EXTENDED SCHOOL YEAR PROGRAMS AND SERVICES

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16. ***What is an "Integrated ESY special class"?***

17. ***What entities can apply to provide integrated ESY special class programs?***

18. ***How would reimbursement rates be established for an integrated ESY special class program?***

QUESTIONS AND ANSWERS

1. Who is eligible for extended school year programs and services?

The committee on special education (CSE) must determine whether a student requires extended school year special education services in order to prevent substantial regression. Substantial regression would be indicated by a student's inability to maintain developmental levels due to a loss of skill, set of skill competencies or knowledge during the months of July and August. In accordance with section 200.6(k) of the Regulations of the Commissioner of Education, students must be considered for 12-month special services and/or programs to prevent substantial regression if they are students:

- whose management needs are determined to be highly intensive and require a high degree of individualized attention and intervention and who are placed in special classes;
- with severe multiple disabilities, whose programs consist primarily of habilitation and treatment and are placed in special classes;
- who are recommended for home and/or hospital instruction whose special education needs are determined to be highly intensive and require a high degree of individualized attention and intervention or who have severe multiple disabilities and require primarily habilitation and treatment;
- whose needs are so severe that they can be met only in a seven-day residential program; or
- who are receiving other special education services and who, because of their disabilities, exhibit the need for a 12-month special service and/or program provided in a structured learning environment of up to 12-months' duration in order to prevent substantial regression.

Both quantitative and qualitative information should be reviewed by the CSE to substantiate the need for providing such services and programs. A student is eligible for a 12-month service or program when the period of review or reteaching required to recoup the skill or knowledge level attained by the end of the prior school year is beyond the time ordinarily reserved for that purpose at the beginning of the school year. The typical period of review or reteaching ranges ***between 20 and 40 school days***. As a guideline for determining eligibility for an extended school year program, a review period ***of eight weeks or more*** would indicate that substantial regression has occurred.

2. What is the CSE's obligation to provide integrated extended school year programs and services for students whose individualized education programs (IEPs) must be implemented in integrated settings in order for the student to benefit from the special education services needed to prevent substantial regression?

If a student's IEP specifies that special education services must be provided in a setting with nondisabled peers in order for the student to benefit from the special education services to prevent substantial regression, and the school district operates summer programs for nondisabled students, then the school district must provide methods for meeting the least restrictive environment (LRE) requirements that include, but are not limited to:

- locating special classes in settings where nondisabled children attend during the summer; and

- having students with disabilities interact with their nondisabled peers to the greatest extent possible during noninstructional parts of the school day (e.g., during lunchtime for students attending full-day special classes).

However, if a student's IEP specifies that special education services must be provided in a setting with nondisabled peers in order for the student to benefit from the special education services to prevent substantial regression, and the school district does not operate summer programs for nondisabled students, then the school district must provide alternative methods for meeting LRE requirements. These include:

- providing opportunities for participation (even part time) in other summer programs operated by the school district or those available in a neighboring district and in programs operated by a Board of Cooperative Educational Services (BOCES);
- providing special education services to students in approved summer school programs for nondisabled children that integrate children with disabilities;
- locating special classes in settings where nondisabled children attend during the summer; and
- providing special education services to students in settings that the parent has arranged and pays for the child to attend. The CSE must determine whether the student's IEP goals can be appropriately met at the setting identified by the parent, and the district must ensure that such programs are approved by a governmental agency to operate a summer program and are approved by local authorities for fire, health and safely requirements.

3. *Must the IEP for the extended school year program be identical to the IEP developed for the school year program?*

An IEP developed for an extended school year program may differ from the IEP developed for the school year program. The CSE determines the type and amount of services that a student needs for an appropriate extended school year program. **The IEP developed for the extended school year program should focus on the areas in which the student is expected to experience regression.**

Extended school year programs or services may, at the recommendation of the CSE, be provided in a location that differs from the one in which the student attends during the school year, provided that the CSE determines that the setting is appropriate for the student to benefit from the special education services and meet his/her IEP goals.

4. *What programs and services can be recommended for July-August?*

The CSE should first determine if a student with a disability is eligible for an extended school year program. The IEP for the July-August program should indicate those areas where the student needs services to prevent substantial regression. While some students with disabilities require a continuation of their full-day 10-month programs, others may only require services in specified areas of development to prevent substantial regression.

In order to provide the specific programs and services to meet the student's needs, a variety of program options can be considered. A CSE may recommend any one of the following special education programs and services as determined appropriate to the needs of the individual student:

- related services at a site determined by the CSE including, but not limited to, an approved summer school program[1] recreational program, or the student's home; or
- specialized instruction in combination with related services, as appropriate, provided by a certified special education teacher at a site determined by the CSE including, but not limited to, an approved summer school program, a community recreational or educational program, or the student's home; or
- full-day or half-day[2] daily instruction in special class programs which may include related services.

(Home or hospital instruction may be required by some students in accordance with section 200.6 of the Regulations of the Commissioner of Education.)

5. ***What is the required length of time that extended school year programs and services must be provided?***

The approved program providing half-day or full-day special class instruction must operate for at least 30 days. However, the frequency and duration of the special education programs and services provided to an individual student would be determined by the CSE and could be less than 30 days in duration.

6. ***If the CSE recommends the provision of specialized instruction only or specialized instruction with related services to be provided at a summer recreational or educational program in which the parent has enrolled the student, who is responsible for the fees to enroll the student in the program?***

Camping and recreational programs are not to be construed as extended school year special education programs and related services. While special education services identified in a student's IEP must be made available as part of a free appropriate public education (FAPE), school districts are not required to pay for the enrollment and other fees at summer recreational or nonapproved educational programs in which the parents have enrolled their school-aged child. FAPE is defined as special educational related services that are provided at public expense in conformity with a student's IEP.

7. ***If a local school district recommends an appropriate integrated extended school year program for a student with a disability and the parent unilaterally places the student in another setting such as a summer camp program, must the school district make services available at the other setting?***

No. The school district would have the option of providing the recommended extended school year program or making the services available at another setting.

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[1] ***Approved summer school programs*** are those elementary, secondary and BOCES general education programs approved in accordance with Part 110 of the Regulations of the Commissioner of Education.

[2] STAC forms for school-age students enrolled in a special class on a ***half-day basis*** should indicate ***half time*** in item 11b.

8. ***Who can provide specialized instruction-only programs to students receiving extended school year services?***

Specialized instruction can be provided by an appropriately certified special education of an approved extended school year program.

9. ***Must transition services be provided as an extended school year service?***

If transition services are needed for a student with a disability who is age 15 or older (or younger if determined appropriate) and who is determined to need extended school year services, then such services must be provided as recommended in the IEP. 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. A school district may establish formal agreements with other programs to obtain transition services such as vocational training programs approved by the New York State Education Department (NYSED) or another State agency.

10. ***What is the role of the paraprofessional in providing extended school year services?***

For students enrolled in a 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 noninstructional duties under the general supervision of the special education teacher for a student enrolled in a summer school program, summer camp or community recreation program. 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 local school district in accordance with Civil Service Law.

11. ***Can the school district apply for reimbursement of the cost of a general education teacher employed by a public school 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 district may include the student's attendance for purposes of State Aid.

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

NYSED is authorized to approve programs and to establish rates for all special services and programs provided during July/August, both public and private. Therefore, any school district that plans to operate a July/August program must first apply to NYSED for approval. Applications for programs serving school-age students can be obtained by going to http://www.p12.nysed.gov/specialed/applications/.

For additional technical assistance regarding the July/August extended school year application process, please call the P12: Office of Special Education at (518) 473-0170.

Funding approval must be granted through the System to Account for Children (STAC) for each eligible student who is to receive special education and/or related services during July and August in order for districts to receive the correct amount of State Aid under section 4408 of the New York State Education Law. Questions regarding the filing of STAC forms may be directed to the STAC and Special Aids Unit at (518) 474-7116.

13. ***How are ESY providers reimbursed for provision of related services only?***

Programs must ensure that they are only providing and billing for related services actually provided and consistent with the frequency and duration as indicated in the students' individualized education programs. Related services sessions provided in groups of two or more must be prorated.

14. ***What is the obligation of school districts to provide a continuum of placement options during July/August?***

Federal law is clear that LRE pertains to extended school year programs. Therefore, school districts must ensure that a continuum of placement options is available in the area to meet the needs of all students recommended for ESY programs and services. The continuum must include at least "Instruction in regular classes, special classes, special schools, and instruction in hospitals and institutions" 34 CFR Section 300.115(b)(1).

15. ***When no summer public education program exist in the area where nondisabled students are enrolled, how could a district meet its LRE obligation to provide special education to students who may require special class instruction in settings with nondisabled peers?***

When a public school district or BOCES in the area does not provide instruction to nondisabled students during the summer months that are appropriate for a student with a disability, the CSE could recommend placement of the student in a nonpublic school that has approval to operate an integrated ESY special class program.

16. ***What is an "Integrated ESY special class"?***

An integrated ESY special class means a class made up of both students with disabilities and students without disabilities where all students receive academic instruction and students with disabilities receive specially designed instruction to support their access to participate and progress in the general curriculum. Instruction in an integrated ESY special class to not more than 12 students with and without disabilities may be provided by one

teacher who is appropriately qualified in the content area and who is an appropriately certified special education teacher. For classes with more than a total of 12 students, the class must be taught by both an appropriately qualified content area teacher and an appropriately qualified special education teacher.

17. What entities can apply to provide integrated ESY special class programs?

A school district, BOCES or a nonpublic school that provides education to students without disabilities could apply to operate an integrated ESY special class.

18. How would reimbursement rates be established for an integrated ESY special class program?

To establish the program's first year tuition rate for an integrated ESY special class program, the Department will assign a regional rate. Programs must submit an annual Consolidated Fiscal Report (CFR) in accordance with the directions provided at http://www.oms.nysed.gov/rsu/Manualsforms/. Nonpublic school applicants must participate in CFR training – see http://www.oms.nysed.gov/rsu/Trianing/.