

Student Accountability for Students Receiving Special Education Services

1. What are the differences between **Extended School Year (ESY)** services and **summer school** for special education students?

Extended School Year (ESY) Services must be provided if a child's IEP team determines, on an individual basis, that the special education and related services are necessary for the provision of a free and appropriate public education to the child. Extended school year services are to be based on needs and goals/objectives found within the child's school year IEP, although activities may be different. The needs for ESY services are based on the following factors: degree of impairment, regression/recoupment, breakthrough opportunities, vocational, and/or other rare and unusual extenuating circumstances (see AMSES p.60-64). Normally scheduled summer school programs, whether offered to all students or to specific populations, may be an option for providing extended school year services if such a program can meet the child's individual needs as identified on the IEP. (Note: Under Delaware law, certain classifications of children have longer school years. The regular school year is 1,060 hours per year. Children classified as Trainable Mentally Handicapped, Severely Mentally Handicapped, Deaf-Blind and Orthopedically Handicapped may receive up to 1,282 hours per year. Children classified as Autistic may receive up to 1,486 hours per year. These additional days will meet most ESY needs.)

Summer school services are mandatory for grade promotion for students in grades 3, 5, or 8 who score at Level 1 on the reading portion of the assessments administered pursuant to the Delaware Student Testing Program (DSTP), and for an 8th grade student who scores at Level 1 on the math portion of the assessments. Summer school services may also be provided for students who score at Level 2 on the reading portion of the assessments in grades 3, 5 or 8 or the math portion in grade 8. An IEP and summer school is not required for a student promoted based on other indicators.

The curriculum for summer school programs is focused on reading (and math in the 8th grade). Summer School is also an option for all students in grades 2, 4, 6, 7, and 9 who are below the standard in reading and grades 6, 7, and 9 in mathematics as determined by the DSTP.

Students may attend summer school without qualifying for or receiving ESY services. Students may qualify for and receive ESY services without attending summer school. However, summer school may be an option through which ESY services are delivered.

2. Do special education students who score at Level 1 on the DSTP have to go to summer school?

Unless the student's IEP Team overrides this requirement, special education students who score at Level I on the DSTP in grades 3, 5, or 8 on the reading portion of the

assessments, or grade 8 on the math portion of the assessments will be required to attend summer school as a condition of promotion just like any other student who scores at Level 1 on the test. The child's IEP team may override this requirement only if there is some valid IEP related reason, i.e. that FAPE is assured through other mechanisms. This decision would require an IEP meeting.

In addition, an IIP and summer school is not required for a student promoted based on other indicators.

3. Is the summer school program for special education students the same as it is for regular education students?

The curriculum for the mandated summer school program focuses on reading for grades 3 and 5, and reading and/or math for grade 8. Special education students would focus on these areas based on their DSTP results. The components of their IEPs relevant to the summer school program are those that address the specific content areas (that is, reading or math), plus any accommodations and/or modifications required for ensuring their access to summer school instruction.

4. Do special education teachers need to instruct special education students during summer school?

Qualified teachers (regular or special) are necessary to provide appropriate instruction throughout the summer school program. **All** teachers must ensure that the accommodations and modifications on the child's IEP are addressed. We strongly recommend summer school programs have adequate special education teachers available to ensure that IEP requirements are met. However, there is no requirement that only special education teachers provide the instruction to special education students in the summer school program. It is anticipated that the very nature of the program (intensive, small group instruction) will work very well for most special education students.

5. Do all teachers who work with a special education student in the summer school program need to be given information on the requirements of the child's IEP?

Yes. It is a requirement of the IDEA that all teachers who work with a student with an IEP must be given information that is relevant to their work with the child in the regular and/or the special education classroom. The requirement applies to any educational program provided as part of the child's Free Appropriate Public Education, including summer school. [34 CFR 300.342 (b)(2) and (3) – AMSES p.43]

6. Do special education students who score at Level 1 on the DSTP and attend summer school have to take the DSTP summer version?

Yes. Special education students who score at Level 1 on the DSTP and attend summer school will be expected to take the summer version of the DSTP. They would have all of the accommodations provided as identified on their IEPs just as they did during the regular testing cycle.

7. If a special education student does not score at Level 2 or better on the summer DSTP, will they be retained?

Under Section 153 of the Education Code, unless a student who is required to go to summer school for reading (3, 5, and 8th grade) or math (8th grade) can demonstrate a proficient level of performance on the state assessment before the beginning of the school year, or the student has previously been retained for two years because of academic performance, that student shall not advance to the next grade. The law also allows for students who do not demonstrate proficiency on the summer DSTP to be promoted subject to DOE approved “other academic indicators of student performance.” See your Curriculum Director for information about your district’s DOE approved “other academic indicators of student performance.” The regulations further clarify that **placement** decisions of students with disabilities shall be determined by the child’s IEP team. **Placement** and **promotion** are two distinct concepts.

Placement

Following the procedures for promotion/retention, which apply to regular education students when deciding whether to promote/retain, is not considered a change in placement requiring IEP action. Similarly, following the procedures that are required for all students by the student accountability law would not require an IEP meeting. However, if the child does not meet the requirements as stated above, and the IEP team (or any member of that team) feels that the child should be **placed** in the next grade, then an IEP meeting is needed to make a decision.

Special education students have often received services in classes where they may not be working at the same level as their age- mate peers. Age-appropriate placement is one of the underlying principles of the IDEA. There may be times when an IEP team may make a **placement** decision for a student that will place him/her in a grade with his/her age- mate peers even though he/she has not demonstrated a proficient level of performance on the state assessment. Conversely, IEP teams may decide that the best **placement** for the child is to remain with his/her age-mates who are also being retained. It is expected that most students receiving special education services will abide by the same rules as their non-disabled peers and will be retained if they cannot demonstrate proficiency (unless the student has already been retained for two years).

Promotion

Promotion based on the “other academic indicators” requirements of the law is a decision made by the district’s Academic Review Committee. Each district has DOE approved “other academic indicators” that will be reviewed by the Committee to determine eligibility for promotion for any child who has scored a 1 on the DSTP prior to summer school or at the end of summer school. IEP teams should address these issues through careful planning at IEP meetings in advance of the actual testing.

8. Does a special education student with an IEP who qualifies for an IIP need to have a separate IIP?

An Individual Improvement Plan (IIP) is required for all students who score below level 3 on the reading portion of the DSTP in grades 3 through 8, or the mathematics portion of the DSTP in grades 6 through 8. An IIP is recommended for students assessed in grades 9 who are below the standard in reading and those students in grade 9 who are below the standards in mathematics. An IIP is not required for a student promoted based on other indicators.

Delaware regulations provide that the IEP serves as the special education student's IIP. However, the IEP must address all areas of need that affect progress in the general education curriculum, which in this case are the reading and math portions of the DSTP. If the IEP does not address all reading and math needs, then the IEP can either be amended to address the need or an IIP can be developed, as it would be for any other child.

For example, few IEPs address "disabilities" in math. The IEP team would need to make sure that the child's reading disability was not serving as a barrier to the child's access to the math curriculum. Accommodations to assure access could be part of the child's IEP and then the math deficiencies could be addressed either through the IIP or through additional changes to the IEP.

It is also anticipated that as IEP teams begin to regularly address data from the DSTP as part of the IEP development process, they will identify areas of deficiency that need to be addressed through the IEP, eliminating the need for additional meetings and/or the development of an IIP. Information on an IIP should be incorporated into the IEP at the next regularly scheduled IEP meeting.

Final Note:

It is difficult to hold numerous IEP meetings in the brief period between the end of summer school and the start of the new school year. The discussion and decisions relative to placement as it relates to the promotion/retention should be documented in the IEP itself and the meeting minutes as appropriate. Any IIP developed for a special education student should be reviewed at the next regularly scheduled IEP meeting and incorporated into the IEP>