

As public-school units begin planning activities for the Summer of 2021, there are a few key pieces of legislation and federal guidance that must be considered when providing equitable access to students with disabilities (SWD). It is also important to identify the differences between Summer Learning Choice Program (SLCP), compensatory education (CE) and extended school year (ESY). This document is intended to provide technical assistance regarding these items and include an opportunity for discussion during EC Office Hours.

HB 82¹: Summer Learning Choice Program (SLCP)		
Purpose	Eligibility Criteria	Key Points
The purpose of the program shall be to provide in-person instruction on specific subjects, as well as offer additional enrichment activities, to students in kindergarten through grade 12 to address learning losses and negative impacts students have experienced due to COVID-19 during the 2020-2021 school year.	At-Risk Students G.S. 115C-105.41(a) ²	<ul style="list-style-type: none"> • If SWD meet the definition of at-risk students, an opportunity to participate in this program must be offered. SWDs would receive both general education, special education and related services, as needed to address learning losses. • This program is NOT CE. • This program is NOT ESY.
Extended School Year Services (ESY)		
Purpose	Eligibility Criteria	Key Points
Extended School Year Services (ESY) are provided to students with disabilities if the IEP Team determines that services are necessary for the provision of FAPE.	The IEP Team determines whether the student ³ : <ul style="list-style-type: none"> • regresses or may regress during extended breaks and cannot relearn the lost skills within a reasonable time • gains during the regular school year will be significantly jeopardized; or • demonstrates critical skill acquisition that will be lost. 	<ul style="list-style-type: none"> • ESY NOT the SLCP. • Participation in ESY does not exclude a SWD from participation in the SLCP, if eligible. • ESY is based upon a student’s IEP goals. • ESY is NOT the same as compensatory education.
Compensatory Education (CE)		
Purpose	Eligibility Criteria	Key Points
Compensatory education is provided when there is a failure to provide a SWD with a FAPE.	There is evidence to confirm that procedural violations occurred in the implementation of the IEP or in the identification of a SWD.	<ul style="list-style-type: none"> • CE is NOT the same as SLCP. • Participation in CE does not exclude a SWD from participation in the SLCP or ESY, if eligible.

¹ [HB 82](#): An Act to Establish School Extension Learning Recovery and Enrichment Programs in Each Local School Administrative Unit to Mitigate the Impacts of COVID-19 on At-Risk Students (aka *Summer Learning Choice for NC Families*)

² § 115C-105.41. Students who have been placed at risk of academic failure and transition plans. Local school administrative units shall identify students who are at risk for academic failure and who are not successfully progressing toward grade promotion and graduation, beginning in kindergarten.

³ NC 1501-2.4 Extended School Year Services

Please note the following excerpts from the [USDOE](#): *COVID-19 Handbook Volume 2: Roadmap to Reopening Safely and Meeting All Students' Needs* (p. 34).

It is important to note that strategies like in-school acceleration, tutoring programs, out-of-school time programs, and summer learning and enrichment are supplemental instruction and cannot replace a program of special education and related services based on a student's IEP and the decisions of the IEP Team. Similarly, these types of strategies cannot replace the special education and related services and other supports included in an IDEA eligible student's IEP as determined by the student's IEP Team or the regular or special education and related aids and services documented in a 504 plan, or the decisions made by a group of people who are knowledgeable about the child, the meaning of evaluation data, and placement options as required by Section 504.

In addition, inclusion of students with disabilities in district or schoolwide interventions to address lost instructional time does not relieve a district of its responsibility to make individualized decisions required under the IDEA about needed special education and related services for a student with a disability. These could include providing extended school year services as defined in IDEA when determined necessary to ensure that the student maintains the skills necessary for the student to receive a free appropriate public education (FAPE) if educational services are not continued during periods when school is not in session, such as the summer.

EC Office Hours

To address additional questions regarding this topic, a special EC Office Hours will be hosted by Carol Ann Hudgens and EC Division Staff on Friday, April 16, 2021, from 9:00am – 11:00am.

Questions may be submitted in advance by following this link: <https://forms.office.com/r/DvdPBxbUdP>

Questions received by noon on Thursday, April 15, 2021, will be addressed at the beginning of the EC Office Hours. Questions submitted during EC Office Hours will be answered as time permits during the session.

Participants may join EC Office by following this link: <https://ncgov.webex.com/meet/carolann.hudgens>

No registration is required.