

GENEVA JONES & ASSOCIATES, PLLP

Extended School Year in a Post COVID-19 World: Examining Legal Principles and Practical Application

Back To Basics. Honoring the Law. Focused on Students.



GENEVA JONES

SPEAKER . TRAINER . CONSULTANT



About Geneva

I AM A MOM OF TWO GROWN MEN

My youngest son, Blake was diagnosed with Autism at age 3. Blake is now 21 and my older son, Maison is 27

I WENT TO LAW SCHOOL TO WORK IN SPECIAL EDUCATION

Whittier Law School had one of the only Special Education Law Programs in the Country.

I WORKED AS A PARENT ADVOCATE AND NOW AS A SCHOOL LAW ATTORNEY

If we are doing what is right for kids then we are all on the same side.

COVID-19 Was A Special Education Wakeup Call

You Can Hit Snooze or Get Back to Basics

What Does The Law Say and
What is Best for Students



What Does the Law Say?



What is Extended School Year?

What ESY IS NOT

EDUCATIONAL ENRICHMENT TO GET A HEAD START ON NEXT SCHOOL YEAR

It's not to pre-teach

DAYCARE OR RESPITE

There are other agencies that provide daycare or respite.

SUMMER RECREATION

Yes, ESY can be fun but that is not the point of ESY.



34 C.F.R.
300.106

Extended School Year



(b) Definition. As used in this section, the term extended school year services means special education and related services that

(1) Are provided to a child with a disability -

(i) Beyond the normal school year of the public agency;

(ii) In accordance with the child's IEP; and

(iii) At no cost to the parents of the child; and

(2) Meet the standards of the SEA.

34 C.F.R. 300.106

Extended School Year



(a) General.

(1) Each public agency must ensure that extended school year services are available as necessary to provide FAPE, consistent with paragraph (a)(2) of this section.

(2) Extended school year services must be provided only if a child's IEP Team determines, on an individual basis, in accordance with §§ 300.320 through 300.324, that the services are necessary for the provision of FAPE to the child.

(3) In implementing the requirements of this section, a public agency may not -

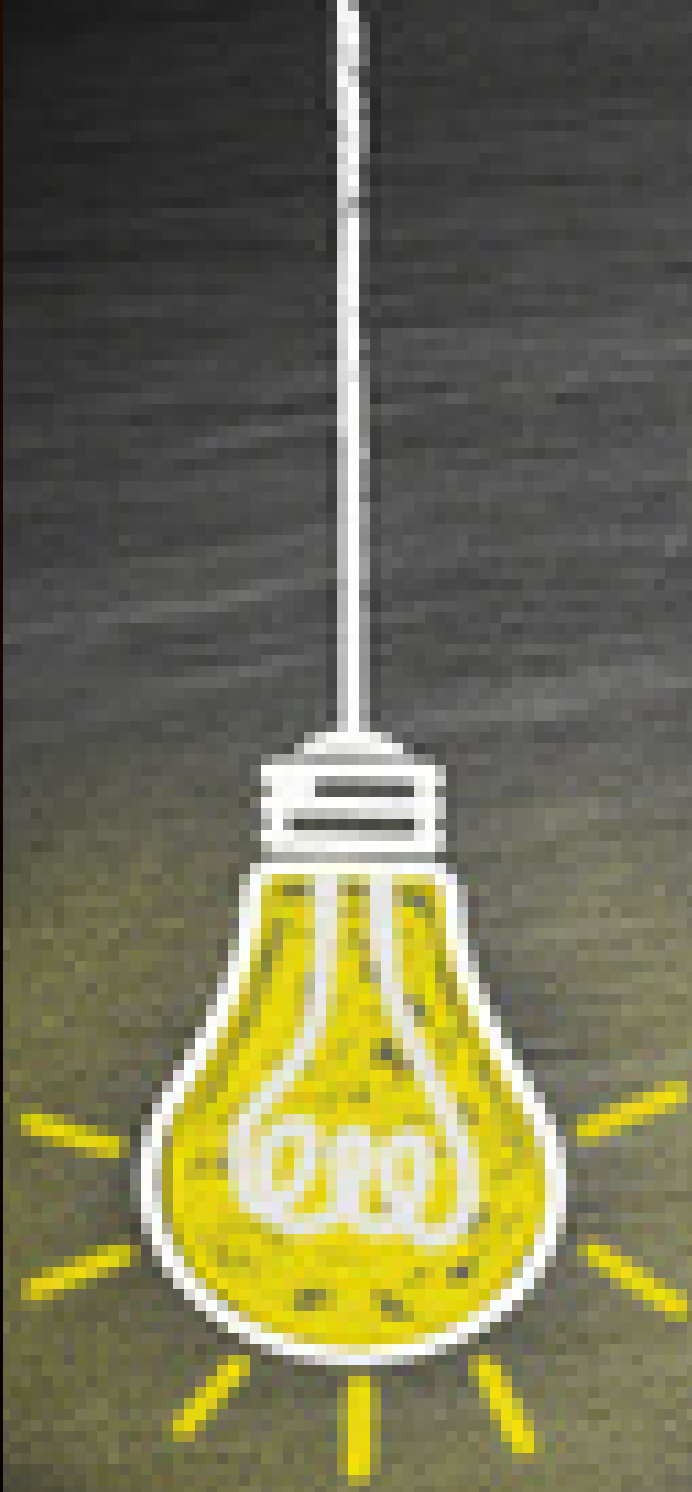
- (i) Limit extended school year services to particular categories of disability; or
- (ii) Unilaterally limit the type, amount, or duration of those services.



Cookie Cutter??

When ESY programs become
Cookie Cutter we MAY be
denying FAPE.





What is Best for Students?

PERSONALIZED LEARNING



GET BACK TO BASICS

Geneva's Motto

Question?

Why does the child require
ESY

Analysis

- Will the Student Experience Significant Regression?
- Is the time it will take the student to recoup excessive?
- Will the Student's progress made during the school year be significantly jeopardized during the school break?

- **Past degree of regression.**
- **Exact time of past regression.**
- **Ability of parents to provide educational structure at home.**
- **Student's rate of progress.**
- **Student's behavioral and physical needs.**
- **Availability of alternative resources.**
- **Ability of student to interact with nondisabled children.**
- **Areas of student's curriculum that need continuous attention.**
- **Student's vocational needs.**
- **Whether the requested services are extraordinary for the student's condition as opposed to an integral part of a program for populations of students with the same disabling condition.**

COVID-19 Tought Us to THINK

Do Not Forget How to Think

Think

**What does this kiddo need
and what resources do we
have to make it happen?**

Online programs?

Reading?

Math?

Behavior Instruction?

Social Skills Groups?

Coping Skills Services/Programs?

Community/Work Based

ESY does not mean we have to sit in a classroom.

**What community or work based projects,
experiences, programs, and opportunities
should you explore?**

Office of Special Education Programs
COVID-19 Questions & Answers: Implementation of
IDEA Part B Provision of Services (September 28,
2020)

Q4. If ESY services were unable to be provided during the summer due to the COVID-19 pandemic, what additional steps can public agencies take to make FAPE available to children with disabilities who require such services?

ESY services are defined as special education and related services that are: (1) provided to a child with a disability beyond the normal school year of the public agency; (2) provided in accordance with the child's IEP; (3) are at no cost to the parents of the child; and (4) meet the standards of the SEA.

Each public agency must ensure that ESY services are available as necessary to provide FAPE to children with disabilities. 34 C.F.R. § 300.106. It is important to remember that IEP Team determinations regarding ESY services are prospective and not intended to make up for past denials of FAPE.

The specific analysis and standards that an IEP Team may use to determine whether a child requires ESY services in order to receive FAPE are left to States to determine. However, the determination must be based on the individual needs of the child, and not on the category of the child's disability.

A child's entitlement to needed ESY services continues to apply even if schools and other facilities are closed due to COVID-19. The Department recognizes ESY services are typically provided to children with disabilities during the summer months. We understand that some ESY services, particularly those that require direct, in-person contact, may not have been able to be delivered this past summer. In such instances, public agencies should consider providing ESY services to the child during the normal school year, during school breaks or vacations where appropriate to the child's needs and consistent with applicable standards.



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