

# Disability Rights Nebraska

Protection and Advocacy for People with Disabilities

This is basic information and does not constitute legal advice.

## Extended School Year (ESY) Services

### What are Extended School Year (ESY) Services?

ESY services are the special education and related services that are given to a child with a disability at no cost to you. If your child has ESY services that continue past the regular school year, they must be listed in your child's Individual Education Program (IEP) (see "Individual Education Program" material)<sup>1</sup>.

### Who is eligible for Extended School Year (ESY) Services?

Your child must first be evaluated through the school district's Multidisciplinary Team (MDT) Evaluation or the Independent Educational Evaluation processes (see "Multidisciplinary Team Evaluation" and "Independent Educational Evaluation" materials). The MDT decides whether your child has a disability.

If your child has been found to be "a child with a disability" as defined under the Individuals with Disabilities Education Act (IDEA) and the Nebraska Department of Education Rule 51, he or she may be eligible for ESY services (see "Multidisciplinary Team Evaluation" and "Independent Educational Evaluation" materials)<sup>2</sup>. Whether your child requires ESY services is decided on his or her individual needs.

The IEP Team decides, on a case by case basis, whether ESY services are necessary for your child in order to receive a "free appropriate education (FAPE)." ESY services can only be provided to your child if it is listed as necessary in your child's IEP<sup>3</sup>.

### How does the IEP Team decide if ESY Services are appropriate?

There are several factors that need to be considered to decide if your child needs ESY services. Some factors are:

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<sup>1</sup> Rule 51 sec. 003.21 (2006)

<sup>2</sup> Rule 51 sec. 007.07E4a (2006)

<sup>3</sup> Rule 51 sec. 007.07E4b (2006)

- Regression and recoupment. The IEP Team examines whether your child “is likely to lose critical skills or fail to recover these skills within a reasonable time.”<sup>4</sup> In other words, the Team determines if, without ESY services, your child will regress in the skills he or she learned during the regular school year. If the Team thinks the skills will be lost over the break, they will also look at how long they think it will take your child to regain those skills once school resumes.
- Degree of progress toward IEP goals and objectives. The IEP Team looks at how quickly your child progresses educationally from year to year without ESY services. If it finds that your child’s progress is significantly reduced when on an extended break from school, ESY services may be necessary. *Id.*
- Emerging skills and breakthrough opportunities. The IEP Team reviews whether your child will have significant problems learning key skills, like reading, if he or she goes on an extended break from school. The Team decides if your child is at a point where stopping these skills for a break would prevent him or her from receiving some educational benefit without ESY services. *Id.*
- Child’s behavioral and physical concerns. Certain behaviors, such as aggressive or violent behavior, may slow your child’s rate of progress in meeting his or her IEP goals. In that case, your child may be in need of ESY services. *Id.*
- Nature and/or severity of child’s disability. The IEP Team determines if your child will lose some educational benefit during the regular school year because of the nature of his or her disability if ESY services are not provided. However, it is important to note that your child’s disability alone does not determine whether ESY services are provided. *Id.*
- Special circumstances that interfere with your child’s ability to benefit from special education. The IEP Team will also consider whether there are any special circumstances which may keep your child from benefiting from his or her special education during the regular school year if ESY services are not provided. *Id.*

### **Can a school district deny or limit ESY Services to my child?**

Maybe, it depends on your child’s individual needs. If it is appropriate for a child with a disability to receive such services as specified in his or her IEP as part of the child’s free appropriate public education (FAPE), a school district may not refuse to offer such services to a child with a disability<sup>5</sup>.

### **How do I request ESY Services?**

You may want to request an IEP meeting to discuss whether your child needs ESY services. It is a good idea to put all communications regarding your child’s special education services between you and school administrators and staff in writing. Be sure to write down conversations and events that affect your child’s schooling. Note the date, who was involved,

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<sup>4</sup> *Reusch v. Fountain*, 872 F.Supp. 1421 (1994)

<sup>5</sup> Rule 51 sec. 007.07E4a (2006)

what was said, and the resolution. You may want to create and maintain a file with all of your child's school information such as report cards, evaluation reports, and Individual Education Plans.

All requests for evaluations or meetings should be in writing to your child's school principal. You should keep a copy for your own records. Send your written request to the school via certified, return receipt requested mail. Attach the return receipt to your copy of the request and keep this in your file.

### **Additional resources:**

- Individual Education Program. Disability Rights Nebraska
- Multidisciplinary Team Evaluation. Disability Rights Nebraska
- Independent Educational Evaluation. Disability Rights Nebraska
- Nebraska State Resources. NICHCY 2006. This is a contact list for organizations in Nebraska that you can contact for more information and to advocate for your child with a disability.
- Parental Rights in Special Education. Nebraska Department of Education Special Populations Office (August 2007).

## Sample Letter

You may wish to use similar language when requesting an Individual Education Program (IEP) meeting to discuss Extended School Year (ESY) services for your child:

[Principal's Name]  
[School's Name]  
[School Address]  
[City, State, Zip code]

Re: [Your child's name] – Request for an Individual Education Program meeting

Dear [Principal's Name]:

Please consider this letter as a formal request for an Individual Education Program (IEP) team meeting for my child, [Your child's name]. It is my understanding that I have a right to request an IEP meeting at any time, pursuant to the provisions of 92 NAC 51 (Nebraska Department of Education, Rule 51). I would like to specifically discuss extended school year services for my child.

To prevent complications with my schedule, please notify me of the date and time of the meeting one week in advance. I appreciate your prompt attention to this request and ask that you respond in writing by [Insert a date two (2) weeks from the time mailed], and that the meeting be held by [Insert a date five-ten days later than the previous date]. Thank you.

Sincerely,

[Your Name]  
[Your Address]  
[Your City, State, Zip]  
[Your Phone number]