

Eligibility Criteria

Three criteria are used to determine a student's need for ESY services: Regression-Recoupment, Critical Point of Instruction, and Special Circumstances.

1. **Regression-Recoupment** - This criterion shall be applied to all students with significant cognitive disabilities or functions-like a student with significant cognitive disabilities at all age and grade levels, including preschool aged students.
 - a. This criterion should be considered for all students suspected of having difficulty with recoupment of skills. When the IEP Team decides to monitor a student using Regression-Recoupment criterion who is not participating in LAA 1, the team shall target specific critical goals and/or objective/benchmarks on the IEP as a basis to determine eligibility at the next IEP.
 - b. Definitions
 - i. *Pattern of Regression-Recoupment Problems* - Following a break in instruction, there is a failure to regain the performance level for an objective/skill such that the highest post-break score is lower than the highest pre-break score for any objective (i.e., critical skill) across two breaks in instruction.
 - ii. *Break in Instruction* - A break of at least five instructional days.
 - iii. *Highest Pre-Break Score* - The highest score (of at least two data points) in the two-week period immediately preceding the break in instruction.
 - iv. *Highest Post-Break Score* - The highest score (of at least two data points) in the two-week period immediately following the break in instruction.
 - c. Steps for applying the R-R Criterion
 - i. The teacher/instructional personnel reviews student performance data before and after a minimum of two breaks in instruction. The method and frequency of data collection will depend on the objectives/ benchmarks.
 - ii. Following extended breaks in instruction (i.e., full summer), it is expected the student will recoup the skills within 4 weeks.
 - iii. The teacher/instructional personnel determines whether there is a Regression-Recoupment problem such that the highest of the post-break score is lower than the highest of the pre-break score for "any" objective/ benchmark and/or break.
 - iv. The student is eligible for ESY services when the performance data demonstrates a pattern of problems with recouping performance on any objective/skill across any two breaks within the current IEP.
2. **Critical Point of Instruction (CPI) Criterion.** This criterion shall be considered for all students.
 - a. Definitions
 - i. **Critical Point of Instruction-1 (CPI-1).** In the absence of extended school year services, the student would be at risk of losing general education class time or increasing special education service time because of a lack of academic or social skill development
 - ii. **Critical Point of Instruction-2 (CPI-2).** In the absence of extended school year services, the student would be at risk of losing significant progress made toward acquisition, fluency, maintenance, and/or generalization of skills relevant in the pursuit of critical life areas (i.e., self-help, community access, or social/behavioral skill areas). Behaviors to be considered for CPI-2 include self-injurious, ritualistic, and/or aggressive behaviors that negatively impact the health, well being and/or delivery of instruction to the student.
 - b. Steps for applying the CPI criteria
 - i. The teacher/instructional personnel examines student performance data and determines whether in the absence of extended school year services, the student would be at risk of losing general education class time or increasing special education service time because of a lack of academic or social skill development (CPI-1) or would be in danger of losing significant progress made toward acquisition, fluency, maintenance, and/or generalization of skills relevant in the pursuit of critical life areas (i.e., self-help, community access, or social/behavioral skill areas) (CPI-2).
 - ii. CPI-1: The teacher/instructional personnel determines that the student is projected to be at a critical stage in the general education curriculum, and special education services provided during an extension of the regular school year will allow the student to maintain the level of services indicated in the regular year IEP.

- iii. CPI-2: The teacher/instructional personnel determines that the student will require extended school year services to achieve meaningful benefit in the goal area; and, students exhibiting interfering behaviors and qualifying under CPI-2 should have a goal and/or objectives/benchmarks on the IEP to address those behaviors; and documentation shall include a description of the behavior, baseline data, copy of the behavior intervention plan, and when available, a copy of the functional behavior analysis.
- iv. The student is eligible for ESY when there is evidence the impact of providing ESY services could enable the student to maintain and/or achieve grade-level expectations and reduce the loss of skill acquisition, fluency and/or maintenance.

3. Special Circumstances (SC) Criterion

a. Employment

- i. Students ages 16-21 shall be considered for ESY services when there is documentation (i.e., job performance data) that the student is in need of support to maintain paid employment. Paid Employment refers to pay commensurate/minimum wage or has an alternate wage certificate from the Department of Labor to be paid at a reduced level.
- ii. A written statement from the student's employer signifying his or her intention to employ the student throughout the summer months; and
- iii. A current IEP with vocational/employment goals and/or objectives/benchmarks.
- iv. The student is eligible for ESY services when there is evidence the student is in need of support to maintain paid employment during the summer months.

b. Transition from Early Steps to Part B (Preschool)

- i. Students transitioning from Early Steps to Part B preschool services who have spring/summer birthday shall be considered for ESY services.
- ii. The student is eligible for ESY when there is evidence from the performance data on the Individualized Family Service Plan (IFSP) that the student will fail to maintain performance skills and will regress without ESY services.

c. Transition to Post-school Outcomes

- i. Students who have a transition plan and who are expected to exit the LEA at the end of the school year shall be considered for ESY services. The teacher/instructional personnel shall examine the documentation of the incomplete action steps and corresponding goals that are the responsibility of the LEA.
- ii. The student is eligible for ESY when the student is in need of services to complete the action steps that are the responsibility of the LEA that are not expected to be completed by the end of the student's final year in school.

d. Excessive Absences

- i. A student with a disability who has documented absences during the school year, in excess of 25 days, for health-related conditions without the provision of hospital/homebound services and who has failed to make projected progress shall be considered for ESY services.
- ii. A student is eligible for ESY services when there is evidence that failure to acquire the goals and/or objectives/ benchmarks will seriously jeopardize the overall educational progress of the student; and
- iii. the ESY services could have a significant impact on the student's ability to make progress toward the acquisition of established goals and objectives/benchmarks.

e. Extenuating Circumstances

- i. There may be unusual situations or circumstances when ESY services may be needed, but the student does not meet any of the eligibility criteria.
- ii. The teacher/instructional personnel shall use professional judgment to make the decision whether the student needs ESY services in order to receive a free and appropriate public education (FAPE). The teacher/instructional personnel shall determine if a break in instruction will negatively impact or cause the student to lose skills that will restrict the student's ability to function as independently as possible.
- iii. Two steps to determine eligibility for an extenuating circumstance are:
 - (a). consider the previously described ESY eligibility criteria, and

- (b). determine there is a need for ESY services through the examination of student performance data.

ESY Eligibility Determination

- A. The ESY eligibility decision for each student is to be made between January 1 and the onset of ESY services for the current school year unless there is sufficient data to make that decision prior to January.
- B. After examining the student's performance data one of the following decisions shall be made:
 1. The student is eligible for services;
 2. The student is eligible for services, and the parent declines;
 3. The student is ineligible for services; or
 4. ESY determination of eligibility will be made later during the same school year.
- C. When the student is determined eligible for ESY services, the team must complete the ESY form of the IEP.
- D. When the IEP Team decides not to make a determination it shall be documented on the IEP as ESY determination will be made later, then the ESY decision must be prior to the start of ESY services unless the school district chooses an earlier date for decision making.
- E. When the student is determined ineligible for ESY services based on student performance data, the parents must receive notification of the determination and informed of their due process rights and procedures.