

# Extended School Year Services



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of Education**

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# **This Module Will Cover:**

1. What are ESY Services?
2. When is a Student Eligible for ESY Services?
3. How Should Schools Document the ESY Decision and Inform Parents?
4. Are Students in a 12 Month Program Also Eligible for ESY Services?



# ESY Defined...

What are ESY Services?



# What are ESY Services?

Special education and related services provided to a student with a disability beyond the normal school year of the charter school or district in accordance with the student's IEP and at no cost to the student

*See, 34 C.F.R. § 106 and 14 DE Admin Code § 923.6.0*

# What are ESY Services?

Based on the student's unique needs and the goals and objectives in the IEP

Provided only if the IEP team determines the services are necessary to provide the student with FAPE



# What are ESY Services?

Can include normally scheduled summer school programs if the programs meet the individual needs of the student

Transportation must be provided at no cost



# What are ESY Services?

IEP team: Decides the setting for ESY services

Must document the LRE was considered

However: No requirement to establish school programs for students without disabilities for the sole purpose of satisfying LRE requirements



## **Note...**

Schools cannot place uniform limits on ESY services based on particular categories of disability, including the type, amount, or duration of the services







# Eligibility

When is a Student Eligible  
for ESY Services?

# A Student is Eligible if:

The IEP team determines without ESY services the student will not receive FAPE during the regular school year of the district or charter school





# Five Guiding Questions:

(1) Degree of Impairment:

Without ESY services, will the student achieve appropriate and meaningful progress on IEP goals and objectives?

(2) Regression and Recoupment:

Without ESY services, will the student experience significant regression and recoupment?



# Five Guiding Questions:

## (3) Breakthrough Opportunities:

Without ESY services, will the attainment of a newly acquired critical skill be significantly jeopardized over the summer break?

## (4) Other Circumstances:

Are there other special or extenuating circumstances to justify provision of ESY services to meet FAPE requirements?

# Five Guiding Questions:

## (5) Vocational:

For students ages 16 to 20, whose IEPs contain vocational or employment goals and objectives, will paid employment opportunities be significantly jeopardized if training and job coaching are not provided during the summer break?





# ESY Decision

How Should Schools Document  
the ESY Decision and Inform Parents?



# IEP Form:

## Consideration of Eligibility for Extended School Year Services (ESY)

IEP team must consider each of the following factors:

- Regression / Recoupment
- Vocational Skills
- Degree of Impairment
- Breakthrough Skills
- Extenuating Circumstances

Is ESY needed?

- Yes                                       No                                       To Be Determined
- ESY offered, but declined by parent

Rationale for Decision:

Specify goals and services:



# Document the Decision

Ensure the IEP team documents that ESY services were considered and the rationale for the decision is stated in the IEP

Explain the ESY decision and rationale in the prior written notice to the parents

Provide a specific explanation for the ESY decision based on the student



# Describe the Decision

Example: “The team has determined, based on the factors of regression and recoupment, degree of impairment, breakthrough opportunities, vocational skills, and other extenuating circumstances, [Student] does not meet the eligibility criteria for ESY. [Describe specific reasons further...]”



# Not Descriptive Enough:

“Student is not eligible for ESY”

“Student does not meet eligibility criteria”

“Student does not qualify for ESY”

Or, no explanation provided





# 12 Month Program and ESY

Are Students in a 12 Month Program Also Eligible for ESY Services?

# 12 Month Program and ESY

State law sets a minimum number of hours of school attendance districts must provide for students each year, and the minimum length of the school day.

14 Del. C. § 1049(1)

State law also requires that programs be conducted on a 12 month schedule for students with autism, TBI, deaf-blindness, orthopedic impairment, severe intellectual disability, and moderate intellectual disability.

14 Del. C. §§ 703(e) and (f)



# 12 Month Program and ESY

The “normal school year” for students identified with autism, TBI, deaf-blindness, orthopedic impairment, severe intellectual disability, and moderate intellectual disability is a 12 month year

Students eligible for 12 month programs may also be eligible for ESY as a result of their unique needs



## The Rule...

For every student enrolled in a 12 month program, the IEP team must consider and determine whether the student needs ESY based on degree of impairment, regression and recoupment, breakthrough opportunities, vocational opportunities and other extenuating circumstances.



# For Students Eligible for a 12 Month Program, Complete Both Boxes on IEP

## Participation in Twelve-Month Program

Yes     No     Not Applicable

By State law [14 Del.C. §1703], parents of students with certain disability classifications may choose a 12-month program which does not exceed 217 school days (Severe Intellectual Disability; Moderate Intellectual Disability; Orthopedic Impairment; Traumatic Brain Injury; Deaf-Blind) or 241 school days (Autism). As a parent of a qualifying student, I choose a 12-month program.

## Consideration of Eligibility for Extended School Year Services (ESY)

IEP team must consider each of the following factors:

- Regression / Recoupment
- Vocational Skills
- Degree of Impairment
- Breakthrough Skills
- Extenuating Circumstances

**Is ESY needed?**

Yes     No     To Be Determined  
 ESY offered, but declined by parent

Rationale for Decision:

Specify goals and services:



# 12 Month Program and ESY

*See, DOE's Administrative Complaint Decision, Student v. Colonial School District, No. DE AC 09-02, (December 2, 2008)*





# Review Question One

You are at an IEP meeting for a student identified with a severe intellectual disability. The parent elects to enroll in the 12 month program. When the team reaches the ESY section of the IEP, the team states: “No ESY – student participates in 12 month program”.

What are the issues?

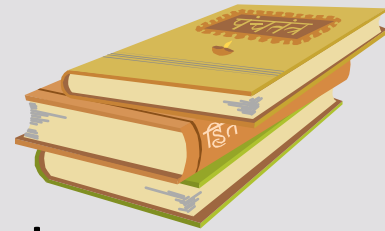




## Review Question Two

A charter school provides an 11 month school year to all students to give students access to additional instruction.

What is the normal school year for the charter school?



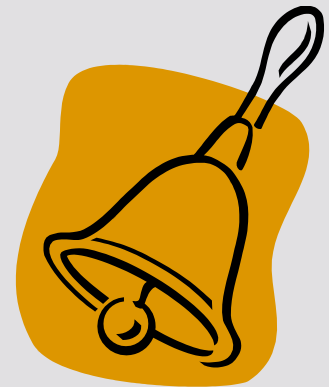
Can a student with a disability attending the charter school also be eligible for EYS services?

If yes, how does the team determine EYS?

# Review Question Three

You are at an IEP meeting for a student with a learning disability. The team determines the student is eligible for EYS services. The team discusses student's participation in the regular summer school program "because all EYS is provided through the summer school program."

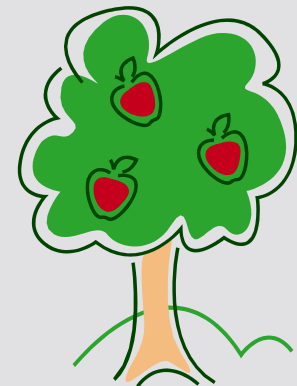
What are the issues?



# Review Question Four

A student identified with a mild intellectual disability is attending an ESY program over the summer for students with disabilities. The parent claims the student's placement is inappropriate because it is not the least restrictive environment and the student has a right to be educated with non-disabled peers.

What are the issues?



# Review Question Five

You are at an IEP meeting in May for a student identified with an emotional disturbance. When the team reaches the ESY section of the IEP, the team is not clear on how to determine whether the student is eligible for ESY based on regression and recoupment, degree of impairment, etc. The team decides to table the decision, and indicates “ESY – to be determined”

What are the issues?



# Review Question Six

During the regular school year, a student resides with his mother in NCC and attends a NCC district. In the summer, the student resides with his father (and stepmother) in Sussex County. The student is eligible for ESY services, and the father requests the Sussex County district to provide ESY services.

What are the issues?

