

Making Determinations Related to Extended School Year (ESY) Services or Extended Year Services (EYS) for Early Childhood Special Education



For children experiencing disability, the IEP/IFSP team must consider each individual child's need for extended school year (ESY) services for school age children and extended year services (EYS) for children ages 3 to 5 during time periods when other children, both those experiencing and not experiencing disability, normally would not be served. If ESY/EYS is determined to be necessary to enable the child to benefit from their education, then the type and amount of special education services to be provided, including frequency, location and duration, are documented in the IEP/IFSP. Schools and programs must not limit the availability of ESY/EYS services to children in particular categories of disabilities, or limit the type, amount, or duration of these necessary services. For an eligible child who will turn 3 during the summer, the IEP/IFSP team must make the determination of the need for ESY/EYS services during that summer.

Extended School Year Services/Extended Year Services

When the IEP/IFSP is developed initially or reviewed annually, the IEP/IFSP team shall consider the need for extended school year (ESY) services for children with disabilities or extended year services (EYS) for children with disabilities ages 3 to eligibility for kindergarten. ESY/EYS services are different from general education summer school. ESY/EYS may or may not be provided in conjunction with the general education summer school. ESY/EYS may be needed by a child even though summer school is not offered for general education children. In fact, for certain children, services over winter or spring breaks may be required when an IEP/IFSP team determines it is necessary to provide FAPE. The reason for these services is to ensure the provision of FAPE so that the child can make progress toward the goals specified on the child's IEP/IFSP and to prevent regression, which would impede such progress.

However, if a school age child with a disability is attending a summer school program that is not extended school year, the school shall consider what reasonable accommodations and/or modifications may be necessary for the child to have an equal opportunity to participate in the general education environment and curriculum.

ESY/EYS determinations must be made by an IEP/IFSP team based on the individual circumstances of the child. Therefore, a district/program shall not have a policy that no ESY/EYS services will be provided, that they are only available to a certain group or age of children, or that services are only provided for a set amount of time or a specified number of days. Some children may also need more hours per day than are typically provided.

Determining Whether ESY/EYS is Needed

In Oregon, school districts (under OAR 581-015-2065) and ECSE programs (under OAR 581-015-2855) must develop criteria for determining the need for ESY/EYS. Criteria must include regression and recoupment time based on documented evidence or, if no documented evidence, on predictions according to the professional judgment of the team. Therefore, ESY/EYS eligibility does not require that a child first experience regression when predictive data

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indicate that the child will experience regression from which recoupment will not occur within a reasonable time.

Regression and recoupment time are the minimum requirements that school districts/programs **must** use in establishing criteria for determining ESY/EYS needs. School districts/programs **may** consider additional criteria beyond regression/recoupment analysis within their criteria for determining the need for ESY/EYS services. Some of these additional criteria may include:

1. The nature or severity of the disability
2. The degree of regression experienced, or predicted to be experienced, by the child
3. The actual or predicted recovery time from this regression
4. The ability of the child's parents to provide the educational structure at home
5. The child's rate of progress
6. The child's behavioral and physical circumstances
7. The availability of alternative resources
8. The ability of the child to interact with children not experiencing disability
9. The areas of the child's curriculum which need continuous attention
10. The likelihood that the child is at a crucial stage of development for, at a critical point of instruction for, or is demonstrating emerging critical life skills
11. The child's vocational needs
12. The existence of extenuating circumstances that indicate the likelihood that FAPE would not be provided without ESY/EYS

This list is not intended to be exhaustive; nor, if districts/programs choose to consider these criteria as part of ESY/EYS determinations, is it intended that each element would impact planning for each child's IEP/IFSP.

Gathering Relevant Data for the ESY/EYS Discussion

Determining whether ESY/EYS is needed should be done in consultation with the parents. Additionally, the IEP/IFSP team should gather information and data relevant to the required regression/recoupment analysis and any other criteria established by the school district or program. The following information and data may be useful in determining the need for ESY/EYS services:

1. Teacher assessment of the student's success with various instructional interventions;
2. Criterion-referenced and standardized test data;
3. Health and health-related factors, including physical, behavioral, and social/emotional functioning;
4. Past educational history, as appropriate, including report cards, pattern of regression after past breaks in service, and any ESY/EYS services;
5. Direct observation of the student's classroom performance;
6. IEP/IFSP goals and objectives;
7. Student performance (e.g., pretest and posttest data, work samples, therapy logs);

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8. Anecdotal records from home/school;
9. Behavior data (e.g., point sheets, teacher-made checklists, frequency charts, referrals/discipline file); and
10. Student interviews, where appropriate.

Addressing ESY/EYS in the IEP/IFSP

Once the IEP/IFSP team has gathered relevant data and determined that the student needs ESY/EYS services, it is important for the IEP/IFSP team to address the educational needs of each student and how they might be addressed through ESY/EYS services and documented in the student's IEP/IFSP, such as:

1. Scope of the special education or early childhood special education instructional services including the duration and content of the program;
2. Which current goals and objectives will be addressed to maintain present skills and behaviors;
3. Implementer(s) of the ESY/EYS services;
4. What related services will be made available; and
5. If contracting with other schools or private agencies is needed.

ESY/EYS services that the IEP/IFSP team determines are necessary must be documented in the IEP/IFSP consistent with the requirements of [OAR 581-015-2200 Content of IEP](#) or [OAR 581-015-2815 IFSP Content](#), as applicable. This includes the projected dates for initiation of services and modifications required for ESY/EYS and the anticipated frequency, amount, location, and duration of these services and modifications.

State regulations for ESY are established in [OAR 581-015-2065 Extended School Year Services](#):

[581-015-2065 Extended School Year Services](#)

- (1) School districts must ensure that extended school year services are available as necessary to provide a free appropriate public education to a child with a disability.
- (2) Extended school year services must be provided only if the child's IEP team determines, on an individual basis, that the services are necessary for the provision of free appropriate public education to the child.
- (3) A school district may not:
 - (a) Limit extended school year services to particular categories of disability; or
 - (b) Unilaterally limit the type, amount, or duration of those services.
- (4) The purpose of extended school year services is the maintenance of the child's learning skills or behavior, not the teaching of new skills or behaviors.
- (5) School districts must develop criteria for determining the need for extended school year services. Criteria must include regression and recoupment time based on documented evidence or, if no documented evidence, on predictions according to the professional judgment of the team.

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- (6) For the purposes of section (5) of this rule:
- (a) "Regression" means significant loss of skills or behaviors in any area specified on the IEP as a result of an interruption in education services;
 - (b) "Recoupment" means the recovery of skills or behaviors specified on the IEP to a level demonstrated before the interruption of education services.
- (7) For the purposes of this rule, "extended school year services" means special education and related services that:
- (a) Are provided to a child with a disability:
 - (A) Beyond the normal school year of the school district;
 - (B) In accordance with the child's IEP; and
 - (C) At no cost to the parents of the child; and
 - (b) Meet the standards of the Department.

Statutory/Other Authority: ORS 343.055 & 343.151

Statutes/Other Implemented: ORS 343.151 & 34 CFR 300.106

History:

Renumbered from 581-015-0605, ODE 10-2007, f. & cert. ef. 4-25-07
ODE 3-2000, f. & cert. ef. 2-1-00

State regulations for EYS are established in **OAR [581-015-2855](#) Extended School Year Services:**

[581-015-2855](#) Extended Year Services for ECSE

- (1) Contractors and subcontractors must ensure that extended year services are available as necessary to provide a free appropriate public education to children eligible for ECSE services.
- (2) Extended year services must be provided only if the child's IFSP team determines, on an individual basis, in accordance with OAR 581-015-2755 and 581-015-2810 through 581-015-2830, that services are necessary for the provision of free appropriate public education to the child.
- (3) A contractor or subcontractor may not:
 - (a) Limit extended year services to particular categories of disability; or
 - (b) Unilaterally limit the type, amount, or duration of those services.
- (4) The purpose of extended year services is the maintenance of the child's learning skills or behavior, not the teaching of new skills or behavior.
- (5) Contractors or subcontractors must develop criteria for determining the need for extended year services. The criteria must include:
 - (a) Regression and recoupment time based on documented evidence; or
 - (b) If no documented evidence, on predictions according to the professional judgment of the team.
- (6) For the purposes of section (5) of this rule:

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- (a) "Regression" means significant loss of skills or behaviors in any area specified on the IFSP as a result of an interruption in ECSE services; and
- (b) "Recoupment" means the recovery of skills or behaviors specified on the IFSP to a level demonstrated before the interruption of education services.
- (7) For the purposes of this rule, "extended year services" means ECSE services and related services that:
 - (a) Are provided to a child with a disability;
 - (A) Beyond the normal service year of the contractor or subcontractor;
 - (B) In accordance with the child's IFSP; and
 - (C) At no cost to the parents of the child; and
 - (b) Meet the standards of the Department.

Statutory/Other Authority: ORS 343.475

Statutes/Other Implemented: ORS 343.475

History:

Renumbered from 581-015-1003, ODE 10-2007, f. & cert. ef. 4-25-07

ODE 24-2000, f. & cert. ef. 10-16-00