

Considerations for Extended School Year Services and Coordination with Summer Programming as Part of School COVID-19 Recovery Planning for Students with Individualized Education Programs

Purpose

This guidance reviews the intent and purpose of Extended School Year Services (ESY) and recommends coordination with planning by District Recovery Teams pursuant to [Guidance: Education Recovery No.1](#) and local planning for summer partnership planning with [Summer Matters](#).

As with any planning which will impact students with disabilities, this memo cautions Local Education Agencies (LEAs) to consider obligations of Maintenance of Effort (MOE) when expending allocations this summer. This guidance should be considered alongside the AOE's May 29, 2020 memo on [ESY Summer Services in 2020](#), and its May 8, 2020, memo on [Initial Considerations for Compensatory Education and Extended School Year \(ESY\) Services](#); it does not replace or supersede either document.

Considerations for ESY Summer 2021

The term "ESY services" means special education and related services that are provided to a child with a disability:

1. Beyond the normal school year of the public agency;
2. In accordance with the child's IEP;
3. At no cost to the parents of the child; and
4. Meet the standards of the state educational agency. (34 CFR 300.106 (b))

The purpose of ESY is to provide special education and related services beyond the duration of a school year or school day to a child with a disability who would be likely to significantly regress when school is not in session.

Under the IDEA, ESY services must be provided only if a child's Individualized Education Program (IEP) team determines, on an individual basis, that the services are necessary for the provision of FAPE to the child based on data showing the child requires ESY to prevent regression. However, state law and regulations can impose greater requirements than the IDEA.

ESY decisions must be made prior to the end of the regular school year. ESY services must be documented in the student's IEP. The IEP team may also log goals to be addressed and services to be provided. As the spring and summer breaks approach, IEP teams should account for the

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needs of students with disabilities and collect data to ensure that they receive appropriate ESY services if necessary. Since the COVID-19 pandemic forced schools to cease in-person operations in school year 2020, there continues to be the need to collect as much data as possible to make well-informed decisions and determine what is required to provide FAPE to students with disabilities. Using the data as a frame of reference, the IEP teams should make final ESY determinations.

Recovery Plans and Subsequent Opportunities

ESY is not the same as recovery services or any summer enrichment offerings that districts may be providing to all students as part of District Education Recovery Plans. Central to Vermont's recovery planning and success is ensuring that all students, especially our most vulnerable students, are attended to across a variety of areas.

Based on what we currently know about the likely impact of COVID-19 and as detailed in [Vermont's Education Recovery: Framework and Overview](#), as well as the core underpinnings necessary for students' optimal growth and success, our state education recovery plan focuses on three areas:

1. social emotional functioning, mental health, and well-being,
2. student engagement, and
3. academic achievement and success.

Districts have been told that while these areas are overlapping and interconnected, it is important to identify and work on each separately to assure that LEAs adequately assess student need and implement plans to address that need in all three areas for all students. LEAs may determine as part of their planning that summer services addressing recovery in these three areas may take the shape of summer programming. This is not the same as ESY, although ESY may be offered as part of a comprehensive summer experience provided by the LEA.

Ultimately, while ESY and Recovery Services over the summer are likely to overlap for eligible students with disabilities, ESY should not be confused with what is offered as part of Recovery programming.

Teams should keep in mind that decisions about ESY services are independent from any other supplemental services the district offers to all students. Team members should know the difference between ESY programming and enrichment activities in general education. District Recovery Teams will be addressing impacts of on all students, while IEP teams will be focused on regression in ESY-eligible students. Summer programming can be designed to achieve both goals, but keep in mind ESY is individualized and recovery programming may be more generalized in application and population.

Currently, many school districts are considering offering enrichment programs to students who may have fallen behind due to classrooms being closed during the pandemic. Enrichment

activities include extracurricular socialization or friendship-building opportunities. Activities -- including camps, clubs, recreational or art classes, and athletics -- are aside from students' ESY services and not necessarily related to their ESY goals.

It is important to note that not all students with disabilities will be eligible for ESY; further, not all students with disabilities will elect to participate in Recovery opportunities. Those involved with summer programming resulting from district Recovery Teams' plans should consider:

- Not all students on IEPs will need the summer experience and recovery summer opportunities. Summer opportunities meant for all students are not ESY and will likely not be offered annually in the same way.
- Summer opportunities created by district Recovery Teams are to be aimed at addressing student needs in the three recovery plan focus areas for all students, not just students with disabilities.
- Accommodations and modifications will need to be in place for students to access the summer recovery programs in the same way school districts provide access to sports, extra-curricular activities, etc. Recovery Teams need to plan for the accessibility of students with disabilities and how to address any needs related to accessing offerings.

Cautions Concerning Maintenance of Effort

In considering funding streams for serving students with disabilities, special education directors, business managers and Recovery project managers need to consider funding sources with caution. The Maintenance of Effort (MOE) requirement ensures that LEAs continue to expend state and/or local funds at the same level from year to year, either in the aggregate or on a per-pupil basis, instead of limiting services to what can be provided using federal dollars.

The supplement, not supplant provision of IDEA-B (34 CFR 300.202(a)(3)) mandates that state and local funds may not be diverted to other purposes simply because federal funds are available.

Schools should not use new sources of federal funding to offset or replace special education expenditures reported previously reported on SEER and funded with state and local funds (MOE requirement).

An appropriate goal for new federal sources is to finance activities over and above typical or previously budgeted items (ex. compensatory education, new hardware/software, one-time technology-related purposes, etc.)