automatically assumed that a child who receives ESY one year will be eligible for ESY services the following year.

ESY services are a result of an individual determination of the IEP Team and focus on critical skills. Critical skills are those academic, social, functional, and behavioral skills that are related to IEP goals and are critical to the student's overall school and community functioning.

An LEA may not limit ESY services to particular disability areas or unilaterally limit the type, amount, or duration of those services.

The critical question that each IEP Team must ask regarding ESY services is whether meaningful progress on critical skills related to IEP goals that occurred during the regular school year will be significantly jeopardized (thus significantly jeopardizing the provision of FAPE) if ESY is not provided.

ESY services are distinct from enrichment programs, summer school programs, and compensatory services and are not just an extension of time or duplication of regular school year services.

Typically, ESY services are provided during the summer months. However, there is nothing in the federal regulations that would limit the LEA from providing ESY services to a child with a disability during times other than the summer, such as before and after regular school hours or during school vacations, if the IEP Team determines that the child requires ESY services during those time periods in order to receive FAPE. The federal regulations give the IEP Team the flexibility to determine when ESY services are appropriate, depending on the circumstances of the individual child. ESY services are not required all day every day, or each day of the week.

Standards of the State

- Always consider ESY services at annual IEP Team meetings and more often if determined by the IEP Team. However, under some circumstances, the need for ESY services may not be known at the time of the IEP Team meeting. In that case, the IEP Team may identify the date it will reconvene to determine ESY needs and services. The IEP Team may also plan what data should be gathered to assist them in making the later determinations.
- If a child does not meet all IEP goals during the regular school, ESY services should not be granted on the basis of the child not achieving one or more IEP goals. Consideration for ESY services is limited to critical skills within the child's current IEP.
- The determination of need for ESY services is limited to a period not to exceed one year and may not address possible future educational service break needs.
- One criteria that may be considered by the child's IEP Team is if significant regression, caused by an interruption in educational services, renders it unlikely that the child will regain critical skills even after an appropriate recoupment period. ESY services are not provided simply because a child would acquire some benefit or gain new skills.
- ESY services must be provided for the maintenance of those skills identified as critical by the IEP Team and will not necessarily duplicate all of the services contained in the current IEP.
- LEAs are not required to create new programs as a means of providing ESY services in integrated settings if the LEA does not provide summer services for its nondisabled children. While ESY services must be provided in the least restrictive environment (LRE), the full continuum of educational options is usually not available during ESY and according to the U.S. Department of Education/Office of Special Education Programs, the LEA is not required to create such a program for that sole purpose.

Regression Problems Triggering the Need for ESY Services

- Failure to maintain an acquired critical skill as a result of an interruption of special education and/or related services. The failure to recoup must exist to the extent that an unreasonable (more than nine weeks) amount of time is required to regain the critical skill.
- Regression of a magnitude that prevents regaining lost critical skills (academic, behavioral, educationally relevant medical situations, or related services) within a reasonable period of time (nine weeks).
- Existence of rare or unusual circumstances may call for ESY services to maintain, improve, or learn new skills if those skills are required to prevent the loss or severe limitation of the student's capacity to acquire critical skills.

Assessment Practices in Measuring Critical Skills

- The IEP team shall consider both **retrospective data** as well as **predictive data** when making a determination.
 1. **Retrospective Data** is data that currently exist, which can be verified through observation, data collection, instructional tests, developmental scales, teacher-made tests, a record of daily performance, criterion-referenced and norm-referenced test data, anecdotal records from information collected throughout the year, behavior checklists, student work samples, review, or written reports of performance or behavior, including outside provider reports etc. Types of retrospective data may include:
 - a. **Past Regression:** data that demonstrate significant regression of previously learned skills during a break in service.
 - b. **Rate of Recoupment:** significantly delayed or limited recoupment of regressed skills after services resume. When the amount of time required to relearn skills or behaviors becomes so significant that it interferes with ongoing educational progress, the recoupment factor becomes significant.
 - When using observational data, best practice suggests a minimum of three recorded observations within a two-week period, for which a median score is reported.
 - Standardized or criterion referenced instruments results may be used to examine the severity of regression. Spring testing should be repeated exactly in the fall.
 - The IEP team should consider retrospective information that reflects the child's performance after long weekends, short breaks, vacations, and past summer breaks, etc.in determining the need for ESY services.
 2. **Predictive Data** can be used when sufficient retrospective data on critical skills are not available. For example, data based on expert opinion, past history, circumstances, type and severity of disability, availability of alternate resources, and situations unique to the student may be used. Types of predictive data may include:
 - a. **Expert Opinion:** data based upon a professional individual assessment.
 - b. **Circumstantial Considerations:** information based on unique situations in the child's home, neighborhood, or community.
 - c. **Anecdotal Reports:** reports from teachers, parents, caregivers, and related service personnel.
 - **The IEP Team is not required to demonstrate a showing of actual regression before ESY services are provided. A child's need for ESY services may be established by predictive data.**
 - Measure critical skills whenever regression is suspected (holidays, sickness, etc.).
 - Measure skills prior to annual IEP update.
 - The IEP Team determines the appropriate amount of ESY services. The determination of the extent of adequate services must be made on an individual basis after a thorough review of all the retrospective and predictive data.
 - The IEP Team must consider the provision of related services as ESY services. An LEA may provide related services as a sole component of ESY.

Reminders

ESY services do not have to be provided in a school setting. ESY services may be provided in an agreed upon alternate location.

If transportation is necessary for a child to receive FAPE, transportation must always be provided by the public agency.

If ESY services are needed the IEP Team must document the decision on the IEP. Documentation of ESY services shall specify which goal(s) will be reinforced during ESY services. Documentation shall describe the type of services (such as direct instruction, specific related services, consultation, or supervision), the beginning date of services and ending date of services, the minutes per week of each service, and where the service will be provided. The amount, type and duration may differ for each identified service, if more than one service is required.

As required, the *Notice of Intent Regarding Special Education Services* must be provided to parents once a decision is made to provide ESY services.

If a parent requests ESY services, and the IEP Team decides not to provide ESY services, The *Notice of Intent Regarding Special Education Services* must be provided to parents.