

# Jordan School District

## Extended School Year (ESY) Guidelines

### Updated January 2021

#### What is ESY?

One measure of whether an LEA has provided a Free Appropriate Public Education (FAPE) to a student is whether that student made meaningful progress toward IEP goals. For some students with disabilities, the meaningful progress achieved during the school year may erode during scheduled breaks in instruction and may not be re-attained in a reasonable time. This may result in very little progress or real growth in a student's skills from year to year. Because of this possibility, IEP teams are responsible to consider if extended school year (ESY) services are warranted to provide a student with a FAPE.

1. ESY is an entitlement if the IEP team determines that the student could not receive FAPE without it.
2. ESY services are different from regular school enrichment/tutoring programs and/or summer school and are not just an extension of time or duplication of the regular school year services. ESY services focus on specific goals selected by the IEP team from the student's current IEP.
3. ESY services may consist of special education or special education and related services in areas such as academic, social/behavior, motor, and/or communication instruction, based upon the individual needs of the student.
4. The function of ESY is to maintain current skills, not to teach new skills.
5. ESY is not required or meant to address the needs of students who did not meet IEP goals during periods of traditional instruction or to maximize educational benefit.
6. ESY services are not designed to develop new skills not currently identified in the student's IEP.
7. Previous eligibility for ESY services does not trigger an ongoing need for ESY. The decision regarding the need for ESY must be made **at least annually** by the student's IEP team.

IDEA directs us to consider all students for Extended School Year (ESY) services. However, ESY services should only be provided if the IEP team determines that it is necessary for the provision of a free, appropriate public education (FAPE).

All ESY decisions must be accomplished in sufficient time to allow either the parent or the District to exhaust administrative remedies prior to the beginning of the ESY program (interpreted as 75 days prior to the start of services). Parents must be informed of their rights and of procedures through which they may challenge the decision of the IEP team. This includes both the written recommendation of eligibility/ineligibility and the IEP meeting where services are determined.

#### How Do IEP Teams Determine a Need for ESY Services?

IEP Teams should consider all IEP goals in making the determination for ESY eligibility for an individual student. IEP teams must determine, based upon a review of multiple data sources and factors, that ESY is required for the student to receive FAPE.

1. As an IEP team, consider several sources of educational data (both predictive and retrospective) as part of a multifactor approach to determining the need for ESY services.

2. IEP teams should **begin with a retrospective analysis**, taking data of skill levels before and after breaks in a student's education and the length of time to recoup previously attained skills. If this analysis directs the IEP team to provide ESY to ensure the student receives a FAPE, their work is complete.

*Example of retrospective data that could be considered by the IEP team:*

- a. Regression and recoupment data; that is, behavioral or academic data gathered at the end of instruction before a break, at the beginning of subsequent instruction after a break, and at the time of recoupment of the skill to its former level.
- b. Data that currently exist, verified through observation, data collection and review, or written reports of academic or other performance.

*Techniques to collect data for documentation may include; daily monitoring, measures of daily performance, behavior checklists, student self-assessments, parent assessments, professional assessments, documented observation of the student.*

- c. Past regression on targets that demonstrate significant regression on learned skills during a break in services (e.g., degree of regression and exact time of regression).
- d. Rate of recoupment of skills that is significantly delayed or skills only recouped to a limited degree after services resume.

*Reasonable recoupment periods:*

*Break of 8 to 12 weeks = 20 instructional days*

*Break of 3 to 4 weeks = 5 to 7 instructional days*

*Break of 2 weeks = 3 instructional days*

*Exceptions may be made individually by the IEP team as part of the multifactor approach to determine eligibility for ESY.*

- e. Other data that meets the standard of significant skill losses of such degree and duration as to seriously impede progress toward educational goals and loss of educational benefit.
  - f. Depending on the student's unique needs, the number of data points needed to determine regression and recoupment may vary. *It is recommended that data be reviewed over at least two instructional breaks of at least three days or longer.*
3. If the IEP team's retrospective analysis does not provide the data needed to determine the need for ESY, the team should continue with a predictive analysis to see if evidence suggests that a student is at significant risk of experiencing such significant regression in skills and extended time to re-achieve previously attained skills that a FAPE is not achieved.

*Example of retrospective data that could be considered by the IEP team:*

- a. The professional judgment of the IEP team on data, including those such as:
  1. The degree and nature of the student's disability
  2. The student's rate of progress on IEP goals
  3. Any physical or behavioral concerns regarding the student
  4. The areas of the student's curriculum that need continuous attention
  5. Emerging skills
  6. The student's vocational and transition needs
- b. Circumstantial considerations based on information about unique situations in the student's home, neighborhood, or community, including those such as;
  1. The availability of alternative resources
  2. The ability of the student to interact with nondisabled students
- c. Anecdotal reports from teachers, parents, caregivers, and related service providers

- d. Data from measures of daily performance such as state-wide assessment data, norm-referenced test data, checklists, work samples, and others

*NOTE: Regression data alone is not sufficient basis for an ESY decision, because all students, having disabilities or not, may regress to some extent during lengthy breaks from school. The decision should be based on a multiple factors such as the degree of the child's impairment, the ability of the child's parents to provide the educational structure at home, the child's rate of progress, his physical or behavioral problems, the availability of alternative resources, the ability of the child to interact with typical children, the areas of the child's curriculum that need continuous attention, the child's vocational needs, and whether the requested service is extraordinary to the child's condition.*

4. The IEP team, based on the collected data, determines if the student is eligible for ESY services.
  - a. The student **is not eligible** for ESY if the data does not show a likelihood of substantial regression of learned skills/behavior and/or the amount of time to recoup skills was similar to that of students without disabilities or the impact of predictive factors does not indicate a need for ESY services.
  - b. The student **is eligible** for ESY if the data show the likelihood of substantial regression and/or the amount of time to recoup skills/behavior would be longer than that of students without disabilities or the impact of predictive factors indicates a need for ESY services.

### **How Can ESY Services Be Delivered?**

1. LEAs may not unilaterally limit the type, amount or duration of ESY services. ESY services will be offered in multiple ways and in several locations based on student need. Examples of ESY services delivered in a variety of environments and utilizing different structures may include, but are not limited to:
  - a. Services provided by parent(s) and supported by LEA personnel
    1. If considering home programming, the ability of the parents to provide an educational structure at home must be considered including:
      - a. The complexity of the program to be carried out at home
      - b. The level of expertise required to maintain skills at home
      - c. The amount of time required
    2. The IEP team may recommend ESY services after concluding that the parents are not able or willing to provide home structured opportunities or the involvement of ESY staff during the summer is necessary to achieve FAPE
  - b. Home packet with Limited in-person student contact
  - c. Cooperative program with other agencies
  - d. Periodic home visits by staff member
  - e. School-based services with special education and with related services if indicated
  - f. Related services alone or in tandem with the above
  - g. Services in conjunction with a summer school program of the LEA
    1. The District is not required to create new programs as a means to providing ESY services to children with disabilities in integrated settings if the school district does not provide services for non-disabled children at the time. The full continuum of educational options may not be available during ESY and the school district is not required to create such programs solely for the purpose of providing ESY in the LRE.

*Note: Prior consultation with Special Education Department staff is required if resources outside the school are needed.*

2. A student's ESY placement may differ from the regular school year placement but must be provided in the least restrictive environment (LRE) appropriate to meet the student's needs.
3. An LEA is not prohibited from providing ESY services in a noneducational setting, if the student's IEP team determines that the student could receive appropriate services in that setting.

## **ESY DOCUMENTATION REQUIREMENTS**

1. The IEP team must document the consideration of ESY and data-based decision of whether ESY is needed on each IEP and provide Written Prior Notice to parent(s).
2. If the ESY decision is postponed at the annual IEP meeting, the IEP team must revisit the issue and document the final ESY decision in the IEP and the LEA must provide Written Prior Notice to the parent(s) in sufficient time to permit access to Procedural Safeguards dispute resolution options.
  - a. Sufficient time has been determined in Jordan School District to be at least 75 days prior to the start of services.
3. If the IEP team determines the student needs ESY services in order to receive a FAPE, the IEP team shall determine the ESY program based on the student's needs, and then provide the parent(s) with Written Prior Notice of the IEP team decisions regarding:
  - a. Data used to make the decision
  - b. Which goals/skills will be reinforced (for maintenance)
  - c. Amount, type, and location of special education and/or related services
  - d. The personnel responsible for providing the ESY service(s)

Please note that the District is not trying to recruit students for ESY services. We do, however, want to ensure that students who are eligible and require services in order to receive FAPE, receive the services for which they are entitled. If you have questions, please contact the Teacher Specialist assigned to your school.