



# NONREGULATORY GUIDANCE: EXTENDED SCHOOL YEAR SERVICES

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The Office of the State Superintendent of Education (OSSE), Division of Special Education (DSE), issued the “Extended School Year (ESY) Services Policy” on March 10, 2011. Every local education agency (LEA) is responsible for making appropriate ESY eligibility determination and service designations for all students with Individualized Education Programs (IEPs). The purpose of this guidance document is to provide additional clarification to assist LEAs in implementing the policy in a manner consistent with the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §§1400 *et seq.*

## FREQUENTLY ASKED QUESTIONS (FAQ)

### **I. Definition of Extended School Year (ESY) Services**

#### **1. What are Extended School Year (ESY) services?**

Extended School Year (ESY) services are special education and related services that are provided to a student with an IEP, when determined appropriate by an Individualized Education Program (IEP) Team, beyond an LEA’s regularly scheduled school year.

#### **2. Is the “regularly scheduled school year” the same for all LEAs in the District of Columbia?**

No. Every LEA, including independent charter schools and District charter schools, sets its own school calendar. When making ESY decisions, an IEP Team should refer to the school calendar of the LEA that provides instruction and direct services to the student during the school year.

#### **3. When are ESY services typically provided?**

ESY services are often provided during the summer break, but may be provided during other times outside of the regularly scheduled school year, such as before and after regular school hours, weekends, or during winter or spring break, if the IEP Team determines that the student requires ESY services during those time periods in order to receive a free appropriate public education (FAPE).

#### **4. Do special education and related services provided during the summer months by LEAs with all-year (year-round) or 11-month programs fall within the definition of ESY services?**

Generally, no. Special education and related services provided on instructional days that fall within an all year or 11-month program’s regular school calendar are not considered ESY services, and should not be documented as ESY services on the student’s IEP, unless the services are provided before or after regular school hours or on weekends.

#### **5. What is the difference between summer school and ESY services provided during the summer months?**

Summer school programming is not individualized to meet the specific needs of any one student. Generally, summer school programs offer general education content and extracurricular activities for a set period of time on a pre-determined schedule. Programming that is not developed on an individualized basis and implemented according to a student’s IEP cannot fulfill the student’s need for ESY services. NOTE: OSSE does not provide transportation services for students attending summer school unless the students also have ESY and qualify for transportation to receive those ESY services.

#### **6. If an LEA charges parents for optional summer school programming, can it also charge parents for ESY services?**

No. Under IDEA, ESY services must be provided at no cost to the parents of the student. LEAs may charge students with IEPs for optional summer school programming at the same rate as general education students attending public school, but LEAs may not add any additional fees associated with the administration or provision of ESY services prescribed on a student’s IEP.



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### II. ESY Eligibility Determinations and Service Designations

#### **1. How often does an IEP Team need to make a determination regarding ESY eligibility?**

Eligibility for ESY services must be considered at least once a year as part of the IEP process for every student with an IEP. An IEP Team may need to reconvene to consider a student's ESY eligibility if there is not enough data to make a determination at the time of the annual IEP review.

#### **2. At what point during the school year should IEP Teams make ESY determinations?**

ESY-related decisions for the summer months should be made between the preceding months of December and April. This timeline allows for IEP Teams to collect and consider at least three months of progress monitoring data from the current school year to make informed ESY decisions. Decisions for ESY services taking place after school, on weekends, and/or during shorter breaks throughout the year should be made in a timely manner following any relevant needs identified by the LEA or members of the student's IEP Team. As with ESY for summer months, ESY decisions for after school, weekends, and breaks should consider at least three months of progress monitoring data.

#### **3. Can an IEP Team designate any Part B special education service and related service as an ESY service?**

Yes. The IEP Team may designate any Part B special education service and related service as an ESY service. However, in most cases, an IEP Team will designate services within the scope of what the student receives during the school year, as it is inappropriate for an IEP Team to designate an entirely new service that is not substantively linked to the student's existing needs.

#### **4. How does an IEP Team determine whether a student is eligible for ESY-related transportation?**

Generally, students eligible for transportation as a related service during the school year are eligible for transportation as a related service for the duration of ESY services.<sup>1</sup> Students who were not determined eligible for transportation as a related service during the school year may be eligible for transportation as a related service for the duration of ESY services, if the IEP Team determines that: 1) the student is eligible using the established state-level criteria and 2) establishes a location for ESY services that is different from the school location attended during the school year.

### III. Provision of ESY Services

#### **1. Are ESY services meant to maximize student performance?**

No. The intent of ESY services is to provide FAPE, not to provide additional resources or maximize programming beyond FAPE. When an IEP Team makes a decision regarding ESY eligibility, it is determining whether the benefits gained during the regular school year would be significantly jeopardized if the student does not receive ESY services.

#### **2. Do ESY services need to be provided in the exact manner as the services are provided during the school year?**

No. ESY services do not need to be provided in the exact manner (*i.e.* amount of hours, location, etc.) as the services are provided during the school year. The IEP Team should consider the student's identified critical skill/skill set and goals, and make service decisions accordingly.

#### **3. Can ESY services be implemented in a more limited timeframe than specified in a student's IEP, if the LEA ensures that the total service hours delivered remains the same?**

No. The schedule of the delivery of services must be consistent to the specification in the student's IEP. Exceptions to schedule changes can occasionally be made to accommodate the delivery of a previously missed service session. Any necessary changes to ESY service delivery should be made appropriately through the IEP amendment process.



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#### 4. Can one LEA contract with another LEA to provide ESY services?

Yes. LEAs can contract with each other to share resources for the delivery of ESY services. However, the LEA in which the student is enrolled maintains responsibility, at all times, for the timely and adequate delivery of services according to the IEP.

#### IV. Documentation of ESY Eligibility Determination, Service Designation, and Service Provision

##### 1. What supporting documentation needs to be completed and uploaded into the Special Education Data System (SEDS) in order for OSSE to deem a student's ESY determination complete?

The LEA must complete the ESY section in the IEP, which includes questions regarding the eligibility determination, ESY services, and ESY goals. To adequately support the eligibility determination, the IEP Team must complete and upload the ESY criteria worksheet and any data that was used to support the regression/recoupment analysis. If the IEP Team determines that the student is eligible for ESY-related transportation services, then the LEA must complete and submit the appropriate student transportation form to OSSE-DOT. All documentation should be uploaded into SEDS no later than five (5) business days after the eligibility determination.

##### 2. Are related service providers required to log summer ESY services in SEDS similar to the way they log related services provided during the school year?

Yes. Providers must log ESY service sessions, both for ESY services provided during the summer months and school year, into SEDS as they would for related service sessions provided during the school year.

##### 3. How does an LEA fulfill the "closeout summary" requirement?

LEAs should use their last summer ESY progress report to summarize: 1) the degree of progress made on the student's ESY goal(s) and 2) the status of the identified critical skill(s) related to the anticipated level of regression and the time required for recoupment. All summer closeout summaries must be completed prior to the beginning of the next school year. At minimum, LEAs should submit closeout summaries for ESY services provided during the school year on a quarterly basis.

#### V. Certification of ESY Services Provided at Nonpublic Programs and ESY-Related Transportation Services

##### 1. What is the purpose of the certification process?

The certification process serves two main purposes. The certification process serves as an affirmation that LEAs are aware of and participate in all ESY decisions, including those decisions made for students attending nonpublic programs, as required by OSSE's ESY Policy. The certification process also produces student data that allows OSSE to anticipate state level expenses related to nonpublic ESY services and ESY-related transportation services.

##### 2. How does an LEA fulfill the certification process?

Every LEA must complete and submit the official ESY-certification forms that are updated annually and available at the OSSE's main website: [osse.dc.gov](http://osse.dc.gov). The completed forms must be submitted no later than the first Monday of May every year.

##### 3. Should an LEA submit any certification materials if it does not have any students who are in need of summer nonpublic ESY services or summer ESY-related transportation services?

Yes. An LEA without any students in need of summer nonpublic ESY services or summer ESY-related transportation services should submit certification confirming that there are no students in need of services no later than the first Monday of May every year.



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### VI. Funding for ESY Services

#### **1. Do LEAs get funding specifically for the provision of ESY services?**

Yes. Funding for ESY services is covered under the Uniform Per Student Funding Formula (UPSFF). LEAs ensure adequate funding for ESY services by tracking and appropriately reporting the number of students requiring ESY services on an annual basis.

#### **2. Can LEAs decline to provide ESY services for reasons related to funding?**

No. Under the Individual with Disabilities Education Act (IDEA), LEAs are legally obligated to provide services to students with disabilities in accordance to their IEPs, irrespective of the financial cost. When determined appropriate by an IEP Team, ESY services are a part of providing FAPE to a student with an IEP. LEAs are expected to manage their annual budgets to accommodate for the anticipated costs associated with providing ESY services.

#### **3. How do public charter schools provide adequate documentation to support certification of ESY decisions?**

LEAs provide documentation to the Public Charter School Board (PCSB). This documentation includes an excel package which details the students' special education levels, the IEP signature page, the hours page, and the section of the IEP which states that ESY is required. The PCSB then provides data regarding the number and level of students receiving ESY services to the Office of the Chief Financial Office (OCFO). Once the OCFO confirms all the relevant information, it then approves the amount of funding that OSSE will provide to each LEA for ESY services.

### VII. ESY Services for Students Attending Nonpublic Programs

#### **1. Are nonpublic programs, including those with all year (or year-round) or 11-month programming, required to consider ESY services for all students with IEPs?**

Yes. At minimum, eligibility for ESY services must be considered on an annual basis as part of the IEP process for every student with an IEP, including all students served by nonpublic programs. On a case by case basis, an IEP Team may determine that it is appropriate for a student who is attending an all year or 11-month program to receive ESY services outside of the regularly scheduled school day and/or during the short breaks that occur throughout the year.

#### **2. Can a nonpublic program designate or require ESY services for all of its students?**

No. ESY decisions for students served by nonpublic programs must be made, at minimum, on an annual basis by each student's IEP Team. According to 5-A DCMR §2844.12(a), to ensure placement decisions are made on an appropriate and individual basis, no student shall be placed in a nonpublic school program that requires all students to receive ESY services regardless of need or as a condition of enrollment.

#### **3. When making ESY decisions for a student enrolled at a nonpublic program, does an IEP Team consider the school calendar of the nonpublic program or LEA?**

The IEP Team should consider the school calendar of the nonpublic program that provides instruction and direct services to the student during the school year.

#### **4. Are LEAs required to participate in IEP Team decisions regarding ESY services for students attending nonpublic programs?**

Yes. The LEA must fulfill the mandatory role of the LEA representative either through direct participation or designee for all IEP Team determinations for students attending nonpublic programs, including those decisions regarding ESY services.



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### 5. How do nonpublic programs document ESY decisions?

According to 5-A DCMR § 2808.2, nonpublic programs serving District of Columbia students must work with LEAs to maintain accurate, up-to-date, and complete student files in the Special Education Data System (SEDS). Student files must include IEPs that document all special education related decisions, including those decisions related to ESY services, and records pertaining to ESY service delivery and progress reporting on related goals.

### 6. Are nonpublic programs required to complete the ESY services criteria worksheet in SEDS?

Yes. The ESY eligibility criteria worksheet issued by OSSE applies to all ESY determinations made for District of Columbia students, including those attending nonpublic programs. Additionally, nonpublic programs serving District of Columbia students are bound by the same IEP process and documentation requirements as LEAs.

### 7. Does OSSE pay for ESY services provided to students during the summer months provided by nonpublic programs?

Yes. OSSE will pay for ESY services that occur during the summer months that are appropriately designated by an IEP Team, documented in the IEP, and certified by the student's LEA. According to 5-A DCMR §2850, nonpublic programs must submit ESY rates to OSSE for approval, no less than sixty (60) sixty days before the first date of expected ESY invoicing.

### 8. Will OSSE pay for summer school or summer programming provided by nonpublic programs?

Generally, OSSE will pay only for nonpublic summer school or summer programming that results in coursework credit.

### 9. How do nonpublic programs communicate ESY determinations to OSSE?

Nonpublic programs do not need to communicate ESY determinations directly to OSSE. However, nonpublic programs are required to ensure that LEAs are included in all IEP considerations including ESY decisions.

### 10. Who is responsible for providing ESY services to students attending nonpublic programs?

ESY services may be provided by either the nonpublic program or the LEA. However, if a nonpublic program is not operating during the scheduled times for ESY as determined by the IEP Team, it is ultimately the LEA's responsibility to ensure services are provided according to the terms of the IEP.

### ADDITIONAL GUIDANCE

For additional information, please reference the "Extended School Year (ESY) Services Policy" located on the main OSSE website at <http://www.osse.dc.gov>. Please direct any questions regarding the content of this document to **Grace Chien, Director of Policy, at (202) 741-5089 or by email at [Grace.Chien@dc.gov](mailto:Grace.Chien@dc.gov)**. OSSE has the authority as the state educational agency (SEA) to issue additional guidance regarding LEA policy and related practice.

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<sup>1</sup> Students who receive special education transportation services during the school year due to out of neighborhood school FAPE-related placement decisions may not be eligible for ESY-related transportation for the summer months if the student receives ESY services at their neighborhood school.