



OFFICE OF SPECIAL EDUCATION  
ASSOCIATE COMMISSIONER  
<http://www.nysed.gov/special-education>

## **Extended School Year Special Education Programs**

This guidance is to inform the provision of the summer extended school year special education

## *Extended School Year Questions and Answers*

ESY programs are provided at no cost to parents on a year-round basis for students determined to be eligible in accordance with sections 200.6(k)(1) or 200.16(i)(3)(v) of the Regulations of the Commissioner of Education whose disabilities require a structured learning environment of up to 12 months duration to prevent substantial regression.<sup>1</sup> The CSE or CPSE

to recommend the appropriate July and August special education program and/or related services needed to prevent substantial regression.

### **1. *Who is eligible for an extended school year (ESY) program?***

The CSE/CPSE must determine annually on an individual basis if a student requires an ESY program (sometimes also referred to as two-month, 12-month, or July and August programs). A child's entitlement to ESY programs as part of a free appropriate public education (FAPE) continues to apply even if public schools do not provide other educational services during summer school breaks. It is important to remember that CSE/CPSE recommendations regarding ESY programs are prospective and not



provided that the CSE/CPSE determines that the setting is appropriate for the student to benefit from the special education services and meet the IEP goals and objectives.

#### **4. What special education programs and services can be recommended as an ESY program?**

The IEP for the ESY program should indicate those areas where the student needs services to prevent substantial regression and the programs and services determined appropriate to meet these needs. While some students with disabilities require a continuation of their full-day ten-month programs, others may only require services in specified areas of development to prevent substantial regression.

##### *School-Age ESY Programs*

A CSE may recommend any one of the following special education programs and services as determined appropriate to meet the individual needs of a school-age student with a disability:

- related services at a site determined by the CSE. Sites may include, but are not limited to, an approved summer school program<sup>2</sup> recreational program, or the  
or
- specialized instruction which may include instructional services provided by a certified special education teacher through consultant teacher services and/or a resource room services, in combination with related services, as appropriate, at a site determined by the CSE. Sites may include, but are not limited to, an approved summer school program, a community recreational or educational program, or the  
or
- full-day or half-day<sup>3</sup> daily instruction in special class programs which may include related services; or
- integrated co-teaching services at a site determined by the CSE.

##### *Preschool ESY Programs*

A CPSE may recommend any one of the following special education programs and services as determined appropriate to meet the individual needs of a preschool student with a disability:

- related services at a site determined by the CPSE. Sites may include, but are not limited to, an approved or licensed prekindergarten, Head Start

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- special education itinerant services to provide specialized individual or group instruction and/or indirect services to preschool students with disabilities by a certified special education teacher of an approved program on an itinerant basis at a site determined by the CPSE. Sites may include, but not limited to, an approved or licensed prekindergarten, head start, or childcare program; the student's home; a hospital; a state facility; or
- related services in addition to special education itinerant services; or
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### **11. Can a special class ESY program period include Independence Day?**

New York State (NYS) Education Law section 4408 states that "programs shall be funded for thirty days of service, provided, however, that the observance of the legal holiday for Independence Day may constitute a day of service." There is nothing in law that says that this provision is contingent on the program beginning its 30 days of operation prior to the legal holiday. Pursuant to NYS General Construction Law Section 24, if a legal holiday falls on a Sunday, the next day becomes a legal holiday. Although students will not be in attendance on Independence Day, if approved calendar, this date can count toward the 30 days and the System to Track and Account for Children (STAC) should indicate that as the start date of the services. The 30 days must be provided during July and August.

### **12. Does a school district, BOCES or approved private program need approval to operate an ESY program?**

Yes. Providers can only provide ESY programs that are consistent with their approval from NYSED. The STAC reimbursement records for students will not be processed if the services provided are not consistent with IEP recommendations and the conditions of NYSED approval.

### **13. What entities are authorized to provide ESY programs?**

Authorized entities include those entities that have been approved by NYSED to operate one or more ESY programs including school districts, BOCES, nonpublic schools with an approved special education program (chapter 853 schools), approved preschool special education programs (section 4410), related service providers authorized pursuant to NYS Education Law section 4410, State-Supported Schools (section 4201) authorized to



### **16. Must transition services be provided as part of an ESY program?**

If transition services are needed for a student with a disability who is age 15 or older (or younger if determined appropriate by the CSE) and who is determined to need an ESY program, then such transition services must be provided as recommended in the IEP as part of the ESY program. These activities may include instruction, community experiences, related services, preparation for employment or other post-school living objectives and, when appropriate, the acquisition of adult daily living skills or functional vocational evaluation.

### **17. What is the role of the supplementary school personnel (i.e., teaching assistants and teacher aides) in an ESY program?**

For students enrolled in an ESY program, summer school program, summer camp, or community recreation program, a teaching assistant may provide direct instructional teaching services under the general supervision of a licensed or certified teacher. The teaching assistant can assist in the delivery of special education services but cannot serve in place of a special education teacher. Direct instructional services may include, but are not limited to, working with individual students or groups of students on special instructional projects, providing the teacher with information about students, which will assist the teacher in the development of appropriate learning and behavioral experiences, and assisting in the development of instructional materials.

Teacher aides may perform only non-instructional duties under the general supervision of the special education teacher. These noninstructional duties may include, but are not limited to, assisting students with physical care tasks, health-related activities and behavior management needs, as well as supporting teachers in managing records, materials and equipment. Teacher aides work under supervision as determined by the school district in accordance with Civil Service Law.

### **18. Can the school district apply for reimbursement of the cost of a general education teacher employed by a school district or BOCES as a special education cost for services provided in an integrated setting?**

No. The school district will receive reimbursement only for the cost of special education services provided by appropriately licensed or certified staff to a student during the months of July and August. For students attending approved summer school programs pursuant to Part 110 of the Regulations of the Commissioner of Education, the school district operating the program  
Aid.

### **19. How can the school district apply for State Aid reimbursement for the provision of related services only or specialized instruction provided during ESY programs?**

NYSED is authorized to approve programs and to establish rates for all special education programs and services provided during the months of July and



