

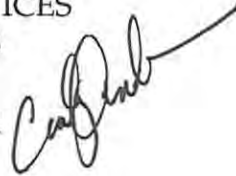
ANCHORAGE SCHOOL DISTRICT
ANCHORAGE, ALASKA

MEMORANDUM

FEBRUARY 17, 2011

TO: SPECIAL EDUCATION AND RELATED SERVICES
ADMINISTRATORS, STAFF AND TEACHERS

FROM: CINDY ANDERSON, EXECUTIVE DIRECTOR
SPECIAL EDUCATION



SUBJECT: QUESTIONS ABOUT ESY DETERMINATIONS

When is ESY required under IDEA?

The school district must provide ESY programming to eligible special education students when ESY services are necessary to the provision of FAPE, a free appropriate public education. Extended school year services means special education and related services that meet state standards and are provided to a child with a disability:

- Beyond the normal school year.
- In accordance with the child's IEP.
- At no cost to the parents of the child.

How are ESY services determined?

The student's IEP team determines on an annual basis whether an individual student requires ESY programming. Since the determination is an individual analysis of student need, a district is prohibited by federal regulation (34 CFR 300.106(a)(3)(i)) from establishing categorical rules limiting eligibility to particular types of disabilities. Provision of ESY services for one year does not mean that the child needs such services each year.

How does a team determine a student qualifies for ESY?

Children qualify for ESY services in three general areas: emerging skill, regression/recoupment, or self-sufficiency. Provision of ESY services for one year does not mean that the child needs such services each year.

How does the team determine whether the student is demonstrating an emerging skill?

When few, if any, gains are made during the regular school year and a critical skill is in the process of emerging, and it is believed that with ESY services the child could make reasonable gains, then ESY services must be considered. Collect documentation to assist the IEP Team in determining the following:

- A. Does progress toward the goals and objectives or benchmarks over an extended period show few, if any, gains?
- B. Is a skill emerging?
- C. Does documentation support that ESY services are needed to avoid irreparable loss of the learning opportunity?

How does the team determine whether the student is demonstrating issues with recoupment or regression?

When the child would regress to such an extent and the amount of time required to re-learn skills or behaviors becomes so significant that he or she would be unable to benefit from his or her special education program, then ESY services must be considered. Collect documentation to assist the IEP Team in determining the following:

- A. Do progress reports and data show that the child demonstrates periodic regression, which is related to breaks in instruction throughout the school year?
- B. Do progress reports and data show that the child regresses and cannot re-learn the skills in a reasonable amount of time following the breaks?
- C. Does documentation support that without ESY services the child would regress to such an extent and have such limited recoupment ability that he or she would be unable to benefit from his/her special education program?

How does the team determine if a student requires ESY programming as a result of self-sufficiency issues?

When the acquisition of critical life skills that aid in the child's ability to function as independently as possible, thereby reducing the child's reliance on caretakers or other institutionalized care, would be threatened by an interruption in services, ESY services

must be considered. The IEP Team should collect documentation to assist in determining the following:

- A. Does documentation identify critical life skills that are needed for independence?
- B. Will failure to maintain acquired critical life skills cause major or permanent loss of the skills and create a dependence on caregivers?
- C. Without ESY services, would the child fail to maintain these critical life skills?

What additional considerations are required?

- A. The critical skills that are the focus of the ESY services are best determined at the time of the development of the annual IEP. However, an IEP meeting may be convened during the year to review the need for ESY.
- B. The ESY program developed should reflect the current goals from the IEP for which the student requires ESY.
- C. Related services are provided to address only those areas in which the student qualifies for ESY.
- D. The child cannot be required to fail, or to go for an entire year without ESY services simply to prove that a need exists.
- E. The IEP Team shall determine the duration, frequency, and type of services that each child shall receive during the ESY.

When must ESY decisions be made?

The state handbook indicates:

- A. It is important for the IEP teams, including parents, to make decisions regarding the provision of ESY early enough in the school year to allow parents time to exhaust administrative remedies if they disagree with the IEP team decision.
- B. Parents should be given a reasonable amount of time after being notified to respond to a district's decision to not provide ESY services. If a timely response is not received from the parents, then the District is not required to provide the child with ESY services pending the outcome of administrative proceeding.

NOTE:

From a practical standpoint, these state handbook provisions mean that 60 school days prior to the end of the school calendar year, each IEP team must have met and completed an ESY determination.

It is likely that additional information about ESY may be provided to parents after the 60 day timeline. Such information may include:

- Location of a student's ESY services
- Personnel who will be assigned to provide ESY services, including related service providers; and
- Transportation information such as bus route and pick up/drop off times, if applicable.