

A decorative graphic on the right side of the page features three overlapping circles in shades of blue, arranged vertically. Two thin blue lines intersect at the top right, forming a large 'V' shape that frames the circles. The circles are positioned in the upper right, middle right, and lower right areas of the page.

# **Extended School Year (ESY)**

## **Frequently Asked Questions**

**Rhode Island Department of Education**

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## **Extended School Year Services Frequently Asked Questions**

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## **Extended School Year (ESY) Frequently Asked Questions**

*The purpose of this document is to present frequently asked questions related to extended school year and to provide guidance to Individualized Education Program (IEP) Teams when determining eligibility and services for ESY.*

### **1. What is Extended School Year?**

Extended School Year is special education and related services provided beyond the regular 180-day school year of the public school district. A child's IEP Team determines on an individual basis, whether or not special education and/or related service(s) are necessary beyond the regular school year in order for the child to receive a Free Appropriate Public Education (FAPE). Each child with an IEP has his or her own unique educational needs in both functional and academic areas. Some children with disabilities may not receive FAPE unless they receive necessary services during times when other children both disabled and non-disabled, normally would not be in school. The IEP Team decision for extended school year services is based upon the unique needs of a child with a disability and the Rhode Island Department of Education Standard for ESY. When an IEP Team determines that Extended School Year services are needed, the services are documented in the child's IEP and made available at no cost to the parents of or the student with a disability. (Federal Register/ Vol. 71, No 156 / Monday, August 14, 2006 / page 46581)

### **2. Who Must be Considered for Extended School Year Services?**

All children with disabilities who have an IEP must be considered for ESY services at the annual IEP Team meeting. Although all children must be considered for extended school year, many will not be eligible for ESY. The need for ESY is determined individually and cannot be limited, provided or denied based upon the category of disability or program assignment.

### **3. Who Decides if a Child with an IEP Receives ESY Services?**

The need for ESY services is determined annually by the child's IEP Team and is based upon the RI Standards for Extended School Year Services. The IEP Team minimally consists of the child's parent(s), not less than one general education teacher of the child, not less than one special education teacher of the child, a school district representative, and when appropriate, the child. In RI the child, 14 years of age or older, must be invited to the IEP meeting. (RI Regulations section 300.321)

#### **4. How is ESY Eligibility Determined?**

As part of the IEP Team process the IEP Team will follow the ESY Decision-Making Guide to document its consideration of (a) regression recoupment criteria and (b) other critical factors to be considered when determining eligibility for ESY services. Any one of these factors alone or in combination can trigger the need for ESY services if they indicate that the benefits the child has received during the typical school year will be jeopardized if ESY services are not provided and the child will not receive FAPE. (See Appendix A)

#### **5. What are Potential Sources of Data for Use in Determining ESY Eligibility and Services?**

The IEP Team examines a variety of data to determine if there is at least one annual goal(s) in which meaningful progress is likely to be put at risk if ESY services are not provided. The data considered includes regression recoupment data; progress towards annual goals; retrospective data; predictive data; peer-reviewed research; evidence based best practice and other critical factors.

#### **6. Is the Current IEP Automatically Followed in its Entirety?**

No, the IEP Team will determine (a) eligibility for ESY services, (b) which IEP annual goals will be addressed during ESY programming, (c) how the goals will be addressed and (d) location for the services. These services may include, all, some or any configuration of the special education and related services the child receives during the school year. For example, a child who receives special education and related services during the school year might receive only a related service during ESY.

#### **7. Who Pays for Extended School Year Services?**

When the IEP team determines that a child is in need of ESY, those services are provided at no cost to the parents or the student. Like all other special education and related services, the basis for determining the need for ESY is the individual child's unique needs and is not based upon resources or programs the district has available and can afford to provide.

#### **8. Must School Districts Notify Parents of the Availability of ESY Services?**

Yes, parents are notified as part of the IEP Team process. When the IEP is completed, the school district provides written prior notice to the family before implementing the IEP. Because ESY is relevant to the provision of FAPE for the child, the written prior notice would include information on the child's eligibility for ESY. (Federal Register / Vol. 64, No. 48 / Friday, March 12, 1999 page 12576)

## 9. What if There is A Disagreement Regarding ESY?

IEP Teams are strongly encouraged to collaborate thoroughly in order to ensure the resolution of disagreements. Parents are valued members of the IEP Team and active participants in IEP Team decisions. For more information on what to do when disagreement occurs please visit: [www.ritap.org/ritap/resources](http://www.ritap.org/ritap/resources) "Options and Resources, Rhode Island Informal and Formal Special Education Options and Resources for Dispute Resolution" or contact the RI Department of Education, Office for Diverse Learners at 401-222-8999.

## 10. Are Parentally-Placed Private School Children with Disabilities Entitled to ESY?

In Rhode Island, children who are parentally placed in private schools are entitled to FAPE and must be considered for ESY services as part of the IEP Team process. The child's home school district is responsible for the development of the IEP and consideration for ESY as part of the IEP process.

## 11. Is ESY the Same as Summer School?

ESY is not summer school, and provides a different focus from traditional summer school programs. ESY services are an extension of the programming identified in a child's IEP.

## 12. ESY and Summer School Comparison

ESY	Summer School
<ul style="list-style-type: none"><li>➤ ESY is a required consideration by IDEA for a child with a disability who needs special education and related services in order to receive FAPE.</li><li>➤ ESY is determined on a case-by-case basis by an IEP Team in accordance with RI Regulations for Education of Children with Disabilities.</li><li>➤ ESY is free to parents of eligible children.</li><li>➤ ESY scheduling, setting and extent of</li></ul>	<ul style="list-style-type: none"><li>➤ Is an optional or permissive program provided beyond the typical school year. A school district may or may not elect to conduct summer school classes.</li><li>➤ Summer school is determined by the school district based upon its own criteria. Participation depends upon local school district practice and is not necessarily a team determination.</li><li>➤ A fee is usually charged to parents.</li></ul>

service(s) are designed to meet the individual child's needs in order to assure FAPE. The IEP Team determines the type, amount, duration and location of service(s).

- Summer school is typically operated on a predetermined set schedule.

*Adapted from New Mexico ESY Technical Assistance Manual*

### **13. How Can ESY Services Be Delivered and Where?**

There are a variety of ways in which ESY services can be delivered. Some of these include: a traditional classroom setting; school-based programs that vary in length of schedule; learning packages with staff monitoring; grouping children with similar goals; cooperative programs with other agencies; interagency programs; contract services with service providers or agencies; vocational settings.

ESY services can be provided in non-educational settings if the IEP Team determines that a child could receive necessary ESY services in that setting. The focus of ESY services and programs are to meet the goals and objectives identified in the child's IEP and are necessary for FAPE.

### **14. Must ESY Programs be Provided in the Least Restrictive Environment?**

Yes, ESY services must be provided in the least restrictive environment. School districts are not required, however, to create new programs as a means of providing ESY to children with disabilities in integrated settings if the district does not provide services at that time for its nondisabled children.

(Federal Register/ Vol. 64, No. 48 / Friday, March 12, 1999, page 12577)

### **15. Can Districts Offer One Program for All ESY Children?**

No. Districts must ensure that a full continuum of services is available to meet the unique needs of each child with a disability as determined by the IEP Team.

### **16. Can Districts Provide ESY Services During Times Other Than Summer Months?**

Typically, ESY services are provided during the summer months. However, there is nothing that would limit a school district from providing ESY services to a child with a disability during times other than the summer, such as before and after 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 regulations give the IEP Team flexibility to determine when ESY services are appropriate, depending upon the circumstances of the individual child.

## 17. What is the History and Overview of Legal Requirements?

In 1975, the Education for All Handicapped Children Act, also known as Public Law 94-142, was passed by Congress. This law mandated a Free and Appropriate Public Education (FAPE) for all children. The Education for All Handicapped Children Act is currently known as the Individuals with Disabilities Education Act (IDEA).

Determining which children are eligible for ESY services and what constitutes an appropriate ESY has evolved since the inception of Public Law 94-142. Generally these changes have come through court cases. Three cases of particular note outline acceptable criteria for ESY eligibility. These include: Johnson v. Bixby Independent Sch. Dis. 4, 921 F.2d 1022 (10th Cir.1990); Crawford v. Pittman, 708 F.2d1028 (5th Cir. 1983); GARC v. McDaniel, 716 F.2d 1565 (11th Cir. 1983).

The IDEA was reauthorized in 2004, and comments related to ESY in the Final Regulations 2006 reference these well established judicial precedents. In February of 2009, Rhode Island established the RI Standard for ESY.

## 18. What are the Legal Requirements for Extended School Year Services in RI?

RI Regulations Governing the Education of Children with Disabilities, July 1, 2009, § 300.106 (b) (2) Extended School Year Services:

### (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 when a child's IEP team determines, on an individual basis, in accordance with §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 RI Department of Education Extended School Year Standards as adopted by the RI Board of Regents

## 19. What is Rhode Island's Standard for Extended School Year Services?

Each child with an IEP must be considered for ESY services as part of the Local Education Agency's (LEA) requirement to make available a FAPE. The IEP team determination is based upon the unique needs of the child and made to ensure that the child is provided FAPE.

### **Regression and Recoupment Analysis**

I. Extended school year services eligibility is determined by the IEP team through regression and recoupment analysis of the severity of academic achievement and/or functional skill regression (loss) a child experiences as a result of an interruption in special education services, the amount of time required to recoup (regain) the prior level of skill, likelihood of retention of learned skills, rate of progress during the school year, and whether meaningful progress on IEP goals is likely to be significantly jeopardized if ESY services are not provided.

- A. IEP team decisions regarding extended school year services are based upon a variety of data including retrospective data, predictive data, peer reviewed research, evidence based best practice and other critical factors.
- B. IEP team considerations include, but are not limited to the following possible factors when determining the child's individual need for ESY services:
  - 1. the nature and/or severity of the child's disability;
  - 2. the child's rate of learning;
  - 3. the degree of progress towards IEP goals and objectives or for children transitioning from Part C services (Early Intervention) to Part B services, consideration of the degree of progress toward Individual Family Service Plan (IFSP) outcomes;
  - 4. the child's stereotypic, ritualistic, aggressive or self injurious interfering behaviors;
  - 5. the physical needs of the child;
  - 6. emerging skills and breakthrough opportunities;
  - 7. the ability of the child to interact with typically developing peers;
  - 8. the child's post-school outcomes and vocational needs;
  - 9. other special circumstances as determined by the IEP team
- C. ESY instruction is focused on those specific IEP goals and objectives severely impacted by extended breaks in instruction.



## Appendix A: IEP Team ESY Decision-Making and Documentation

**Introduction:** Eligibility for extended school year services is determined by the IEP team through: regression recoupment analysis of the severity of academic achievement and/or functional skill regression (loss) a child experiences as a result of an interruption in special education services, and the amount of time required to recoup (regain) the prior level of skill; likelihood of retention of learned skills; the child's rate of progress during the school year; and whether meaningful progress on IEP goals is likely to be jeopardized if ESY services are not provided. Every child eligible for special education services under any of the thirteen categories of disabilities listed in RI Regulations for Special Education must be considered for ESY services. The purpose of this form is to provide a guide for IEP teams to use when determining eligibility for ESY and document the decision.

**Directions:** IEP teams must complete the IEP Team Eligibility Decision-Making form at every annual IEP for children with disabilities. This is done in just a few easy steps.

- Place IEP Meeting date, IEP effective from and to date, child's name, and IEP page number at the top of the page
- Consider each and every factor. Checking "yes" to any one of these factors alone or in combination triggers the eligibility for Extended School Year Services
- Name the data source(s) that were used as a basis for the IEP Team decision
- Check yes or no to each factor
- Document the ESY decision on the IEP form
- Determine which IEP goals are to be addressed during ESY and document the decisions when completing the Special Education and Related Services sections of the IEP
- This form must be included as part of child's annual IEP

For a more detailed explanation of Extended School Year Services, please refer to the Frequently Asked Questions on Extended School Year Services in RI located at [www.ritap.org/iep](http://www.ritap.org/iep)

Meeting Dates

IEP Effective From

to

Child

page of

IEP Team ESY Decision-Making and Documentation

**The IEP team considered the following factors:**  
*Note: Any of these factors, alone or in combination, can trigger the need for ESY if they indicate that the benefits the child has received during the regular school year will be jeopardized.*

Factor	Criteria	Data Source(s)	Yes/No	Goal(s) #
Regression/Recoupment Analysis	Is there data that indicates to the IEP team that there is serious potential for regression of academic achievement or functional skills beyond a reasonable period of recoupment?			
The nature and or severity of the child's disability.	Is there information regarding the nature or severity of disability of the child that indicates to the IEP Team that there is a need to provide services in the identified goal area of concern?			
The child's rate of learning	Is there information that indicates the child's rate of learning is such that child will not make sufficient progress toward IEP annual goals			
The degree of progress towards (a) IEP goals and objectives or, (b) for children transitioning from part C services (Early Intervention) to part B services, consideration of the degree of progress toward Individual Family Service Plan (IFSP) outcomes.	Is there data indicating the child's degree of progress towards meeting (a) IEP goals and objectives or (b) IFSP outcomes would jeopardize the child's access to a Free and Appropriate Public Education (FAPE) during the regular school year, if ESY services are not provided?			
The child's stereotypic, ritualistic, aggressive or self injurious interfering behavior	Does the child demonstrate behaviors that would jeopardize the child's access to a Free and Appropriate Public Education (FAPE) during the regular school year, if ESY services are not provided?			
The physical needs of the child	Is there data indicating that the child's physical needs require ESY services?			
Emerging skills and breakthrough opportunities	Is there information that indicates the child is at a critical stage of learning and/or a critical area of learning where failure to provide a service beyond the normal school year will jeopardize the child's capacity to acquire essential skills?			
Ability of the child to interact with typically developing peers	Is there information to indicate that a break in programming will jeopardize the child's ability to interact with typically developing peers?			
Student's post school outcomes	Is there information to indicate that a break in programming will jeopardize the student's attainment of his/her IEP goals and/or provision of transition services, in the areas of education and training, employment, and where appropriate independent living?			
Other special circumstances as determined by the IEP team	Are there any special circumstances to indicate that without ESY services the child's access to FAPE during the regular school year would be jeopardized?			

## Appendix B: Definitions

**IEP Team:** The IEP Team minimally consists of the child's parent(s), not less than one general education teacher of the child, not less than one special education teacher of the child, a school district representative, and when appropriate, the child. In RI the child, 14 years of age or older, must be invited to the IEP meeting. (RI Regulations section 300.321)

**Interfering behavior(s):** The IEP team determines whether any interfering behavior(s), such as stereotypic, ritualistic, aggressive, or self-injurious behavior(s) targeted by IEP goals, prevented the child from receiving some benefit from his/her educational program during the previous school year without ESY services or whether the interruption of programming which addresses the interfering behavior(s) is likely to prevent the child from receiving some benefit from his/her educational program during the next school year unless ESY services are provided.

**FAPE :** Free Appropriate Public Education available to children residing in the local school district, between the ages of 3 and 21 (until the child's twenty first birthday or until the child receives a high school diploma). FAPE means special education and related services that are (a) provided at public expense, under public supervision and direction and without charge; (b) meet the standards of the special education agency; (c) include an appropriate preschool, elementary school or secondary school education and (d) are provided in conformity with and IEP that meets the requirements of section 300.320 through 300.324.

**Regression:** The severity of academic achievement and/or functional skill regression (loss) a child experiences as a result of an interruption in special education services

**Recoupment:** The amount of time required to regain the prior level of skill. While it is expected that all children will experience some natural loss of skill during school breaks in service, for children with disabilities this time to regain those skills may be extraordinary.

**Normal school year:** The normal school year is defined as those days that all children attend school. In Rhode Island the school year is typically 180 school days.

**Jeopardized:** To put the child's learning at risk of being lost or harmed

**Peer-reviewed research:** "Peer-reviewed research" generally refers to research that is reviewed by qualified and independent reviewers to ensure that the quality of the information meets the standards of the field before the research is published. However, there is no single definition of "peer reviewed research" because the review process varies depending on the type of information to be reviewed. We believe it is beyond the scope of these regulations to include a specific definition of "peer-reviewed research" and the various processes used for peer reviews.

(<http://idea.ed.gov/explore/view/p/,root,regs,preamble2,prepart2,D,2375,>)

## APPENDIX C: Extended School Year Services Resources

- Arizona (Peoria Unified School District)  
<http://portal.peoriaud.k12.az.us/Search.aspx?k=extended%20school%20year&s=All%20content>
- Connecticut-  
[http://www.sde.ct.gov/sde/lib/sde/PDF/DEPS/Special/Topic\\_Brief\\_ESY.pdf](http://www.sde.ct.gov/sde/lib/sde/PDF/DEPS/Special/Topic_Brief_ESY.pdf)
- Louisiana-  
<http://www.doe.state.la.us/lde/eia/505.html>
- Massachusetts –  
[http://www.doe.mass.edu/pqa/ta/esyp\\_qa.html](http://www.doe.mass.edu/pqa/ta/esyp_qa.html)
- Michigan -  
[http://www.michigan.gov/documents/mde/StandardsforESY\\_245917\\_7.pdf](http://www.michigan.gov/documents/mde/StandardsforESY_245917_7.pdf)
- New Jersey-  
http://
- New Mexico-  
<http://www.rmps.net/PDF/SpecialServices?ESYTechAssistance.pdf>
- Pennsylvania-  
<http://www.pde.state.pa.us/k12/cwp/view.asp?A=11&Q=67441>
- Virginia-  
<http://www.doe.virginia.gov/VDOE/Instruction/SPED/ESYdoc.pdf>
- Definitions: <http://www.doe.in.gov/exceptional/speced/docs/ESYGuide-Form-02-05.pdf>
- Federal Register/ Vol. 71, No 156 / Monday, August 14, 2006 / page 46581
- Federal Register / Vol. 64, No. 48 / Friday, March 12, 1999 page 12576
- Rhode Island Technical Assistance Project, [www.ritap.org](http://www.ritap.org)
- Rhode Island Department of Education, [www.ride.ri.gov](http://www.ride.ri.gov)