

FAQ FOR EXTENDED SCHOOL YEAR (ESY)

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FAQ FOR EXTENDED SCHOOL YEAR (ESY)

GENERAL INFORMATION

Q1. What is extended school year (ESY)?

A1. Extended School Year services are special education services that are provided to a student with a disability during extended school breaks. Per IDEA and CA Ed. Code¹, these services assist the student in working toward the same goals and objectives that the student works on during the school year and are only provided in those areas on the current IEP that the student has demonstrated:

- a. regression of skills during an extended school break *and*
- b. limited ability to benefit from re-teaching of skills after an extended school break.

In addition to the two criteria above, case law includes “emerging skills” (i.e. when a student is on the brink of learning to read) in the analysis of eligibility for ESY. If a student is in a critical stage of learning a skill that could lead to a greater level of independence, and interruption of instruction would cause loss of the current level of skill development, ESY should be considered by the IEP team (*Reusch v. Fountain, 1994*).

Please see Appendix B for supplementary document: *What ESY Is and Is Not*.

Q2. What is the difference between ESY and summer school?

A2. ESY refers to special education and related services for students who require such services, on an individualized basis, per their IEP. Summer school is a program available to all students, through general education, which may provide instruction related to re-teaching skills from the preceding school year or pre-teaching skills for the upcoming school year. Summer school requirements are set forth by the LEA’s local governing board.

Q3. What should IEP teams consider when discussing ESY?

A3. A determination regarding the appropriateness of ESY is achieved through ongoing assessment and the review of progress towards annual goals/objectives. The IEP team must review the student’s progress, considering a variety of measurements to provide a baseline that documents the student’s rate of regression and recoupment related to their IEP goals and objectives.

Determining ESY eligibility should be a data-informed decision making process that helps the IEP team determine whether services are necessary for a student to progress over time and to benefit from the IEP. Two themes emerge in the determination of eligibility:

1. ESY services are necessary when a child will experience a significant regression in the absence of an educational program and the time it will take to relearn the skills is excessive, referred to as the *regression/recoupment model*.
2. ESY services are necessary when the progress the student made during the school year will be significantly jeopardized during school breaks; when a student is at a critical point in skills acquisition (e.g., demonstrating *emerging skills*).

¹ For full text of Federal and State ESY regulations, see Appendix A.

GUIDANCE FOR IEP TEAMS

Q4. What do the terms “regression” and “recoupment” mean?

A4. A. Regression refers to a decline in knowledge and skill that can result from an interruption in education. Recoupment is the amount of time it takes to regain the prior level of functioning. All students experience some level of regression resulting from their summer break. The challenge for students with disabilities exists when a child will experience serious regression without the ability to recoup the loss.

Q5. How can we collect regression/recoupment data?

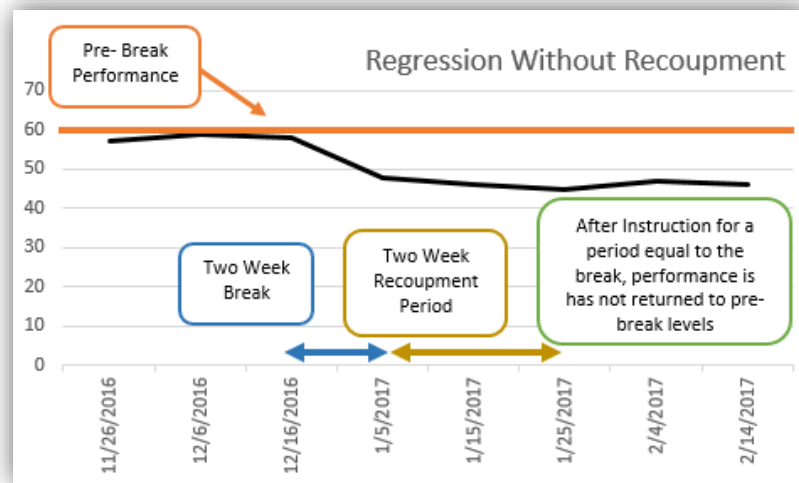
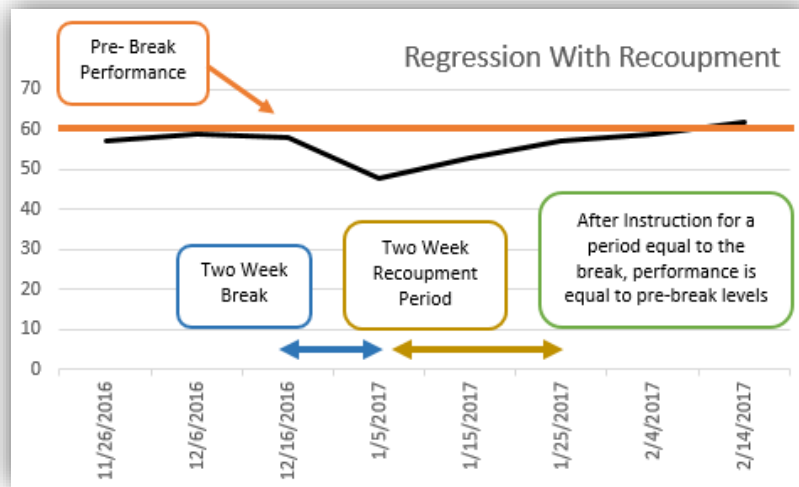
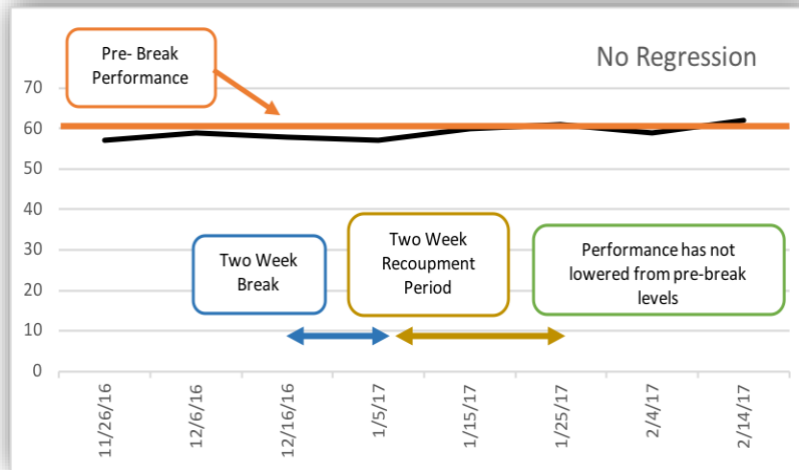
A5. To gather regression/recoupment data, service providers may consider the following methods:

- A best practice approach would include taking data on IEP skill performance within the last 1-2 weeks of the school year and after the first 6-8 weeks of school in the Fall. This data comparison will inform the IEP team whether the student has recouped regression occurring from the summer break.

If pre and post data is not available before and after the summer break, service providers may also consider the following methods:

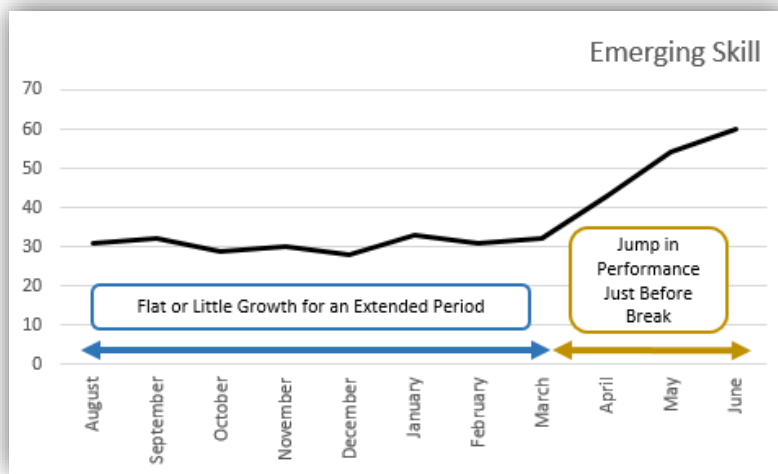
- Take data on IEP goal skill performance on the final day or two before a break greater than five school days (e.g. the student has a reading fluency goal and on Friday before the break, she is reading 57 words per minute). Then, gather data on the same IEP goal skills within a day or two of the student’s return from break (e.g. the Monday after a two-week break the student is now reading at 48 wpm).
- Take data after an interval equal to the length of the break (e.g. take data 14-16 days after a return from a two-week break).
- Evaluate the data. If the student has regained the skills she/he has lost (e.g., is now reading at 57 or more wpm) the data does not establish a need for ESY. If the student has not yet regained the level of skill demonstrated before the break (e.g. is still reading 56 or fewer words per minute) the IEP team may conclude that the student requires ESY.

See below for sample data analyses:



Q6. How can IEP teams identify emerging skills?

A6. ESY may be warranted when a student is in a critical stage of learning a skill that could lead to a greater level of independence, and interruption of instruction would cause loss of the current level of skill development (*Reusch v. Fountain, 1994*). These emerging skills are characterized by slow progress toward the acquisition of a skill followed by sudden progress in the days or weeks before the break. The purpose of ESY in these cases is to enable the student to practice the new skills so as not to lose the learning that has recently been attained. The following graph depicts data that indicate the student is in a critical learning period may be demonstrating emerging skills:



Q7. Does a student’s ESY program need to be the same as their regular school year program?

A7. No. A student may require ESY services in one or more areas of their regular school year program. For example, a student may demonstrate regression without recoupment in the area of speech language skills, but not academics. In this case, the IEP team might determine that the student requires only speech language services during ESY. In addition, ESY services do not need to be provided in the exact same manner (i.e. number of hours, frequency, location) as services during the regular school year. Instead, the IEP team should consider the student’s identified area(s) of need and make ESY service decisions accordingly

IEP TEAM REMINDERS

Q8. When do IEP teams need to discuss ESY?

A8. A discussion regarding ESY eligibility must occur *at least annually*, preferably during the annual IEP meeting. However, if the IEP team did not address ESY eligibility at the last annual or most recent IEP meeting, the team must convene to determine eligibility and/or services prior to the LEA’s summer break.

The team must include all required members including but not limited to the general education teacher, the special education teacher, the parent, and the administrative designee. Additional IEP team members may be included as necessary. For example, if a student receives related services

(e.g., speech/language, occupational therapy, counseling) then the related service providers must be present to assist with determining eligibility for the related services.

Q9. What if the team can't make an ESY determination at the initial IEP meeting?

A9. A determination regarding eligibility is achieved through ongoing assessment and the review of progress towards annual goals/objectives. The IEP team must review the student's progress, considering a variety of measurements to provide a baseline that documents the student's rate of regression and recoupment related to their IEP goals/objectives. The IEP team may not be able to make this determination at an initial IEP meeting. Under this circumstance, data may be collected after the student has been receiving special education services for a reasonable amount of time as determined by the IEP team. The team would then reconvene, prior to summer break, to review the data and discuss the appropriateness of ESY.

Q10. How do IEP teams document the decision making process for ESY?

A10. IEP teams should utilize the "ESY Eligibility Worksheets" located in the student's future IEP in SEIS. Although the questions are written in yes/no format, teams should utilize them to guide meaningful team discussion rather than simply checking the boxes.

PROGRAM CONSIDERATIONS

Q11. What if our LEA doesn't have an ESY program?

A11. ESY services must be tailored to the unique needs of the student and cannot be based on the availability of LEA services during the summer. Services must be provided by properly credentialed individuals. LEA's may consider opening an ESY program at their school site, providing services at a mutually agreeable public location such as a library, contracting with another LEA such as a local school district or charter school that has an ESY program, and/or contracting with a Non Public School or Non Public Agency that has appropriately credentialed staff available in the summer.

Q12. Can LEAs collect ADA for ESY pupils?

A12. Sometimes. Per California Code of Regulations § 3043, in order to qualify for average daily attendance revenue for extended year pupils, the LEA's extended year program must be provided for a minimum of 20 instructional days, including holidays. A maximum of 55 instructional days, excluding holidays, shall be allowed for individuals in special classes or centers for the severely handicapped. A maximum of 30 instructional days excluding holidays shall be allowed for all other eligible pupils needing an extended year. In order to qualify for average daily attendance revenue for extended year pupils, the following conditions must be met:

1. Extended year special education shall be the same length of time as the school day for pupils of the same age level attending summer school in the LEA in which the extended year program is provided, but not less than the minimum school day for that age unless otherwise specified in the individualized education program to meet a pupil's unique needs.
2. The special education and related services offered during the extended year period are comparable in standards, scope, and quality to the special education program offered during the regular academic year.

APPENDIX A

Extended School Year Federal and State Regulations

The Individuals with Disabilities Education Act (34 CFR Part 300 §300.106) states:

General:

1. Each public agency shall ensure that ESY services are available as necessary to provide a free appropriate public education (FAPE).
2. ESY services must be provided only if a child's IEP team determines, on an individual basis, in accordance with §300.320-300.324, 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 ESY services to particular categories of disability;

Or

 - ii. Unilaterally limit the type, amount, or duration of those services.

Definition:

As used in this section, the term ESY 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 State Education Agency (SEA)

The The California Code of Regulations (CCR §3043) states:

Extended school year services shall be provided, in accordance with 34 C.F.R. section 300.106, for each individual with exceptional needs who has unique needs and requires special education and related services in excess of the regular academic year. Such individuals shall have disabilities which are likely to continue indefinitely or for a prolonged period, and interruption of the pupil's educational programming may cause regression, when coupled with limited recoupment capacity, rendering it impossible or unlikely that the pupil will attain the level of self-sufficiency and independence that would otherwise be expected in view of his or her disabling condition.

The lack of clear evidence of such factors may not be used to deny an individual an extended school year program if the IEP team determines the need for such a program and includes extended school year in the IEP pursuant to subdivision (e).

- a. Extended year special education and related services shall be provided by a school district, SELPA, or county office offering programs during the regular academic year.
- b. Individuals with exceptional needs who may require an extended school year are those who:
 - i. Are placed in special classes; or
 - ii. Are individuals with exceptional needs whose IEPs specify an extended year program as determined by the IEP team.

- c. The term "extended year" as used in this section means the period of time between the close of one academic year and the beginning of the succeeding academic year. The term "academic year" as used in this section means that portion of the school year during which the regular day school is maintained, which period must include not less than the number of days required to entitle the district, special education services region, or county office to apportionments of state funds.
- d. An extended year program shall be provided for a minimum of 20 instructional days, including holidays.
- e. An extended year program, when needed, as determined by the IEP team, shall be included in the pupil's IEP.
- f. In order to qualify for average daily attendance revenue for extended year pupils, all of the following conditions must be met:
 - i. Extended year special education shall be the same length of time as the school day for pupils of the same age level attending summer school in the district in which the extended year program is provided, but not less than the minimum school day for that age unless otherwise specified in the IEP to meet a pupil's unique needs.
 - ii. The special education and related services offered during the extended year period are comparable in standards, scope and quality to the special education program offered during the regular academic year.
- g. If during the regular academic year an individual's IEP specifies integration in the regular classroom, a public education agency is not required to meet that component of the IEP if no regular summer school programs are being offered by that agency.
- h. This section shall not apply to schools which are operating a continuous school program pursuant to Chapter 5 (commencing with Section 37600) of Part 22, Division 3, Title 2, of the Education Code.

APPENDIX B

WHAT EXTENDED SCHOOL YEAR IS AND IS NOT

Adapted from slc.servier.org 2003

Extended School Year (ESY) is:

- A service or services offered during an extended school break as determined necessary by the IEP team
- Deemed necessary based on individual student needs, not eligibility category
- Designed to maintain student mastery of critical skills and objectives represented on the IEP and achieved during the regular school year
- Considered as a strategy for minimizing the regression of skill in order to shorten the time required to gain the same level of skill proficiency that existed at the end of the school year
- Based on multiple criteria and not on a single criteria
- Subject to IDEA and state certification requirements regarding service provider qualifications

Extended School Year (ESY) is not:

- It is not a mandated 12-month service for all students with disabilities
- It is not required for students who exhibit regression due to transitional life situations, medical problems, or chronic absenteeism
- It is not to provide a child with education beyond that which is prescribed in his/her IEP goals and objectives
- It is not required or intended to maximize educational opportunities for any students with disabilities or to accelerate progress toward goals
- It is not intended to continue instruction on all the previous year's IEP goals unless determined necessary by the IEP team
- It is not required exclusively when a child fails to achieve IEP goals and objectives during the regular school year
- It is not compulsory. Participation in the program is discretionary with the parents, who may choose to refuse the ESY service.
- It is not compensatory education
- It is not a respite care service
- It is not a summer recreation program for students with disabilities