



Arizona Department of Education

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**Exceptional Student Services
Arizona Technical
Assistance System (AZ-TAS)**

**Guidelines for
Extended School Year Services**

Revised May 2020

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Purpose: This document was developed to assist school personnel and parents with the procedural requirements of extended school year services (ESY). This document will provide some guidance around ESY purpose, determination, and provision. This document is meant to be technical assistance and should not be construed as legal guidance. Legal citations are included for reference points.

Definition of Extended School Year (ESY)

Extended School Year (ESY) means special education and/or related services provided beyond the normal school year or normal school hours for the purpose of providing a free and appropriate public education (FAPE)ⁱ to a student with a disability as required by the Individual with Disabilities Education Act (IDEA).ⁱⁱ

ESY is necessary to enable a student to benefit from instruction received during the regular school year if a lapse in service would thwart meaningful progress gained during the regular school year. The purpose of ESY is not to maximize a student's academic potential.^{iii, iv} While the need for ESY services is the exception rather than the rule, it is the responsibility of the IEP team to annually (at a minimum) consider the need for ESY for every student.

Determining ESY Eligibility

Q: Who determines a student's eligibility for ESY?

A: Each student's IEP team determines her/his need for Extended School Year services.

Q: What determines a student's eligibility for ESY?

A: Decisions about ESY services must be made according to the individual needs of a student and focused on skills that impact educational benefit. The team considers academic, social, functional, or behavioral skills related to any IEP goal that impacts the student's overall functioning. Loss, or potential loss, of a specific skill without recoupment of the skill within a reasonable amount of time may qualify a student for ESY if such loss negatively impacts the student's ability to make meaningful progress in light of the child's individual circumstance.^v

In determining ESY eligibility, the IEP team may consider the student's regression of skills following breaks from school and the time it takes the student to regain those skills (recoupment).^{vi}

The team may consider:

- retrospective data (existing information)
- predictive data (expert opinion, circumstantial considerations, anecdotal reports)
- history of skill regression/recoupment (information must be measurable)

Q: When is a student's eligibility for ESY determined?

A: The IEP Team determines ESY eligibility each time a student's IEP is reviewed/revised. If the need for ESY services is not known at the time of IEP meeting, the team identifies the date it will reconvene to determine ESY (no later than 45 calendar days from the end of the school year).^{vii}

Consideration of ESY extends to children transitioning from IDEA Part C to Part B services, as determined by the team, and must be provided by the student's third birthday.^{viii}

Q: Can ESY eligibility be based on disability?

A: No. IEP teams should make ESY eligibility determinations based on the individual needs and progress of the student. The team considers academic, social, functional, or behavioral skills related to any IEP goal that impacts the student's overall functioning. Loss or potential loss of a specific skill without recoupment of the skill within a reasonable amount of time may qualify a student for ESY if such loss negatively impacts the student's ability to make meaningful progress in light of the child's individual circumstance.^{ix}

Provision of ESY Services

Q: Who can provide ESY services?

A: IDEA does not require the IEP to indicate specifically who is providing a required service for ESY. To provide clarification and reduce misunderstandings, the IEP team can determine who will provide the ESY services based on progress toward educational goal(s) and where services are best delivered. The IEP team can consider any of the following individuals as service providers:

- Certified or licensed professionals
- Trained and supervised paraprofessionals
- Contracted providers through other agencies

Although IDEA does not contain this requirement, OSEP (Office of Special Education Programs) has provided guidance that, “personnel providing ESY services should meet the same requirements that apply to personnel providing the services that are part of a regular school program.”^x

Q: What services are provided during Extended School Year?

A: The IEP team will determine which services and the amount of service time that will be provided during ESY. The regulations that implement the IDEA require IEP teams to determine, on an individual basis, whether ESY services are necessary to provide a FAPE to the child.^{xi}

Services the team determines for ESY are based upon the student’s progress on current IEP goal(s) that would result in substantial skill loss of a degree and duration that would seriously impede the pupil’s progress toward education goals.^{xii} It is the(se) selected goal(s) that will be supported during ESY. Thus, new IEP goal(s) would not be developed for ESY services. The driving question that each IEP team must ask regarding ESY services is whether meaningful progress on said IEP goal(s) that occurred during the regular school year will be significantly jeopardized (thus significantly jeopardizing the provision of FAPE) if ESY is not provided. Thus, the services for ESY may be the same or may look different than those provided during the regular school year.^{xiii}

Q: If a child does not meet all IEP goals during the regular school year, are ESY services required?

A: No. This is not a consideration when determining whether a child requires ESY services in order to be provided a FAPE. There are many reasons that a child may not have achieved one or more IEP goals during an IEP year that do not require the provision of ESY services. The critical question that each IEP team must ask regarding ESY services is whether meaningful progress towards the identified IEP goal(s) would result in the student experiencing severe or substantial regression if ESY were not provided.

Q: When can ESY services be provided?

A: Typically, ESY services are provided during the summer months. However, as the comments and discussion to the 2006 IDEA Part B regulations make clear, "there is nothing that would limit a public agency 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.^{xiv} The regulations give the IEP Team the flexibility to determine when ESY services are appropriate, depending on the circumstances of the individual child."^{xv}

OSEP has provided the following guidance regarding limiting ESY services to only summer programs, "This would violate the basic requirement that programs be designed to meet the individual needs of each child."^{xvi}

Q: Can a PEA have one ESY program for all students who need ESY?

A: No. ESY services need to be individualized in the same fashion as the IEP. Schools cannot categorically limit the types, amounts, or duration of services they will provide and must be determined on an individual basis.^{xvii}

Q: Where can ESY services be provided?

A: IDEA doesn't specify where services are to be provided for ESY. ESY services can continue to be provided in a school setting or can be provided in a non-educational setting if the IEP team determines that the student can receive appropriate ESY services in that setting. Therefore, a student's location for ESY services may be a different location than during the regular school year.^{xviii}

Q: How are ESY services documented in the IEP?

A: ESY services must be described in the IEP such that all IEP team members understand the services that are to be provided. The IEP team needs to document which IEP goal(s) are to be addressed, location of services, service provider, duration and frequency of the services, as well as the beginning and end dates.^{xix}

Q: Does data have to be collected on IEP goals during ESY services?

A: No. An IEP must include information as to "[w]hen periodic reports on the progress the child is making toward meeting the annual goals (such as using quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided."^{xx} ESY does not run concurrently with the issuance of reports cards and is therefore not required. Each PEA would determine if ESY data tracking is required.

Related Services and ESY

Q: Can a student receive only related services during ESY?

A: Yes. The purpose of ESY is to ensure FAPE; therefore, the IEP team must consider the related services the student is currently receiving. In some cases, ESY may consist of related services without additional education services.^{xxi}

Q: Is transportation required as part of ESY?

A: Transportation is a related service and must be offered if it is necessary for the child to access ESY services.^{xxii} If necessary, transportation should be added as a related service for the duration of ESY services.^{xxi}

Other ESY Considerations

Q: Does a PEA need to provide ESY services to a student who transfers during the summer?

A: Yes. If the student's IEP contains ESY services to be provided during the summer session, then the PEA is required to provide comparable services until a new IEP is developed, if needed. The new school district "may not refuse to provide ESY services to that child merely because the services would be provided during the summer."^{xxiii}

Q: If a student receives FAPE in a private school setting, must the IEP team consider ESY?

A: Yes. The placement of a student does not prevent the student's provision of FAPE in relation to ESY. The PEA who has placed the student in the private setting is responsible for ensuring FAPE is not denied. "If a determination is made that a child with a disability requires an extended school year program in order to receive FAPE, the public agency responsible for the child's education must ensure that this programming is provided to the child. This is so regardless of whether the child is placed in a private school or facility during the regular school year. A determination of whether a particular child requires extended school year services in order to receive FAPE must be made by the participants on the IEP team."^{xxiv}

Q: What if a parent disagrees with an ESY decision by the IEP team?

A: Parents retain their procedural safeguards rights for ESY the same as they do for other IEP team decisions. "While parents do not have veto power over IEP team decisions, they may challenge an IEP team decision that they disagree with by requesting mediation or filing a due process complaint against the school."^{xxv} The IDEA provides these procedural safeguards as a means for resolving disputes between parents and schools concerning the identification, evaluation, placement, or the provision of a free appropriate public education (FAPE).^{xxvi}

If the disagreement results in the filing of due process complaint, then the student would remain in his or her "current educational placement." This is generally understood to mean the last agreed upon placement (and not the placement that is being challenged in due process).^{xxvii}

Q: Must a school provide modifications and accommodations for a child who receives ESY services?

A: All children with IEPs are entitled to accommodations within their educational programs regardless of the location or placement, since these children are also protected under Section 504 of the Rehabilitation Act of 1973. Under Section 504, a school may not discriminate against a child with a disability in any program and/or activity offered by that school.

Q: If a child attends a private day school during the regular school year, is ESY provided at the private day school?

A: Maybe. The PEA who has placed the student in the private setting is responsible for ensuring FAPE is not denied. A determination of whether a particular child requires extended school year services in order to receive FAPE must be made by the participants on the IEP team. The placement of the child during the regular school year may look different than the placement of the child during ESY, as determined by the IEP team.^{xxiv, xviii}

Q: Do disciplinary rules apply during ESY programs?

A: Yes. The discipline procedures that apply during the standard school are the same as the extended school year.^{xxviii}

Summer School vs. Extended School Year

Summer School	Extended School Year
<p>Definition: An optional or permissive program provided beyond the regular school year. A school may elect to operate summer classes or not.</p>	<p>Definition: Services required by IDEA to be provided beyond the traditional school year/day for any child with a disability who needs special education services and/or related services in order to receive a free appropriate public education (FAPE), thus maintaining meaningful educational progress.</p>
<p>Purpose: Teaching new content or enrichment; offering recreational or academic opportunities not present during the regular school year. Children with and without disabilities benefit from additional educational opportunities.</p>	<p>Purpose: Ensuring a child's meaningful progress during the regular school year (FAPE). If services are not provided, the child's skills are not recouped in a reasonable time or permanently lost, jeopardizing progress. ESY services are not provided for the purpose of helping children with disabilities advance in relation to their peers.</p>
<p>Cost: Often on a fee basis.</p>	<p>Cost: Free to parents.</p>
<p>Duration: Typically operated on a set schedule for several weeks during the summer (e.g., 2, 6, or 10 weeks) for all those who participate.</p>	<p>Duration: Schedule, setting, and extent of services designed to meet the individual needs of a child to assure FAPE. The amount and duration of services cannot be determined arbitrarily by a school's summer school schedule.</p>
<p>Instruction: General education setting, based on needs and interests of all children.</p>	<p>Instruction: Specially designed instruction based upon a child's individual needs provided to prevent loss of meaningful progress gained during the regular school year.</p>
<p>Eligibility: A child's participation does not depend on an IEP team determination of need.</p>	<p>Eligibility: IEP team determines need and extent of services necessary to prevent significant loss of skills which may lead to a loss of meaningful progress and educational gains.</p>
<p>Accommodations/modifications: A student with an IEP participating in Summer School should have access to accommodations/ modifications as described in his/her current IEP.</p>	<p>Accommodations/modifications: A student receiving ESY services should have access to accommodations/ modifications as described in his/her current IEP.</p>

Chart reproduced, in part from [Mountain Plains Regional Resource Center, Primer on the Provision of Extended School Year Services for Parents and Educators, 2006](#)

Sources

- i. [34 CFR 300.101\(c\)\(1\)](#)
- ii [34 CFR 300.106](#)
- iii [A.R.S. §15-881 \(D\)\(1-3\)](#)
- iv [A.A.C. R7-2-408 \(E\)\(1-3\)](#)
- v [A.R.S. § 15-881 \)](#)
- vi [A.R.S. § 15-881 \(B\)](#)
- vii [AAC R7-2-408 \(C\)](#)
- viii [34 C.F.R. § 300.101 \(b\)](#)
- ix [A.R.S. § 15-881\)](#)
- x [Letter to Copenhaver, 50 IDELR 16 \(OSEP 2007\)](#)
- xi [34 C.F.R. § 300.106\(a\)\(1\)](#)
- xii [ARS 15-881 \(A\)\(2\)](#)
- xiii [Letter to Myers, 213 IDELR 255, OSEP, August 30, 1989](#)
- xiv [34 CFR 300.106](#)
- xv [71 Fed. Reg. 46,582 \(2006\)](#)
- xvi [Letter to Baugh, 211 IDELR 481, 1987](#)
- xvii [Letter to Libous, 17 IDELR 419, OSERS November 15, 1990](#)
- xviii [Letter to Myers, 16 IDELR 290 \(OSEP 1989\)](#)
- xix [Letter to Gregory, 17 IDELR 1180, OSEP, March 20, 1991](#)
- xx [34 C.F.R. § 300.320\(a\)\(3\)\(ii\)](#)
- xxi [Letter to Baugh, 211 IDELR 481, OSERS, August 12, 1987](#)
- xxii [34 CFR § 300.34\(c\)\(16\)](#)
- xxiii [Dear Colleague Letter on Education for Highly Mobile Children, OSEP, July 19, 2013](#)
- xxiv [Letter to Skiba, 18 IDELR 592, OSERS, 1991](#)
- xxv [34 C.F.R. §§ 300.506\(a\) and 300.507\(a\) respectively](#)
- xxvi [Arizona Department of Education, Special Education Dispute Resolution, Tip of the Week, June 16, 2016](#)
- xxvii [34 C.F.R. § 300.518\(a\)](#)
- xxviii [34 C.F.R. § 300.530-300.536](#)