**Knowing When to Use a Shortened School Day: Critical Considerations**

**A Guidance Document for IEP Teams**

The purpose of this guidance document is to provide a general overview of pitfalls related to using a shortened school day, as well as a discussion guide for teams to use prior to implementing a shortened school day for students. To see an in-depth overview of shortened school days and its implications please see the companion document [*Myth of the Month Shortened School Days*](https://dese.mo.gov/media/pdf/shortened-school-day-september-2021)*.*

General Considerations: IEP teams should carefully consider all options before making the determination to shorten the school day of a student with a disability. In general, shortening the school day for students with disabilities without giving careful consideration to the unique needs of the student could put you at risk for procedural and substantiate violations under both Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act of 1973. Under IDEA, LEA’s are mandated to ensure that eligible students with disabilities receive a free appropriate public education (FAPE), no matter the extent of their unique needs resulting from their disability. Schools have a fundamental obligation under IDEA to provide FAPE to all eligible students including those with the most significant cognitive, social, emotional, physical, functional, and behavioral needs. ([*Letter to Wentzell, OSEP 2016*](https://www.ctchildlaw.com/2017/01/10/5121/osep-letter-to-wentzell-2016-12-12/)*)*. Students with disabilities have the right to attend school for the same length of time each school day as their non-disabled peers. This is a right afforded to students under both IDEA and Section 504. The Office of Civil Rights (OCR) has concluded that under Section 504 each LEA must ensure that it provides the same facilities and services (including length of school day) to disabled students as it does non-disabled students. **Students with disabilities are entitled to instructional time that is as long as the instructional time provided to nondisabled students unless the IEP or 504 team has made an individualized determination based on the unique needs of the student.** **This determination should be a determination made by the student’s IEP or 504 teams rather than a unilateral determination made by district staff**. LEAs should avoid making determinations for a shortened day for entire groups of students or individual students based on factors such as transportation schedules, lack of staff, scheduling convenience, or as a behavior management tool. **Failing to make an individualized determination for the need for a shortened school day, based on the unique needs of the student can set LEAs up for failing to provide FAPE or discrimination based on the disability status of the student**.

Typically, LEAs seek to shorten the school day for students with disabilities for one of three main reasons: to accommodate transportation or transition schedules, to meet medical needs of the student, or as a response to challenging behaviors. See below for specific considerations and discussion starters that teams need to consider prior to shortening a student’s school day.

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| **Medical Scenario:** * A student with a disability has a severe medical condition that is significantly limiting their stamina, strength and endurance that inhibits their ability to attend a full school day.
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| **Potential Denial of FAPE or Disability Discrimination** | **Questions to Ask** |
| Students with severe medical conditions may require a shortened day if there is data or evidence to support shortening a student’s day is necessary. However, making a general policy that all students with certain medical needs (cancer, pregnancy, anxiety) need a shortened school day is a discriminatory practice. Relying solely on parent requests and failing to consider input from medical professionals, could lead to inappropriate determinations of shortening of a student’s school day resulting in a denial of FAPE. | 1. What medical data does the IEP or 504 team have that supports a shortened school day?
2. What additional medical data does the IEP or 504 team need to collect before making the determination regarding shortening the school day for a student with a disability who has medical needs?
3. What accommodations or supports can be provided at school to enable the student to attend the full day?
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| **Alternatives To Consider**:* Consider gaining a release of information to consult with the student’s outside medical professionals in order to collaboratively develop a plan for staying at school.
* Invite school based medical professionals to be a part of the student’s IEP or 504 team so they can provide input as to the unique needs of the student
* Consider providing accommodations or supports to meet medical needs at school: nap in the nurse's room, rearrange class schedule to meet energy/stamina levels of students, rest breaks throughout the day, provision of nursing, medical, or nutrition services at school as a related service.
* Reconvene the IEP team to discuss revisions to the student’s school day as conditions change.
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| **Behavior Scenarios:** * Student is exhibiting challenging behaviors, and the LEA shortens the student’s school day as a tool to manage the student’s behavior.
* Student was put on a shortened day due to challenging behaviors. The student has been on a shortened day schedule for an entire year. The IEP team has not considered a plan to bring the student back to full time.
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| **Potential Denial of FAPE or Disability Discrimination** | **Questions to Ask** |
| Shortening a student’s school day should not be viewed as a behavior intervention, nor should it be the first option the IEP team uses to address the student’s behavioral challenges. By removing the student for part of the school day without documentation of positive behavior supports being implemented, the LEA is failing to provide FAPE by addressing preventative, positive behavior supports that could have resulted in the child attending school for the entire school day. Shortening a student’s school day should not be a long term solution. If the student is put on a shortened day and the IEP or 504 team is not closely monitoring the student’s progress the LEA is in danger of not providing FAPE and denying the student the same educational opportunities as their nondisabled peers.Removal from school is not a service or support that is reasonably calculated to result in educational benefit. | 1. What data does the team have regarding the student’s pattern of challenging behaviors?
2. Has the team conducted a Functional Behavior Assessment (FBA) to review behavior patterns or trends, related antecedents, behaviors, and consequences to determine triggers and function of behavior?
3. Has the team developed a Behavior Intervention Plan (BIP), which includes positive behavior supports and a plan for teaching replacement behaviors? If so, are all team members aware of the plan and implementing the plan with fidelity?
4. What positive behavior supports does the IEP currently contain?
5. What target behavior has the team identified as the challenging behavior, and what interventions have been provided and to what degree of fidelity?
6. Has the IEP team met to review/revise the behavior supports listed in the current IEP? (Consider adding or modifying services such as counseling, specialized instruction in behavior skills, social skills groups, Applied Behavior Analysis (ABA) therapy, or accommodations and modifications.)
7. What critical skill(s) does the student need to master in order to stay at school for the full day?
8. What is the student’s current IEP placement? Has the IEP team met to review/revise placement prior to shortening the school day (revise special education placement; decrease general education minutes, especially during times the student is struggling with appropriate behavior)?
9. How will a shortened school day meet the student’s educational needs and result in educational progress towards their IEP goals?
10. If a student is put on a shortened school day, who will oversee monitoring the student’s progress?
11. What is the plan for moving the student back to a full school day?
12. When will the team meet to review student data to determine whether or not the student can return to school full time?
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| **Alternatives To Consider**:* If the team lacks current or meaningful behavioral data or the student’s needs have changed since previous evaluation, teams should consider opening a re-evaluation to obtain current data to determine student’s unique disability related needs.
* School staff should collect behavioral data to examine patterns of behavior and develop functional hypotheses for why behaviors are happening (time of day behaviors occurring, days behaviors are occurring, setting in which behaviors are occurring, duration and intensity of behaviors, specific behaviors occurring, etc.)
* If school staff lack the level of behavioral expertise necessary to determine the function, purpose, and/or root cause of the student’s specific behaviors, consider hiring behavioral specialists such as a BCBA (Board Certified Behavior Analyst) or Registered Behavior Therapist (RBT) to conduct a FBA and collect additional behavior data.
* Develop a BIP that focuses on identifying specific behaviors and creating a plan to teach skills necessary for the student to achieve replacement behaviors.
* Create an IEP or 504 team that contains behavioral experts from diverse backgrounds in order to gain deeper insight on behavioral challenges of the student.
* Examine student data to determine if there is a need for related services to address communication, social/emotional needs, physical, or sensory needs of the student.
* Provide professional development for staff on behavior management, function of behaviors, escalation cycle, positive behavior supports, and data collection.
* Create procedures to ensure fidelity of IEP, BIP, and behavior supports implementation.
* Reconvene IEP team to review/revise placement.
* Develop a detailed plan for the student’s return to full day.
* Designate a team member to be in charge of collecting progress monitoring data on specific goals while the student is on a shortened school day.
* Teams should meet regularly to review the data and discuss if the shortened school day is still meeting the unique needs of the student.
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| **Transportation Scenarios:** * Students with Disabilities are released early to accommodate transportation schedules (i.e. special education bus leaving prior to the end of the school day for non-disabled students).
* Students with disabilities are arriving after the start of school due to special education bus routes
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| **Potential Denial of FAPE or Disability Discrimination** | **Questions to Ask** |
| Students with disabilities having their day shortened to accommodate transportation schedules, not to meet the unique needs of the student. Early dismissals due to a district or building-wide blanket policy can lead to cases of disability discrimination for students with disabilities. The LEA could be held liable for providing compensatory services for missed instructional time. | 1. What are the unique needs of individual students that would require a shortened school day in order to access specialized transportation?
2. Is this an IEP/504 team decision based on the unique needs of the student?
3. Why does the student with a disability need to leave prior to general dismissal of school for the instructional day?
4. Is the decision for the student to leave early due to a policy that is designed to meet the scheduling, budgetary or other non-student driven needs of the building or district?
5. Does this policy include “groups” of students or individualized based on the unique needs of specific students?
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| **Alternatives To Consider**:* Brainstorm ideas to remove scheduling barriers (additional routes, extra assistance transitioning to/from the bus, station special education busses at the front of the bus pick up line, etc.).
* If an IEP or 504 team determines an individual student requires a shortened school day to accommodate special transportation, the IEP must clearly indicate why and how the team proposes to provide equal educational opportunities and FAPE despite the shortened school day.
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