

# EXTENDED SCHOOL YEAR

WYOMING DEPARTMENT OF EDUCATION  
SPECIAL PROGRAMS DIVISION

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Extended School Year (ESY) occurs only during the summer and other long breaks.

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a) True

b) False

b) False. ESY can occur anytime outside of the regular school day.



## ESY services should be determined:

- a) by disability category.
- b) based on the student's placement.
- c) on an individual basis, as a component of FAPE.
- d) based on the availability of staff to deliver services.

c) ESY services should be determined, on an individual basis, as a component of FAPE.



ESY can be added to an IEP through the amendment process.

a) True

b) False



a) True. ESY can be added through an amendment to the IEP.

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# Federal Regulations

Extended School Year services are addressed at 34 C.F.R. §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 §§ 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.

# Federal Regulations (continued)

## 34 C.F.R. §300.106

(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.

# Wyoming Chapter 7 Rules

“ESY means special education and related services provided to a child with a disability only if the child’s IEP determines on an individual basis that the services are necessary for the provision of FAPE...beyond the normal school year of the school district or public agency...at no cost to the parent or child. With respect to implementing extended school year services, a public agency may not limit extended school year services to particular categories of disability or unilaterally limit the type, amount or duration of those services.”

In addition, the school district or public agency must consider a multi-factor approach in determining if ESY is necessary.



# Johnson v. Independent School District No. 4, 17 IDELR 170 (10<sup>th</sup> Cir. 1990)

The Appellate Court in Oklahoma held that the following factors, other than regression/recoupment, can and must also be considered:

- ▣ Degree of regression suffered in the past;
- ▣ Exact time of past regression;
- ▣ Ability of the child's parents to provide educational structure at home;
- ▣ Child's rate of progress;
- ▣ Child's behavioral and physical problems;
- ▣ Availability of alternative resources;
- ▣ Ability of the child to interact with non-handicapped children;
- ▣ Areas of the child's curriculum which need continuous attention;
- ▣ Child's vocational needs;
- ▣ Whether the requested services are "extraordinary" for the child's condition, as opposed to an integral part of a program for populations with the same condition.

# Jefferson County Sch. Dist. R-1 v. Elizabeth E., 60 IDELR 91 (10<sup>th</sup> Cir. 2012)

- 10<sup>th</sup> Circuit Court decision involving private school placement
- Reinforces that related services are only available to enable a student to benefit from specially designed instruction.
- Informs how ESY services should be structured.
  - An appropriate IEP must include special education services (specially designed instruction) and if needed, related services.
  - If related services are being provided during ESY, the team must be able to demonstrate clearly how these related services connect to and support the student's special education services.

# Who is responsible for ESY in the summer before a child enters kindergarten?

- ESY must also be considered for students transitioning from a preschool program before the start of kindergarten in a school district. *Letter to Anonymous*, 22 IDELR 980 (OSEP 1995). See also *S.H. v. Plano Indep. Sch. Dist.*, 59 IDELR 183 (5<sup>th</sup> Cir. 2012).
- For students not yet enrolled in a school district, the preschool program is responsible for ESY until the student exceeds the age of preschool eligibility or **enrolls** in kindergarten. ESY services become the responsibility of the school district once the student enrolls.

# Does LRE need to be considered when planning for ESY?

- OSEP does not interpret the LRE provision to mean that school districts must establish general education classrooms for children without disabilities for the sole purpose of being able to implement the LRE provision during ESY. Community placements may be used to provide the LRE. *Letter to Myers*, 213 IDELR 255 (OSEP 1989).
- A school district is not obligated to create a general education classroom to satisfy the LRE requirements of IDEA while providing ESY. *T.R. v. Kingswood Township Bd. of Educ.*, (3<sup>rd</sup> Cir. 2000), and *T.M. v. Cornwall Central School District*, 59 IDELR 286 (S.D.N.Y. 2012).
- If appropriate and available, general education classrooms and community settings should be considered by the team when planning ESY services.

Does the school district need to have highly qualified staff provide ESY services?



Yes. Personnel providing ESY services must meet the same requirements that apply to personnel providing special education and related services during the school year. *Letter to Copenhaver, 50 IDELR 16 (OSEP 2007).*

# Documentation of ESY in the IEP

- The Special Education Services page on the WDE's model IEP form includes a field to document the specialized instruction provided during ESY.
- Related services, supplementary aides and services, and program modifications which will occur during ESY should be documented in their respective areas of the IEP forms.

**IF YES, DETERMINE:**  
Which goals will be addressed, the services needed to address these goals, the timing, frequency and duration of services needed, and the location of services based on the student's LRE, documenting each in the services sections of the IEP.

**START HERE:** For every student, the IEP team considers the student's need for ESY service at least annually.

**CONSIDER:** Degree of skill regression and delayed rate of recoupment. Significant regression or recoupment can serve as the basis for ESY eligibility.

**ALSO CONSIDER:** 10th Circuit factors - rate of progress, behavioral or physical problems, areas of the curriculum which need continuous attention, vocational needs, availability of alternative resources, and whether a service is extraordinary.

**PREDICT:** What is the likely impact of these factors on the student's ability to meet IEP goals?

**ASK:** In consideration of these factors, does the student need ESY services in order to receive FAPE?

# Extended school year services should be considered:

- a) for students with the most significant disabilities.
- b) for students who are eligible in low incidence disability categories.
- c) for every student with a disability.
- d) for students who have not met all of their annual goals.



c) ESY services should be considered for every student with a disability.

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In Wyoming, the IEP team's consideration of a student's possible need for ESY should include:

- a) regression and recoupment.
- b) the student's rate of progress.
- c) curricular areas that need continuous attention.
- d) vocational needs.
- e) all of the above



e) In Wyoming, the IEP team's consideration of a student's possible need for ESY should include all of the above.

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If a student with a disability attends summer school, it is considered ESY.

- a) True
- b) False
- c) It depends



c) It depends. A district's summer school program may be an appropriate "vehicle" through which a student could receive ESY.

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Depending on the needs of the student, ESY services in Wyoming may include which of the following?

- a) specially designed instruction and related services during summer vacation
- b) related services or specially designed instruction provided outside the regular school day
- c) specially designed instruction provided during summer school
- d) all of the above

d) Depending on the needs of the student, ESY services in Wyoming may include all of the above.



## How should teams think about LRE requirements when planning ESY services for a student?

- a) LRE does not apply during ESY.
- b) Settings containing nondisabled peers are preferred—if such a setting is appropriate and available.
- c) The district must provide ESY in the same setting used during the regular school year.
- d) LRE should be considered only when ESY is taking place at the same time as summer school.



b) When providing ESY, settings containing nondisabled peers are preferred—if such a setting is appropriate and available.

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# ESY should be provided:

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- a) when the student might benefit from the service.
- b) only if regression and/or recoupment could be an issue.
- c) when the student needs ESY in order to receive FAPE.
- d) upon parent request.



c) ESY should be provided when the student needs ESY in order to receive FAPE.

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For a preschool child with a disability, when does ESY become the responsibility of the school district?

- a) the summer before the child enters kindergarten
- b) after the child attends a kindergarten round-up event
- c) when the child enrolls in the school district
- d) when the child reaches the age of five



c) For a preschool child with a disability, ESY becomes the responsibility of the school district when the child **enrolls** in the school district.

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Staff members providing specially designed instruction and related services during ESY must be highly qualified.

a) True

b) False



a) True. Staff members providing specially designed instruction and related services during ESY must be highly qualified.

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Questions?