

**There may be snow on the ground but to a parent of a
child with an IEP that means it's almost summer!
Helpful information on ESY - Maria Vetter, Ed Consultant/Advocate**

What does effective advocacy look like?

- It is **student-focused**
- It is **proactive**
- It is **collaborative** whenever possible
- It is **creative and open-minded**
- It is based on a thorough **understanding** of the student's individual needs and rights
- It **empowers** the student and the parents

Use language carefully – sometimes the biggest disagreements come from communication breakdowns or misunderstandings on both sides.

ESY is not meant to be a time of progress, it is for maintenance. ESY is not meant to be daycare, respite services, or summer recreation programs. They are meant to be services outside the 180-day school year to prevent regression when recoupment of those skills would be significant.

When to start thinking about ESY – Always

ESY is not just summer – ESY is any additional time programed into the IEP for the child to receive programing outside the 180-day school day.

Factors for Determining ESY

IEP team including parents makes their decision about ESY. The team will consider things like progress towards goals, any changes in the child, medical information about concerns with breaks in programing, observations, testing/assessments, and regression over breaks.

Seven Factors

1. Regression – reverting to a lower level of functioning due to interruption in programing.
2. Recoupment – concern of the student recovering skills and the time it takes.
3. Regression/Recoupment – considering both of these impacting the student meeting their goals.
4. Mastery – considering if a child mastered an important skill and the interruption of programing.
5. Self-sufficiency and Independence – programing needs to continue to meet the IEP goals.
6. Successive Interruptions – concern that a student could withdraw from the learning process.
7. Severity of Disability – looking at the level of disability.

Teams should also look at interfering behavior and special circumstances. You want the team to consider if there are any other circumstances in which a break from supports would be detrimental to the child and their ability to return to school in the fall. They should be looking at the whole child and all the circumstances surrounding that child and their education to make the determination.

ESY services may include:

- “Take home” instructional materials
- Behavioral or other training for parents or program staff
- Itinerant teacher and/or related service provider services
- Consultation
- Tutorials
- Services contracted through community or outside agencies

NOREP Responses

-Agree

-Disagree (follow up IEP meeting, informal meeting, mediation, due process)

Get to know your team members and administration.

Think about how best to resolve your issue.

Timelines - Armstrong Group – determination by February 28th and NOREP by March 31st. Not all students fall into this category, but most districts tend to stick by this timeline.

ODR (Office for Dispute Resolution) does offer expedited dispute resolution for due process and parents can hold services pendent by filing for mediation or due process with ODR.

Is it worth the fight?

In most cases, parents do not fight ESY determination or ESY programing because the cost of obtaining an expert and seeking counsel is cost prohibitive compared to the cost of supplementing your child’s education on your own. If you are thinking resolution, a cost share with the district for a program may be an option and can often be discussed with administration through an informal meeting.

Every case is different, and every child is different. It may help to discuss your specific situation with a doctor, therapist, advocate, or attorney to decide the best course of action if you feel your child should have qualified and did not, or if the district’s offer of programing does not seem sufficient.

Resources

<https://www.education.pa.gov/>

<https://sites.ed.gov/idea/statuteregulations/>

<https://www.copaa.org/>

<https://www.wrightslaw.com/>

<https://www.mykidslawyer.com/>

Helpful Tips

1. It is never too soon to start thinking about ESY! There is snow on the ground – it is almost summer!
2. In the beginning of the school year hold a meeting to meet the new team, set expectations for the school year, establish how home and school will communicate, and at that meeting discuss how the summer went. Be sure to include what went well, if there were any issues, and document everything in the parental concerns of the IEP.
3. Think about your child and the goals in the IEP. Which ones are most important for ESY? Think about related services, programing, and curriculum that may be important.
4. You can ask for new baselines to be taken in September after the summer break. Do not assume that all teams will do this. If your child had a good ESY experience and you are worried about things being taken away, this can prove what is needed to maintain the skills. If your child had a bad experience, you can show the regression and that something more is needed to maintain skills.
5. Remember to work with any outside treatment, medical, or behavioral providers who can document concerns and suggest appropriate ESY programing. Build your team and your support.
6. ESY is not just for academics, it is for social and emotional programing as well. The districts do not have to necessarily provide access to typically developing peers if they do not offer programing during the summer for them, but you have to consider if this is something essential for your child over the break. Does your child have social skills goals where they would need access to typically developing peers?
7. When you are drafting the IEP, you should be thinking about goals related to areas of need and how those goals will be programed for over the summer. Do not wait until February to try and modify the IEP.
8. Discuss how data will be collected to determine ESY, most of the time teachers will collect data over breaks, however the short breaks during the school year are not a good indicator of how a child would do over a long break like summer.
9. It is typical for districts to have a “formula” for related services during ESY. For example, if the child has four speech sessions a week to make progress, the SLP may suggest two sessions a week to maintain the skill over break. Make sure you have discussions with your team about it instead of accepting this determination, it should be individualized.
10. Districts try to develop programing within the district for the summer. Your child may need something more or something different. The I in IEP is individualized, so your child’s summer programing should be individualized too.

ESY CHECKLIST

Student's Name _____

Data Collector's Name _____

1. Did the student receive ESY services in the past? [Review previous IEPs, section IV. (D.)]

_____ Yes _____ No Dates: _____

Progress on goals and consecutive IEPs

2. Do the present education levels between the student's current IEP and previous IEPs indicate progress toward goals? [Review the last and current IEPs, section II]

_____ Yes _____ No

3. Do the goals and short-term objectives between the student's current IEP and previous IEPs indicate progress toward the goals? [Review the last and current IEPs, section V]

_____ Yes _____ No

4. Did the student master any of his/her goals from the previous or current IEP? [Review the last and current IEPs, section V]

_____ Yes _____ No

5. Does the student's IEP progress report indicate progress made on current goals and objectives? [Review the current IEP, section V, or other appropriate documentation]

_____ Yes _____ No

6. Has the student demonstrated self-sufficiency and independence from caretakers on any of his/her goals, if appropriate? [Review the current IEP, section V]

_____ Yes _____ No _____ Not Applicable

Progress reports maintained by therapists

7. If the student received therapy, do reports of the therapist indicate the student made progress? [Consult with therapist(s) involved and check cumulative record file for reports.]

_____ Yes _____ No _____ Not Applicable

Reports by parents

8. Are there any reports by the parent(s) regarding negative changes in adaptive behaviors or in other skill areas? [Check files for letters or notes, assignment book, parent comment section of report cards, etc.]

_____ Yes _____ No

Medical reports

9. Are there any medical or other agency reports indicating degenerative-type difficulties which become exacerbated during breaks in educational services? [Consult nurse and check cumulative folder]

Yes No

Observation and opinions of educators

10. Has information from other school staff who work with this student been provided regarding the relevant factors (i.e., regression/recoupment, mastery, self-sufficiency, or successive interruption) that indicates any concerns in one or more of these areas? [Check report card comments, interview staff]

Yes [information indicates concern]

No [information indicates no concerns]

NA [no information provided]

11. Is there data indicating that successive interruptions in educational programming (e.g., winter break, summer vacation, etc.) resulted in a consistent pattern of withdrawal from the learning process? [Check baseline data, anecdotal records or interview staff]

Yes No

Results of tests

12. Do the student's grades and report card indicate progress? [Check grade book, report cards, interview other staff]

Yes No

13. Do results of tests such as criterion-referenced tests, curriculum-based assessments, ecological life skills assessments, or other equivalent measures (e.g., portfolio assessment, end of unit tests, etc.) indicate progress? [Check report cards, cumulative folders, and other staff]

Yes No

*This ESY Checklist is intended as a tool and is not a required component of the IEP process. The Checklist was created by Pennsylvania Department of Education to assist educators and parents in the ESY determination process.