Extended School Year (ESY)

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 academic schedule to prevent this loss.

What is not ESY?

Extended School Year services are not daycare 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

For all students with disabilities, ESY eligibility must be considered at each annual Individualized Educational Program (IEP) meeting.

- This determination must be made even if the child's parents have not specifically requested that the child be evaluated for ESY programming.
- This consideration also applies to students attending Approved Private Schools (APS), other such facilities, and charter schools.
- APSs must share necessary information with the responsible LEA so that the IEP Team can make a timely decision.
- However, the ultimate responsibility for timely IEP review and revisions rests with the LEA.

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/guardians' 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 due to an interruption in educational programming?
- Will the student take a long time to recoup (recover) the skills or behavior patterns 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? A student having one or more of these disabilities does NOT automatically qualify for ESY.

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 to ensure 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 units, 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) will be issued to the parent no later than March 31 of the school year. These timelines offer a way to comply with the guidance in the federal regulations that states that public agencies should make a determination of need in a timely manner so that a student with a disability who requires Extended School Year (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 was sufficient time for the parent to appeal a denial of ESY services before the service break occurs.

ESY determinations for students 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.

Helpful Extended School Year Resources

Extended School Year Essentials
https://www.pealcenter.org/extended-school-year-esy-essentials/

Pennsylvania Department of Education, Extended School Year

https://www.education.pa.gov/Policy-Funding/BECS/PACode/Pages/ExtendedSchoolYear.aspx

Pennsylvania Department of Education, Teachers Desk Reference
https://www.pattan.net/getmedia/5a57549b-6161-4164-afc7-575f128a9adf/TDR_ESY_0917

Extended School Year, Services in Pennsylvania
https://www.pattan.net/assets/PaTTAN/d9/d9bff18d-b7f2-4b7a-b33e-430ced8a8fc4.pdf

Extended School Year, A PaTTAN Presentation
https://www.pubintlaw.org/wp-content/uploads/2016/08/Exhibit-5-PaTTAN-PowerPoint-Presentation.pdf