

## FREQUENTLY ASKED QUESTIONS

### EXTENDED SCHOOL YEAR SERVICES (ESY)

#### **Sec. 300.106**

##### (a) General.

(1) Each public agency must ensure that extended school year services are available as necessary to provide FAPE, consistent with paragraph (a)(2) of this section.

(2) Extended school year services must be provided only if a child's IEP Team determines, on an individual basis, in accordance with Sec. Sec. 300.320 through 300.324, that the services are necessary for the provision of FAPE to the child.

(3) In implementing the requirements of this section, a public agency may not--

(i) Limit extended school year services to particular categories of disability; or

(ii) Unilaterally limit the type, amount, or duration of those services.

(b) Definition. As used in this section, the term extended school year services means special education and related services that--

(1) Are provided to a child with a disability--

(i) Beyond the normal school year of the public agency;

(ii) In accordance with the child's IEP; and

(iii) At no cost to the parents of the child; and

(2) Meet the standards of the SEA.

### **Q: What is Extended School Year (ESY)?**

**A:** The Individuals with Disabilities Education Act (IDEA) 2004 gives educators the responsibility for development and delivery of a free appropriate public education (FAPE) to students with disabilities. IDEA defines FAPE as special education and related services that are provided at public expense and are provided in conformity with an Individualized Education Program (IEP).

Some students with disabilities may not receive FAPE unless they receive needed services during time periods when other students, whether they have a disability or not, normally would not be served. As part of the IEP process, the IEP team must determine if a student requires extended school year (ESY) services in order to receive FAPE.

### **Q: Who is eligible for ESY services?**

**A:** All children with disabilities who have a current IEP must be considered for ESY services at least annually. To ensure FAPE, the multidisciplinary team must consider and document whether ESY services are needed for each student regardless of the child's disability. A school district may not limit ESY services to particular categories of disability, or unilaterally limit the type, amount or duration of those services. These requirements apply to all children with a disability between the ages of three and 21.

### **Q: How often must a student be considered for ESY?**

**A:** All students with disabilities must be considered for ESY services at least annually.

### **Q: Who determines the need for ESY services?**

**A:** Determination of need rests with **the IEP team**, which must be composed of at least the following individuals: parent(s) of the student, the student if appropriate, general education teacher(s), special education and related services providers, administrator or school district representative, and others as appropriate. IDEA intends that all persons involved in the IEP process be active participants. Each person fulfills an important role by bringing and sharing critical information about the child and his or her need for ESY services.

### **Q: What are the procedural safeguards regarding ESY?**

**A:** Parents are entitled to a meaningful opportunity to fully participate in discussion of their child's needs and the development of their child's educational plan, which includes the ESY decision, and they must be fully informed of the ESY determination process. The parent must receive prior written notice that ESY is being considered and agree to those services if their child is eligible.

Because consideration of ESY is a required component of every annual IEP, provision of procedural safeguards and prior written notice of the meeting for the annual development of the IEP constitutes adequate notice of contemplation of ESY services. Prior written notice affords the parents the opportunity to participate in the determination of that decision. The parents of each student with a disability must be advised at each annual IEP meeting that ESY services are available for those students who are eligible.

### **Q. How are ESY services determined?**

**A:** The determination of whether a child with a disability needs ESY services must be made on an individual basis. The critical question that each IEP team must ask regarding ESY services is whether the learning that occurred during the regular school year will be significantly jeopardized if ESY services are not provided.

**Q: What factors determine the need for ESY services?**

**A:** are the likelihood of **significant regression** of previously learned skills during a break in service and **limited or delayed recoupment** of these skills after services start again.

**Q: What does regression mean?**

**A: Regression** - A decline to a lower level of functioning demonstrated by a decrease of previously acquired skills that occur as a result of an interruption in educational programming.

**Q: What does recoupment mean?**

**A: Recoupment** – The ability to recover or regain skills at the level demonstrated prior to the interruption of educational programming.

**Q: Is regression and recoupment the only criteria used to determine ESY services?**

**A:** No. In addition to using the regression/recoupment criteria for determining ESY services, schools **MUST also consider a broad range of relevant factors.**

**Q: If a child doesn't meet all IEP goals during the regular school year, are ESY services required?**

**A:** No. ESY services should not be granted on the basis of the child not achieving IEP goals. IEP teams must ask whether meaningful progress on critical skills related to IEP goals acquired during the school would be significantly jeopardized if ESY were not provided.

**Q: Is it possible for a student to receive only a related service as part of an ESY program?**

**A:** Yes. Related services may be provided as a sole ESY service when necessary for a student to benefit from the special education program.

**Q: Is transportation provided 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.

**Q: If a child receives ESY one summer does it assure the child will qualify for ESY the following summer?**

**A:** No. Receiving ESY services one summer **does not automatically guarantee** services in the following years. The decision is made on an annual basis.

**Q: What if the school and parent do not agree on the ESY eligibility determination?**

**A:** Parents and schools may agree to seek mediation. If they cannot agree, either can request a due process hearing.