

Extended School Year **Services in Pennsylvania**



Extended School Year (ESY) Information for Parents

What is Extended School Year?

Extended School Year (ESY) services are special education and related services provided to students with disabilities beyond the regular 180-day school year. The Individuals with Disabilities Education Act (IDEA), the federal special education law, requires school districts, intermediate units, and charter schools to provide ESY services if a student needs these services to receive a free appropriate public education (FAPE). In some cases, interruptions in the school schedule, such as summer break, weekends, and holidays, will result in children with disabilities losing many of their basic skills and taking a long time to get those skills back once school begins again. ESY services are provided during breaks in the educational schedule to prevent this loss.

What is not ESY?

Extended School Year services are not day care or respite services. They are not a summer recreation program or other programs or services that are not required to ensure the provision of a free, appropriate public education (FAPE) to a student — even if they provide some educational benefit.

Who decides if a student with a disability receives ESY services?

Every student with a disability, who qualifies for special education, has an Individualized Education Program (IEP). It describes the programs and services necessary for FAPE. This plan is written at a meeting of the IEP team, which is made up of the student's parents, teachers, and other educational professionals. One of the issues discussed and decided upon at the IEP meeting is whether or not the student needs ESY services as part of the special education program. ESY must be considered each year for every child with a disability at the IEP meeting, not just for students with certain categories of disability or those with severe disabilities. For a step-by-step process for making ESY decisions, see *Extended School Year: A Guide for IEP Teams*, on page 8.

When will the ESY decision be made?

ESY decisions are made at the IEP meeting. There is guidance from the Pennsylvania Department of Education regarding students who are identified as severely disabled — mentally, physically or emotionally. Decisions about ESY for this target group of students need to be made by February 28 of each year, in order to be sure that parents have sufficient time to exercise their procedural safeguards rights, if necessary. This means that the Notice of Recommended Educational Placement/ Prior Written Notice (NOREP/PWN) concerning the school district's, intermediate unit's, or charter school's recommendation regarding eligibility for ESY can be issued no later than March 31, in order to give parents enough time to raise concerns.

The federal court decision in *Armstrong v. Kline* established the mandate in Pennsylvania for ESY programming for children with any type or severity of disability who meet the court's eligibility standard. According to court guidelines, each LEA must consider ESY programming for students in the Armstrong target group at the time of the annual review of the IEPs. The target group consists of those students with severe emotional disturbances, autism, moderate and severe levels of intellectual disability, or multiple disabilities.

For purposes of ESY eligibility determination, the IEP review meeting is to occur no later than February 28 of each school year for these students. Notice of the team's determination (NOREP/PWN) is to be issued to the parent no later than March 31 of the school year. These timelines offer a way to comply with guidance in the federal regulations that states that public agencies should make determination of need in a timely manner so that a student with a disability who requires

ESY services in order to receive FAPE can obtain the necessary services (Fed. Reg., Vol. 64, No. 48, Attachment 1, p. 12576). An eligibility determination would be considered timely if there were sufficient time for the parent to appeal a denial of ESY services before the break in services occurs.

ESY determinations for students who are not in the target group are not subject to the above timelines, but must still be made as soon as possible in accordance with the timelines in Chapters 14 and 711. If the parents of those non-target group students disagree with the LEA's recommendation, the parents will be afforded due process.

In considering the need for ESY services, the IEP team may decide to postpone a decision until a later date. In such circumstances, the LEA must ensure that the team reconvenes within a timely manner, as above.

What is the ESY decision based on?

The IEP team makes its decision about providing ESY services by looking at information about the student's performance that has been gathered all year. Some of this information measures student achievement before and after breaks from school. The team can also gather information from teachers' and parents' observations of the student's behavior and skills before and after breaks. Medical or other agency reports can also be accessed. The team needs to look at these seven factors:

- Will the student regress (revert to a lower level of functioning) in skills or behaviors as a result of an interruption in educational programming?
- Will the student take a long time to recoup (recover) the skills or behavior patterns that were lost during a break in educational programming?
- Will a pattern of difficulties with regression and recoupment make it unlikely that a student will maintain the skills and behaviors relevant to IEP goals and objectives?
- Will a lapse in services substantially reduce a student's chances of ever learning a critical life skill or behavior related to the IEP?
- Is the student at a crucial stage in mastering a life skill that is related to the IEP goals of self-sufficiency and independence from caregivers?
- Will successive interruptions in educational programming result in the student's withdrawal from learning?
- Does the student have a severe disability such as autism/pervasive developmental disorder, a serious emotional disturbance, severe intellectual disability, degenerative impairments with mental involvement, or severe multiple disabilities?

There are seven factors, and no single factor can be used to determine eligibility for ESY services. The IEP team must consider all seven factors when determining eligibility. The student may be eligible by meeting just one of the criteria, but all seven factors must be considered by the IEP team.

Which services will be provided during the Extended School Year?

The IEP team will determine which services and how much of these services will be provided during the extended school year. The team may decide that the student will continue all the services received during the regular school year, or it may decide that the student will only receive a portion of services or one specific service. This decision is based on the needs of each student.

Where will ESY be provided?

The IEP team determines where ESY will be provided. It can be provided at many different places, like in school or at a job site. It is always provided in the least restrictive environment (LRE) that is appropriate for the student. This means that the student with disabilities is placed in a situation that allows opportunities to be with students who are not disabled. However, the school district, IU, or charter school is not required to assemble nondisabled students just to make the ESY environment less restrictive. ESY services can be provided in a noneducational setting if the IEP team determines that the student can receive appropriate ESY services in that setting.

Is there a charge for ESY services?

No. ESY services are provided in order that the student receives a free appropriate public education. Therefore, ESY services, including required special education and related services such as occupational therapy, physical therapy, or transportation, must be provided at no cost to the parent.

If an LEA elects to provide ESY services in a nontraditional setting such as a community recreation program, the parent could be assessed a fee for the “recreational portion” of a program that is not required for provision of FAPE, consistent with the fee charged to the parent of any child in the program. However, an LEA would have to exercise caution that other service delivery options to provide ESY services are available for those parents who are unable or unwilling to assume the costs of the recreational program.

What happens if parents and the IEP team do not agree about ESY services?

If parents and the school entity do not agree about ESY services and cannot resolve their differences in the IEP meeting, a notice (NOREP/PWN) will be sent to the parents explaining the IEP team’s decision. If parents still disagree, they can ask for another IEP meeting, request free mediation services, or request a due process hearing. Mediation services use a neutral, specially-trained mediator who meets with both parties and helps them reach an agreement. A due process hearing is held before an impartial hearing officer who listens to both sides and then makes a written decision. If the parent requests mediation or a due process hearing, the pendency provisions of state and federal law apply, and there should be no change in ESY eligibility or program, unless agreed to by the parties, pending completion of due process proceedings. More information about parents’ rights and due process is provided in the Procedural Safeguards Notice that is distributed with the NOREP/PWN.

For more information about ESY contact:

- Special Education ConsultLine — 800-879-2301 (V/TTY)
- Parent Education and Advocacy Leadership Center — 866-950-1040 (V/TTY)
- Your local school district
- Your local intermediate unit