

Chapter 74: Special Education

Rule 74.12 Extended School Year

1. GENERAL MISCONCEPTIONS

Careful study of the Crawford case, specifically including the Fifth Circuit's opinion, eliminates some misconceptions. An extended school year is:

- a. not a mandated 12 month school program for all students with disabilities,
- b. not required just because students with disabilities could benefit from it,
- c. not required in order that child care be available for students with disabilities during the summer,
- d. not required as a means of maximizing the educational opportunities for each student with a disability,
- e. not necessarily a continuation of the instructional program provided during the regular school year,
- f. not required to be provided all day, every day, nor each day during the week or month,
- g. not for more mildly students with disabilities (based on level of functioning), and
- h. not necessarily a traditional teacher/classroom/child operation. II.

2. DEFINITIONS

- a. Regular School Year - must be a minimum of 180 school days.
- b. Extended School Year - any individualized instructional program which is extended beyond the regular school year for students with disabilities who are enrolled in a school district's special education program.
- c. Mastery - the successful demonstration of an acquired skill, at the designated level of proficiency specified in the evaluation criteria defined for that skill, in the student's IEP.
- d. Regression - the loss, as a result of a scheduled break in instruction, of one or more mastered skills included in the short-term objectives of the student's IEP.
- e. Recoupment - following a scheduled break in instruction, the process of regaining a previously mastered skill through review and reteaching.
- f. Recoupment Time - the length of time required to regain previously mastered skills.

- g. Regression-Recoupment Syndrome - the name applied to the belief that, following a scheduled break in instruction, a student will have lost one or more mastered skills and that it will take varying lengths of time to relearn those skills.
- h. No Educational Benefit - regression because of summer vacation to such an extent that: (a) following review and reteaching, recoupment of one or more mastered skills does not occur during the first ten (10) weeks of instructions in the next school year or (b) the loss of one or more acquired critical skills addressed in the current IEP would be unusually substantial and severe.

NOTE: For a child who is not in regular attendance, during the first ten (10) weeks of instruction, sufficient time may be added to the recoupment period to make sure that the child has received ten (10) weeks of instruction.

3. POLICY

A review of the literature, as well as practical experience, indicates that both students with disabilities and students without disabilities regress during breaks in instruction. The amount of regression and the length of time required to recoup previously mastered skills varies widely among all students.

It is the policy of the State Department of Education that when necessary to insure a free appropriate public education (FAPE), each local school district shall offer an extended school year to those students with disabilities who's Regression-Recoupment Syndrome is so severe that it can be predicted that they will have gained no educational benefit from their previous year's educational program (as defined in the IEP) without an extended school year. The purpose of the extended program is to maintain each student's mastered skills so that the summer vacation periods will not render the previous year's educational program of no educational benefit.

4. PROCEDURE FOR SELECTION

a. General

The need for an extended school year must be considered on at least an annual basis at an IEP meeting. The IEP Committee must review available data relative to the student's mastered skills and educational history. Based on this review, the IEP Committee must predict whether the regression that will occur because of the lengthy break in instruction (summer vacation) will be to such a marked degree that recoupment of a previously mastered skill(s) will not occur during the first ten (10) weeks of instruction in the following school year or the loss of one or more acquired critical skills addressed in the current IEP would be unusually substantial and severe. It is possible that the extended school year may only include the maintenance of skills previously mastered as a result of a related service if loss of that skill will result in no educational benefit. Generally speaking, students with disabilities who require an extended school year will have severe problems in one or more of the following areas: (1) physical, emotional, communication, and self-help and (2) will need intensive instruction, including related services, across several of these areas. Conversely, when one considers how more mildly students with disabilities

function and what expectations are for them, it is likely that very few of them will require an extended program to derive educational benefit during the regular school year.

b. Suggested Data to be Reviewed at the IEP Meeting

The following list contains some of the information which may be helpful when preparing to make the decision about an extended school year:

- i. current and previous IEP,
- ii. checklists/curricula or other records showing when skills were mastered,
- iii. attendance information,
- iv. recommendations from professionals,
- v. behavioral logs,
- vi. video/audio tape information,
- vii. other assessment data.

c. Using the Data for Decision Making

After gathering available data, consider the following while making the decision as to whether an extended school year is to be provided for the child:

- i. Compare the mastery of IEP objectives prior to previous summer breaks with performance after summer breaks. If little or no regression was measured, then there is no indication of the need for extended programming.
- ii. If regression was noted and instruction was provided to reteach skills which were lost, note the time required for recoupment. If IEP objectives mastered the previous year were not recouped during the first time (10) weeks of instruction in the next school year or it is projected that the loss of one or more acquired critical skills addressed in the IEP would be unusually substantial and severe, the child is eligible to receive an extended school year.
- iii. Make sure that significant regression-recoupment in the past occurred because of extended breaks in instruction. Make sure that the regression was not caused by a lengthy absence or failure to review and reteach previously mastered skills. Significant regression-recoupment problems based on this information would not necessarily indicate the need for an extended school year.
- iv. Some skills which were mastered in the previous year's program may be of minimal importance to higher levels of functioning and may no longer be in need of emphasis. Predicted loss and lengthy recoupment of these skills would probably not indicate the need for an extended school year.
- v. When determining the content of the extended school program, only mastered skills will be considered for inclusion in the extended year program.

- vi. If a prediction of significant regression-recoupment problems cannot be made because the previous year's data is unavailable, an extended school year may be recommended if other data indicate the probability of significant regression-recoupment problems. In such cases, there should be recognized research which supports the decision. You may also consider what regression occurred during scheduled holidays and other times when the student was out of school for a week or more. This option should only be used for students who exhibit severe problems.
- vii. Determine whether performance within specific developmental areas, as identified on the IEP, is in an accelerated critical phase of acquisition so that the summer interruption in educational programming would cause significant problems in the mastery of that skill and subsequent skills.
- viii. If the IEP Committee determines that there is documentation that there is one or more critical skills addressed in the current IEP objectives and that loss of these acquired critical skills would be unusually severe or substantial, then ESY may be justified without consideration of the time period for recoupment of such skills.
- ix. A skill is critical when the loss of that skill is projected to result in any of the following unplanned occurrences during the first ten (10) weeks of the next regular school year:
 - a) Placement in a more restrictive instructional environment,
 - b) Significant loss of self-sufficiency in self-help areas as evidenced by an increase in the number of staff required to provide special education or related services, and/or
 - c) Loss of access to on-the-job training or productive employment.
- x. **DOCUMENTING THE DECISION**
 On at least an annual basis at an IEP meeting, the decision regarding ESY services must be documented and maintained in the student's file. This decision is not irreversible. At any time that data maintained on the student indicates that the ESY decision was incorrect, IEP revision procedures must be followed to change the decision.

When it is determined that a student meets the criteria for an extended school year, the specific skill(s) to be maintained must be identified on the IEP. The IEP Committee must also address the amount of time per day, the number of days per week and the number of weeks that the instruction will be provided to maintain the skills. While students who require an extended school year generally need intensive instruction during the regular school year to show progress it is probable that mastered skills can be maintained across the summer with less instruction.

If a related service is required for educational benefit during the Extended School Year, skills to be maintained must be those listed within the IEP.

xi. POSSIBLE DELIVERY SYSTEMS

The IEP Committee must consider the unique needs of each student when deciding the type of educational programs required to maintain mastered skills. Some alternatives the district might consider are:

- a) the traditional classroom,
- b) an abbreviated school day or week,
- c) individual therapy (physical, occupational, counseling...),
- d) tutorial services,
- e) in-home training,
- f) continuation of private placement, or
- g) contractual agreements with other agencies. Educational programs must be provided by appropriately certified/licensed personnel.

xii. ESY HANDBOOK

The ESY handbook can be found at the following Website: MS Secretary of State Office, Regulations and Enforcement, Administrative Code, Title 7 Education.

Source: *Miss. Code Ann. § 37-1-3 (Revised 8/2011)*