

Extended School Year Application (revised June 2020)

The Office of Special Education has revised the application for Extended School Year (ESY) Special Education Programs operated by public schools and Boards of Cooperative Educational Services (BOCES) which is now available under the Extended School Year section of the [Frequently Used Special Education Applications](#). Nonpublic schools may apply to operate July/August special class programs either as part of a 2-month program approval or 12-month program approval via the school-age initial or modification application for nonpublic schools with an approved special education program.

An application for initial program approval is required if the public school or BOCES is not currently approved to operate an ESY program of any type. ESY program types include the following: Special Class Full-Day Program, Special Class Half-Day Program, Integrated Co-Teaching Services, Related Services Only, Specialized Instruction Only, Specialized Instruction with Related Services, or Home/Hospital Instruction). Once approved to operate an ESY program type, modification applications are only required of public schools or BOCES to modify the classroom ratios approved for the special class full-day or half-day program if that ratio has not previously been approved for the corresponding program. Modification applications are not required of public schools or BOCES to increase or decrease the number of classes at currently approved staff/student ratios.

All providers are reminded that they can only provide ESY services consistent with their approval from NYSED. The System to Track and Account for Children (STAC) reimbursement records for students will not be processed if the services provided are not consistent with individualized education program (IEP) recommendations and the conditions of NYSED approval. For any public school/BOCES ESY program that has not submitted STAC reimbursement records showing that the program has operated for three or more years, NYSED will remove program code(s) from the rate setting records. This update to our records does not remove the program's approval to operate an ESY program. However, the public school/BOCES would need to inform the Rate Setting Unit (via the email address rateweb@nysed.gov) if it reinitiates operations in order for the district to receive reimbursement for the program(s).

For additional information, see below Questions and Answers regarding the ESY program. Further questions regarding the application may be directed to the Office of Special Education at (518) 473-6108 or OSEAPPLICATIONS@NYSED.gov. For questions regarding reimbursement policy, please contact the STAC and Medicaid Unit at omsstac@nysed.gov. Questions regarding ESY rates should be directed to the Rate Setting Unit at (518) 474-3227.

QUESTIONS AND ANSWERS

1. *Who is eligible for extended school year (ESY) programs and services?*

The committee on special education (CSE) must determine whether a student requires ESY 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 ESY 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 ESY 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 safety requirements.

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

No. An IEP developed for an ESY 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 ESY program. **The IEP developed for the ESY program should focus on the areas in which the student is expected to experience regression.**

ESY 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 ESY 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 program¹ recreational program, or the student's home; or
- specialized instruction, which may include instructional services provided by a certified special education teacher, consultant teacher or resource room services, 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-day² daily instruction in special class programs which may include related services; or
- integrated co-teaching services at a site determined by the CSE.

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

5. What is the required length of time that ESY 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.

The length of the school day for a full-day special class program shall be not less than 5 hours of instruction for students whose chronological ages are equivalent to those of students in grades K through 6, and not less than 5½ hours of instruction for students whose chronological ages are equivalent to those of students in grades 7 through 12. The length of the school day for a half-day special class program shall be not less than 2½ hours of instruction for students whose chronological ages are equivalent to those of students in grades K through 6, and not less than 3 hours of instruction for students whose chronological ages are equivalent to those of students in grades 7 through 12. The school day shall include instructional activities and related services but does not

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. Summer claims are submitted electronically on EFRT. Only placements requiring NDU approval are submitted on paper STAC-1 forms.

include lunch and transportation. [8 NYCRR section 200.7(b)(4) and section 200.1(q) and (v)].

6. Can the six-week program include Independence Day?

Section 4408 of the Education Law 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. Although students will not be in attendance on Independence Day, if July 4th is the program's start date of their approved calendar, this date can count toward the 30 days and the STAC should indicate that as the start date of the services.

7. *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 ESY 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.

8. *If a local school district recommends an appropriate integrated co-teaching 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 ESY program or making the services available at another setting.

9. *Who can provide specialized instruction-only programs to students receiving ESY services?*

Specialized instruction must be provided by an appropriately certified special education teacher of an approved ESY program.

10. *Must transition services be provided as an ESY 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 ESY 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.

11. What is the role of the paraprofessional in providing ESY 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.

12. 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.

13. 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 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 ESY application process, please call the Office of Special Education at (518) 473-6108.

Funding approval must be granted through the System to Track and Account for Children (STAC) for each eligible student who is to receive ESY 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/Medicaid Unit at (518) 474-7116.

14. How are ESY providers compensated for provision of related services only?

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

15. 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 ESY 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).

16. When no summer public education program(s) 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 with an approved special education program (853 School) that has approval to operate an ESY integrated co-teaching class.³

17. What is an ESY integrated co-teaching class?

An ESY integrated coteaching class is the same as integrated coteaching class provided during the school year. As defined in section [200.6\(g\)](#) of the Regulations of the Commissioner of Education, integrated co-teaching services, means the provision of specially designed instruction and academic instruction provided to a group of students with disabilities and nondisabled students. School personnel assigned to each class must minimally include a special education and a general education teacher. The maximum number of students with disabilities receiving integrated co-teaching services in a class cannot exceed 12 students, unless a variance is provided pursuant to section 200.6(g)(1)(i)-(ii) of the Regulations of the Commissioner of Education. For additional information on integrated co-teaching services see [Continuum of Special Education Services for School-Age Students with Disabilities - Revised November 2013 \(Questions 32 – 44\)](#)

³ A nonpublic school with an approved special education program seeking to operate ESY integrated co-teaching services must contact the Office of Special Education Preschool Policy Unit (518-473-6108) for further application information and instructions.

18. What entities can apply to provide ESY integrated co-teaching services?

A school district, BOCES, or nonpublic school with an approved special education program (853 School) may apply to provide ESY integrated co-teaching services.

19. How would reimbursement rates be established for integrated ESY co-teaching services?

To establish the program's tuition rate for an integrated ESY co-teaching services, the Department will assign a regional rate for the first two years of operation. BOCES and 853 schools must submit an annual Consolidated Fiscal Report (CFR) in accordance with the directions provided at http://www.oms.nysed.gov/rsu/Manuals_Forms/. Nonpublic school applicants must participate in CFR training – see <http://www.oms.nysed.gov/rsu/Training/>. Public schools operating integrated ESY co-teaching services would submit ST-3 supplemental schedules SS-10-16.