

Standards for Extended School Year Services in Michigan

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Office of Special Education



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Table of Contents

Standards for Extended School Year Services in Michigan.....	4
In considering ESY services, the IEP Team must answer the following question: .	4
If there is one or more identified goal area(s) of concern, the following questions must be answered by the IEP Team:	5
Are there data regarding the nature or severity of disability of the student that indicate to the IEP Team that there is a need to provide services in the identified goal area(s) of concern during breaks in the school year?	5
Is there information that indicates to the IEP Team that in the identified goal area(s) of concern the student is at a critical stage of learning or in a critical area of learning where failure to provide a service beyond the normal school year will severely limit the student’s capacity to acquire essential skills?.....	6
Other factors that must be considered:	6

Standards for Extended School Year Services in Michigan

The need for extended school year (ESY) services must be considered for every student with a disability at each Individualized Education Program (IEP) Team meeting. ESY services must be provided if the IEP Team determines that such services are necessary for the provision of a free appropriate public education (FAPE) to the student. The need for ESY must be determined individually and may not be provided or denied based upon category of disability or program assignment.

In considering ESY services, the IEP Team must answer the following question:

Is there one or more current annual goal(s) that address skills which need to be maintained without interruption for the student to benefit meaningfully from a FAPE?

There must be at least one current IEP annual goal where significant concerns exist regarding skill maintenance during a break in services. A goal area of concern should represent skills essential to the progress of the student.

A student may be determined to need ESY services due to:

- 1) A serious potential for regression of skills beyond a reasonable period of recoupment;
- 2) The nature or severity of the disability; or
- 3) Critical stages or areas of learning.

If there is no goal area of concern, ESY services are not needed for a FAPE.

If there is one or more identified goal area(s) of concern, the following questions must be answered by the IEP Team:

Are there data that indicate to the IEP Team that in the identified goal area(s) of concern there is a serious potential for regression of skills beyond a reasonable period of recoupment?

Regression refers to the inability of the student to maintain an acquired skill in an identified goal area of concern when special education instruction or related services in an IEP goal area are interrupted and require an unreasonable amount of time for recoupment.

Recoupment is the student's capacity to recover those skills that have regressed to a level demonstrated prior to the break in instruction. The IEP Team determines what a reasonable period of recoupment is for each student.

The IEP Team needs to take into account the fact that all students, whether in general education or special education, lose skills when there is a break in services. Students who lose skills over breaks in service, but who can recoup those skills with re-teaching in a reasonable amount of time, are not eligible for ESY services. This is the case with most students with disabilities.

The provision of ESY services may not be limited only to those students who have actually experienced serious regression of skills requiring an unreasonable amount of time for recoupment. The IEP Team must assess the potential for difficulties in regression and recoupment.

Are there data regarding the nature or severity of disability of the student that indicate to the IEP Team that there is a need to provide services in the identified goal area(s) of concern during breaks in the school year?

The IEP Team must consider whether the nature or severity of the student's disability requires highly-structured or consistent programming without substantial breaks in service in order to make progress in the identified goal area(s) of concern.

Is there information that indicates to the IEP Team that in the identified goal area(s) of concern the student is at a critical stage of learning or in a critical area of learning where failure to provide a service beyond the normal school year will severely limit the student’s capacity to acquire essential skills?

A ‘critical stage in learning’ means that the learning must occur without delay and that learning the skill(s) in the identified goal area(s) of concern will enhance the student’s ability to function independently.

A ‘critical area of learning’ means an area of instruction that is essential to the student’s development in achieving self-sufficiency and independence.

The IEP Team needs to determine that:

- 1) There is a skill that needs to be mastered immediately—if the student does not master the skill immediately the degree of mastery is likely to be permanently reduced;
- 2) The student is at a critical stage of development where there is a window of opportunity that will be lost if services are not provided;
- 3) Changes in the student’s medical, physical, or sensory status make it possible to predict an accelerated rate of learning during the ESY period; or
- 4) The skill is in a critical area of learning and a break in services will result in the loss of a window of opportunity for mastering the skill.

Other factors that must be considered:

Determination of the need for ESY services must be based on data.

As in all IEP decisions, the IEP Team must base ESY decisions on data. Data sources may include (but are not limited to):

- 1) Progress monitoring data on IEP goals and objectives.
- 2) Data recorded and provided by parents.
- 3) Data from another school district that the student attended.
- 4) Reports from outside agencies and professionals.
- 5) Interviews with present and past teachers or service providers, the parents, and the student.
- 6) Medical records indicating that the student has experienced significant trauma making the need for services immediate.

- 7) Data that indicate continuous or year-round programming is an integral part of the teaching methodology used with the student.
- 8) Vocational or pre-vocational assessments.
- 9) Medical records that indicate an immediate need for services that cannot wait until after a break.
- 10) Data that indicate loss of access to on-the-job training will potentially result in significant delays in mastering critical prevocational or vocational skills.
- 11) Professional peer-reviewed literature in the goal area(s) of concern that provides research substantiating a critical stage in learning and that this learning must occur without delay.
- 12) Developmental standards within the goal area(s) of concern that indicate the student is at a critical stage of learning.

Determination of the need for ESY services may not be based on a formula.

Formulas lack the individualization needed to ensure that IEP Teams make appropriate decisions to meet the unique needs of students with disabilities. The determination may not be based on a policy that prohibits or inhibits full consideration of the unique educational needs of each student.

ESY services can be provided in a variety of ways.

Ways that ESY services can be provided include (but are not limited to):

- 1) A traditional classroom setting.
- 2) School-based programs that vary in length of schedule.
- 3) Daily instruction in specific IEP goal areas.
- 4) Small group instruction.
- 5) One or more related services at a community recreation program.
- 6) Cooperative programs with other agencies.
- 7) Intra-school cooperative programs.
- 8) Consultation with a job coach.
- 9) Intensive short-term instruction at various points in the summer months to prevent regression.
- 10) A week of intensive review just prior to the beginning of the school year.
- 11) Home-based programs that include parent training.

Related services (including therapy services and transportation) and supplemental aids and services must be considered, as well as instructional programming when developing a plan for ESY services.

Least restrictive environment (LRE) requirements for ESY services are not identical to LRE requirements for the normal school year.

The requirements for placement in the LRE during the academic year apply to ESY services. However, a school is not required to create new programs as a means of providing ESY services to students with disabilities in integrated or inclusive settings if the school does not provide services at that time for its students without disabilities. Similarly, a school is not prohibited from providing ESY services to a student with a disability in a noneducational setting if the student's IEP Team determines that the student could receive necessary ESY services in that setting. The IEP Team should consider a flexible service model that takes the individualized needs of the student into account.

For example, a middle school student with autism spectrum disorder has a social skills goal to interact with typically developing peers in general education classes during the normal school year. This goal is identified by the IEP Team as a goal area of concern requiring ESY services because the data indicate regression and recoument is a serious issue. The school district does not operate any middle school general education classes during the summer, and does not have a general education summer school program. The school district is not required to create a general education class and compel general education students to attend in order for the student to continue to work on this goal. The school district could address LRE by using organized activities in the community in which typically developing peers participate during the summer. Examples could include (but are not limited to) a local recreational program, a local library reading club, or a softball team.

ESY services are provided only for those annual goals identified as areas of concern and which are determined to require ESY services.

ESY services are not intended to duplicate all services provided during the normal school year for most students who require ESY.

New annual goals are not developed for ESY services.

ESY services are based on first identifying an existing annual goal area of concern and then determining the need for ESY services.

Consideration of ESY services needs to be made in a timely manner.

The IEP Team is obligated to consider the need for ESY services at every IEP meeting. While the student's IEP must be renewed every calendar year, there is no deadline for proposed ESY services within the IEP. In other words, the IEP Team may decide to add or subtract the need for various ESY services throughout the year, making changes to the IEP as necessary.

In the event that the need for ESY services and/or the characteristics of those services is not known at the time of the annual IEP meeting, the IEP Team can identify the date it will reconvene to determine the need and services to be provided. The IEP Team may also plan what data should be gathered to assist in making later determinations. An addendum documenting any changes may be completed and attached to the current IEP.

Although there is no timeline for the IEP Team's consideration of ESY services, the *Individuals with Disabilities Education Act* (IDEA) regulations specify that "public agencies are expected to ensure that these determinations are made in a timely manner so that students with disabilities who require ESY services in order to receive FAPE can receive those necessary services." [*Federal Register*, Vol. 64, No. 48, 1999, pg. 12576] This means that the determination of the need for ESY services should be accomplished in sufficient time to make plans for the delivery of ESY services and to permit any party to exhaust administrative remedies (mediation, facilitated IEP, due process complaints and hearings, and state complaints) if there is a difference in opinion prior to the break in services.