

**R277. Education, Administration.**

**R277-751. Special Education Extended School Year (ESY).**

**R277-751-1. Authority and Purpose.**

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;

(c) Subsection 53E-3-501(1)(c)(vi)(A), which directs the Board to adopt rules regarding services to students with disabilities.

(2) The purpose of this rule is to specify the standards for the special education ESY.

**R277-751-2. Definitions.**

(1)(a) "Extended school year" or "ESY" means an extension of the school district or charter school traditional school year to provide special education and related services to a student with a disability, in accordance with the student's IEP, and at no cost to the student or student's parents.

(b) ESY services shall meet the standards of Part B of the IDEA and Board special education rules.

(2) "ESY services" means the special education and related services that:

(a) are provided to a student with a disability:

(i) beyond the normal school year of an LEA;

(ii) in accordance with the student's IEP; and

(iii) at no cost to the student or the student's parents; and

(b) meet the standards of the Board and Part B of the IDEA.

(3) "FAPE" means a free appropriate public education, which:

(a) includes special education and related services that are provided at public expense, under public supervision and direction, and without charge;

(b) meets the standards of the Board and Part B of the IDEA;

(c) includes preschool, elementary school, secondary school, and may include post-secondary education in Utah; and

(d) is provided in conformity with an IEP that meets the requirements of Part B of the IDEA and Board special education rules.

(4) "IEP team" means a group of individuals that is responsible for developing, reviewing, and revising an IEP for a student with a disability.

(5) "LEA" includes, for the purposes of this rule, the Utah Schools for the Deaf and the Blind.

(6)(a) "Procedural safeguards" means the procedural rights designed to protect the rights of students with disabilities and their parents.

(b) "Procedural safeguards are defined in Part B of the IDEA and Board special education rules, and include a parent's or adult student's right to:

(i) participate in meetings;

(ii) review educational records;

(iii) request an independent educational evaluation;

(iv) receive prior written notice of actions proposed or refused by an LEA; and

(v) consent to evaluations and special education services.

(c) "Procedural safeguards" also include dispute resolution options.

(7) "Recoupment means recover of basic behavioral or academic patterns, or both, or skills, specified in an IEP, to a level demonstrated prior to the interruption of educational programming.

(8) "Regression" means reversion to a lower level of functioning, evidenced by a decrease in the level of basic behavioral or academic patterns, or both, or skills, specified in an IEP, which occurs as a result of an interruption in educational programming.

(9) "Student with a disability" means a student who meets eligibility criteria for special education and related services, as defined in the Board special education rules.

### **R277-751-3. Determining Eligibility.**

(1) A student is eligible for ESY if the student's IEP team has determined, based upon a review of multiple data sources and factors that the student:

- (a) is eligible under Board special education rules and Part B of the IDEA; and
- (b) requires an ESY to receive a FAPE.

(2) A student's IEP shall reflect the student's IEP team's decision regarding need for ESY services.

(a) An LEA shall provide a student's parents or an adult student with prior written notice of the LEA's proposal or refusal to provide ESY services.

(b) A student's IEP team shall determine the appropriate ESY services for an eligible student, based on the student's individual needs.

(3) ESY eligibility decisions and prior written notice of ESY services shall be provided to a student's parents or an adult student in sufficient time to permit accessing dispute resolution options outlined in the procedural safeguards, in the event of a dispute.

#### **R277-751-4. ESY Program Standards.**

(1) The primary goal for a student requiring ESY services is to maintain the current level of the student's academic and functional skills and behavior in areas identified by the student's IEP in order to provide FAPE.

(2) LEAs may not limit ESY to:

- (a) particular categories of disabilities;
- (b) particular ages; or
- (c) particular grade levels of students.

(3) An LEA may not unilaterally limit the type, amount, or duration of ESY services provided for students.

(4) An LEA may not limit data consideration by IEP teams exclusively to an analysis of regression and recoupment.

(5) In addition to a student's degree of regression and the time necessary for recoupment, an IEP team may also consider the following factors in considering whether ESY services are appropriate:

- (a) the ability of a student's parents to provide educational structure at home;
- (b) a student's rate of progress;
- (c) physical or behavioral concerns regarding a student;

- (d) availability of alternative resources;
- (e) ability of a student to interact with students without disabilities;
- (f) areas of a student's curriculum that need continuous attention;
- (g) a student's vocational needs;
- (h) whether requested services are extraordinary for a student's condition, as opposed to an integral part of a program for populations of students with the same disability;
- (i) emerging skills;
- (j) preschool or post-secondary transition needs;
- (k) anecdotal reports from teachers parents, caregivers, and related service providers; and
- (l) data from measures of daily performance such as:
  - (i) statewide assessment data;
  - (ii) norm-referenced test data;
  - (iii) checklists;
  - (iv) work samples; and
  - (v) other data.
- (6) An LEA shall ensure that:
  - (a) an ESY student receives services in the least restrictive environment; and
  - (b) ESY teachers and paraprofessionals meet Board licensing rules.

**R277-751-5. Division of Responsibilities.**

- (1) The Superintendent shall:
  - (a) conduct LEA program administrative reviews, such as Utah Program Improvement Planning System or "UPIPS" monitoring;
  - (b) require student attendance and membership accountability;
  - (c) provide technical assistance to LEAs;
  - (d) collect data on:
    - (i) the number, disabilities, and levels of students served;
    - (ii) the types of program delivery models used;
    - (iii) costs of the ESY services in LEAs; and

- (iv) program effectiveness.
- (e) develop guidelines for LEAs.
- (2) An LEA shall:
  - (a) establish LEA procedures which are in accordance with Board rules;
  - (b) provide professional learning and on-site visits to assure that Board and LEA procedures are appropriately understood and implemented;
  - (c) establish timelines to accomplish the purposes of this rule;
  - (d) analyze LEA needs, reported by professionals, for ESY services for individual, eligible students;
  - (e) determine LEA ESY services parameters based upon data received from educators on individual, eligible students, including:
    - (i) the personnel required to provide special education and related services;
    - (ii) location of services; and
    - (iii) budget specifications;
  - (f) ensure parents, adult students, and professionals have received information about dispute resolution procedures for the appeal of ESY eligibility decisions and ESY services parameters; and
  - (g) implement processes to collect program effectiveness data.

**KEY: exceptional children, extended school year**

**Date of Last Change: May 23, 2023**

**Notice of Continuation: March 14, 2023**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-401(4); 53E-3-501(1)(c)(vi)(A)**