



Individualized Education Program Development: Extended School Year Services

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Introduction

The purpose of this document is to provide information and assistance for parents, educators, administrators, and service providers regarding the Individualized Education Program (IEP) Team process for determining the need for extended school year services (ESY). Additionally, this document supports the implementation of the [Standards for Extended School Year Services \(ESY\) in Michigan](#).

ESY services refer to special education and/or related services provided to eligible students with disabilities beyond the normal school year or school day to provide a Free Appropriate Public Education (FAPE). The purpose of ESY is to maintain a skill that is being developed through an annual IEP goal and essential to an individual student. The purpose of ESY is not to make progress on an annual goal. Although most students will not require ESY services, ESY must be considered annually for all students who are eligible for special education and/or related services and determinations must be based on data. The need for ESY services must be determined individually and cannot be provided or denied based on category of disability or program assignment.

Federal and State Requirements

The following citations of the [Individuals with Disabilities Education Act \(IDEA\)](#) and [Michigan Administrative Rules for Special Education \(MARSE\)](#) cover requirements under ESY Services.

[34 CFR § 300.106 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 only if 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 standards of the SEA.

R 340.1721e(1)(2) Individualized education program

(1) Pursuant to 34 CFR Part 300 (2019), an individualized education program Team shall develop a written individualized education program that includes all of the following:

(a) A statement of measurable annual goals, including measurable short-term objectives.

(b) A statement documenting that the individualized education program Team considered extended school year services.

(c) For a child age 3 through 5, a statement of the child’s socialization needs and ability to participate and progress in developmentally appropriate activities.

(2) All of the following apply to the determination of the need for extended school year services:

(a) The individualized education program Team shall determine if a student’s current annual goals address 1 or more skills that need extended school year services. For any identified annual goal, the individualized education program Team shall consider all of the following:

(i) Data that indicate that in the identified annual goal there is a potential for regression of skills beyond a reasonable period of recoupment.

(ii) Data regarding the nature or severity of the disability of the student that indicate that there is a need to provide services in the identified annual goal during breaks in the school year.

(iii) Information that indicates that in the identified annual goal the student is at a critical stage of learning or in a critical area of learning where failure to provide a service beyond the normal school year will severely limit the student's capacity to acquire essential skills.

(b) If the individualized education program Team determines that any data or information described in subdivision (a)(i) to (iii) of this subrule indicates a need for extended school year services, the individualized education program Team shall include extended school year services in the student's individualized education program.

(c) The individualized education program Team shall not determine the need for extended school year services based on a formula or policy that prohibits full consideration of the unique educational needs of each student.

(d) The individualized education program team shall consider related services, transportation, supplementary aids and services, and instructional programming when planning a student's extended school year services.

(e) The individualized education program Team shall conclude consideration of extended school year services in sufficient time to make plans for the delivery of extended school year services.

Determining the Need for ESY Services

The need for ESY services must be considered by the IEP Team for every student with a disability at each IEP Team meeting. The student's IEP Team is a group of individuals composed of the student's parents; the student, if appropriate; general education teacher(s); special education and related service providers; an administrator or school representative; individual(s) who can interpret the instructional implications of evaluation results; and others, as appropriate. Each member of the IEP Team brings important information about the student's individual needs, academic, social, and behavioral progress.

The need for ESY services is determined by data. The IEP Team must review data in each goal area and determine whether there is a need for the student to receive ESY services in order to maintain the skill being learned in one or more annual goal areas of concern. Data should be gathered year round before and after breaks in service, which will allow the IEP Team to make informed and individualized decisions about the need for ESY. If the need for ESY services or the characteristics of those services are not known at the time of the annual IEP Team meeting, then the IEP Team must reconvene to determine the need for ESY and provide notice of the decision. The IEP Team may also plan what data should be gathered to assist in making later

determinations. An amendment documenting any changes may be completed and attached to the current IEP.

ESY services must be provided if the IEP Team determines maintenance of skills in one or more annual goal areas of concern are necessary for the provision of a FAPE to the student. It is important to note that if a student has five annual goals in all different skill areas and there is data to support the student requires ESY in one or two of those areas, then the ESY services would only be provided to maintain the one or two skill areas.

In considering the need for ESY services, the IEP Team must consider if there is one or more current annual goal(s) addressing skill(s) which need to be maintained without interruption for the student to receive a FAPE.

A student with a goal area of concern may be determined to need ESY services due to one or more of the following areas:

- A serious potential for regression of skills beyond a reasonable period of recoupment;
- The nature or severity of the disability; OR
- Critical stages of learning or areas of learning.

If there are no identified goal areas of concern, then ESY services are not needed for a FAPE.

If there is one or more identified goal area of concern, then the following questions must be answered by the IEP Team consistent with R 340.1721e(2)(a):

Question #1: Does data in the identified goal area(s) of concern indicate there is a serious potential for regression of skills beyond a reasonable period of recoupment?

Regression refers to the inability of the student to maintain an acquired skill in an identified goal area of concern when special education instruction or related services in an IEP goal area are interrupted and require an unreasonable amount of time for recoupment.

Recoupment is the student's capacity to recover those regressed skills to a level demonstrated before the break in instruction.

An IEP Team must consider the following factors about regression and recoupment:

- There must be serious potential for regression of skills related to the goal area(s) of concern, and
- The potential period of recoupment must be beyond a reasonable amount of time.

The IEP Team determines what a reasonable period of recoupment is for the goal area(s) of concern for each student. In making this determination, the IEP Team must consider the unique needs of the student, rather than basing the determination on a formula. Formulas do not provide the ability to address the unique needs of all students for this type of decision. Whether receiving general education or special education instruction, students may lose skills when there is a break in services. Students who lose skills over breaks in service, but who can recoup those skills with re-teaching in a reasonable amount of time based on the unique needs of the student, are not eligible for ESY services.

Question #2: Does data regarding the nature or severity of the disability of the student indicate there is a need to provide services in the identified goal area(s) of concern during breaks in the school year?

The IEP Team must consider whether the nature or severity of the student’s disability requires programming without substantial breaks in service to make progress in the identified goal area(s) of concern. A student’s mental, emotional, or physical health, or the chronic nature of their disability, may indicate the need for ESY services to maintain skills that otherwise would be lost and not recovered in a reasonable amount of time. For some students, even short breaks in programming may cause regression in academic or functional skills or increase maladaptive behaviors.

Question #3: Does data indicate the identified goal area(s) of concern, in which the student is at a critical stage of learning or in a critical area of learning where failure to provide a service beyond the normal school year will severely limit the student’s capacity to acquire essential skills?

A ‘critical stage of learning’ means learning which must occur without delay and skills in the identified goal area(s) of concern will enhance the student’s ability to function independently. Examples of critical stages of learning or skill areas include language development for students with autism spectrum disorder and language rehabilitation for students who have a traumatic brain injury. Depending on a student’s goals, peer interactions or social skills may also be critical skills.

The critical stage/critical area of learning must be identified, and the following questions considered:

- Is there a skill needing to be mastered immediately? If the student does not master the skill immediately, is the degree of mastery likely to be permanently reduced? What data supports this?

- Is the student at a critical stage of development where there is a window of opportunity which will be lost if services are not provided? What data supports this?
- Are there changes in the student’s medical, physical, or sensory status making it possible to predict an accelerated rate of learning during the ESY period (critical stage)? What data supports this?
- Is the skill in a critical area of learning, and will a break in services result in the loss of a window of opportunity for mastering the skill? What data supports this?

If one or more of these questions on critical stages/areas of learning is answered yes, then the IEP Team needs to develop an ESY plan. If all these questions are answered no, then ESY services are not needed for a FAPE.

Additional Considerations

Although the IEP Team is responsible for determining a student’s ESY eligibility, ESY services are not required to be provided by district staff. A district can contract with another district or a private provider for the services. If the location of ESY services requires the provision of student transportation, then the district must provide transportation to and from the ESY location. As with any service, the district must maintain documentation to demonstrate compliance.

There is no required timeline for the IEP Team’s consideration of ESY services, the IDEA regulations specify “public agencies are expected to ensure these determinations are made in a timely manner so students with disabilities who require ESY services in order to receive a FAPE can receive those necessary services.” [[Federal Register, Vol. 64, No. 48, 1999, pg. 12576](#)] This means the determination of the need for ESY services should be accomplished in sufficient time to make plans for the delivery of ESY services and to permit any party to exhaust administrative remedies if there is a difference in opinion prior to the break in services (facilitated IEP, mediation, state complaint and due process hearings).

Districts must also consider the need for ESY services for a student who transfers from another school district. A new school district generally must provide comparable services, including comparable ESY services, for a transfer student whose IEP from the previous school district contains those services.

A transfer student’s need for ESY services could arise if the student received ESY services from a previous school district during the prior summer and the student’s IEP from the previous school district reflects a need for those ESY or includes ESY services that have not yet been provided because the child’s family has moved. The district will need to consider the need for ESY for these students. For more information on the provision of services for transfer students, please see [Provision of Special Education Services for Transfer Students](#).

Data Based Decision Making

Decisions about the need for ESY services must be student-centered, data-driven discussions during each student's IEP Team meeting. Information to consider during each discussion includes the following:

- The need for ESY services is an individual decision based on many different sources of information to be reviewed every year from a fresh perspective.
- The purpose of ESY services is to address skills which need to be maintained without interruption for the student to benefit meaningfully from a FAPE.
- It is not the purpose of ESY services to work on new goals or objectives.
- Changing circumstances can affect a student's performance at any time during the academic year.
- Data should be reviewed as it is collected, e.g., for a student regressing over the summer, you would have recoument data in the fall. The IEP Team should consider timely data, not waiting until the scheduled IEP date.
- Individual student planning must include information about what goals will be addressed by ESY.

IEP Data—All members of the IEP Team should have access to the data being used to discuss ESY services. Data sources may include (but are not limited to):

- Progress monitoring data on IEP goals and objectives.
- Data collected before a break in service and directly after a break in service.
- Data recorded and provided by parents.
- Data from another school district the student attended.
- Reports from outside agencies and professionals.
- Interviews with present and past teachers or service providers, the parents, and the student.
- Medical records indicating the student has experienced significant trauma making the need for services immediate.
- Data indicates continuous or year-round programming is an integral part of the teaching methodology used with the student.
- Vocational or pre-vocational assessments.
- Medical records indicating an immediate need for services.
- Data indicating loss of access to on-the-job training potentially resulting in significant delays in mastering critical prevocational or vocational skills.

- Professional peer-reviewed literature in the goal area(s) of concern substantiates a critical stage in learning and this learning must occur without delay.
- Developmental standards within the goal area(s) of concern indicate the student is at a critical stage of learning.

Potentially, the most useful data available will be the progress monitoring data on the current IEP goals and objectives. Procedures for measuring progress should be sensitive enough to determine the effects of breaks in instruction occurring during the academic year.

High frequency, systematic data collection assessing IEP goal progress of measurable and observable goals is required to detect subtle trends in student performance. Data should be evaluated regularly to identify issues of regression/recoupment, critical stages or areas of learning, or the nature and severity of the disability. The data collected may, and probably will, look different under each of these issues.

Example 1: Regression/Recoupment

There is a consistent pattern of learning. Regression/recoupment data may be demonstrated by a steady baseline, or with an increase in skill acquisition, and a drop in student performance following a break in instruction. It then takes the student an extended amount of time to regain the previous level of acquired skill/level of performance.

Example 2: Critical stages or areas of learning

The critical stage or area of learning data may include a very slow rate of learning with a sudden and/or steep incline/increase before a break in instruction.

Example 3: Nature and severity

A nature and severity data pattern may show a significant drop in performance of goal maintenance after a break in programming.

Data needs to be collected on a regular, ongoing basis, with a minimum of the progress reporting times mandated by the IEP. However, some IEP goals may require more frequent data collection (e.g., weekly, every other week, monthly), and the goal schedule should be written with this in mind. Data regarding ESY services should be evaluated minimally during these data collection points.

Data collection during the provision of ESY services should be consistent with data collection during the academic year to verify the effectiveness of ESY programming.

District Data—Districts should consider developing guidelines, a monitoring system for data collection, and an effective method for IEP Team members to regularly analyze and discuss data.

[IEP Team Consideration of the Need for ESY Services](#) can be used for IEP Teams to document their consideration of data for ESY Services.

Example of Planning Steps for ESY Services

Many steps must be completed by special education providers and administrators to successfully implement ESY programs and/or services. As was stated elsewhere, ESY services may be provided at any time when there is a break in instruction. Important steps and suggested timelines for ESY services are provided in the example below. The following best practice steps were written for ESY services to be provided in the summer months:

Beginning of year—Special education administrator should remind providers to collect and record data regularly as per the IEP schedule but make sure data is collected at the beginning of year, approximately four to six weeks later, and before/immediately after breaks in instruction to support the determination of ESY.

During first semester—Providers should review the data collected and identify students on caseload with suspected ESY needs.

Beginning of second semester—Submit names and documentation to support possible ESY needs to special education administrator.

No less than two months prior to end of academic year—Conduct IEP Team meetings for students with suspected need for ESY. If ESY decisions were delayed from an IEP completed earlier in the academic year due to data, use an IEP Team meeting or IEP amendment to address ESY needs. IEP Teams identify areas of ESY needs (based on current goals), determine the type of ESY service(s), and identify the frequency, duration and provider(s) of ESY service(s) based on student needs.

No less than two months prior to end of academic year—Special education administrator should:

- Identify staff positions needed to provide ESY;
- Confirm staff availability;
- Allocate or hire staff needed for ESY services;
- Determine schedule, meal needs, and location(s) for ESY services;

- Communicate ESY schedule to parents; and
- Identify materials needed for ESY and whether materials need to be transferred to ESY location.

No less than one month prior to ESY delivery—Special education administrator or designee should:

- Set up special transportation.
- Provide training and/or orientation related to specific student needs to staff providing ESY services who are new to students being served.

One or two weeks prior to ESY delivery—Provide staff with sufficient time to plan quality ESY services for students.

Ongoing—Many students with ESY needs can be identified early in the school year, however; some needs may not be identified until much later in the spring. Special education administrators should keep these “late-breaking” cases in mind when planning how to deliver ESY services in the student’s district.

During ESY Service:

- Assess student progress pre- and post-ESY services.
- Provide services consistent with current IEP goals identified for ESY services.
- Communicate with parents during ESY service.
- Provide data/documentation of outcomes of ESY services to special education administrator and parents at the conclusion of ESY services.

Dispute Resolution

Planning and making decisions for ESY services must leave sufficient time for dispute resolution. Sufficient time includes time for available dispute resolution processes to address differences in opinion or disputes prior to the break in services. Gauging the time needed for dispute resolution is affected by the following:

- Whether the school district has a process and standard for determination of ESY services.
- Whether progress monitoring data is shared and/or discussed at IEP Team meetings.
- Whether school staff and parents have an opportunity to review other additional data that is, or will be, used to support an ESY determination and, if appropriate, the selection of appropriate ESY services. Data sources may include but is not limited to:

Parent reports, outside agency service logs, outside evaluation and reports, progress reports, reading records, observation logs, communication logs, written observations, benchmarks acquired, and ancillary service logs.

- Whether IEP Team meetings, where ESY eligibility is or will be discussed, involves key players. It is important for the person who can commit district resources to attend and be part of the determination and, if appropriate, selection of ESY services. When arranging meetings, consideration may be given to other technological means of participation (e.g., telephone conference, email, sound/video recording, or virtual options).
- Before a dispute arises, school staff and parents made ESY decisions based on data and with enough time to reach a solution through the variety of [Special Education Dispute Resolution Options](#).