

# *Tips from the Special Education Division: Shortened School Days*

## **Question: What's important to know about shortened school days?**

### **Answer:**

Students who receive special education and related services must be allowed to participate in a school district's educational programs and services, such as a full day of school, to the same extent as their non-disabled peers, consistent with their rights under the Individuals with Disabilities Education Act (IDEA).

Whether a shortened school day is suggested by the school district or the parents, a student's individualized education program (IEP) team needs to carefully consider the potential impact of shortening a school day. While the following guidance is specific to students who receive special education, similar protections apply to all students with disabilities under Section 504 of the Rehabilitation Act of 1973.

### **A Shortened School Day Is Impermissible if it Results in a Denial of FAPE**

A shortened school day that results in a denial of free appropriate public education (FAPE) is not permitted. The decision may not be driven by budgetary concerns, staffing shortages, scheduling conflicts, or other non-student-driven reasons. Districts should be careful when applying a blanket policy or decision to groups of students, as it indicates that service decisions are district-driven instead of student-driven. See Arcadia (CA) Unified Sch. Dist., 115 LRP 17613 (OCR 2014); Anchorage (AK) Sch. Dist., 16 IDELR 1031 (OCR 1990).

In some cases, a parent may request a shortened school day, but if the IEP team believes that a shortened day will result in a denial of FAPE, the responsibility lies with the district to continue to offer an IEP reasonably calculated to enable the student to receive FAPE for full school day.

For example:

- OSPI found that a District failed to implement a student's IEP when it impermissibly granted the parents' request to shorten the student's school day due to a lack of available and/or appropriate classes for the student. SECC No. 16-22 (2016).
- OSPI found that, "Districts may not condition a student's return to a full school day on a district's staffing needs. Instead, districts must make decisions based on a student's right to be in [their] least restrictive environment." SECC 15-84 (2015).



## Behavioral Challenges

Districts should not use a shortened school day as a form of punishment or as a substitute for positive behavior strategies and supports or a behavioral intervention plan (BIP). Instead, an IEP team should consider developing an IEP that includes a BIP that describes the use of positive behavioral interventions, supports, and strategies reasonably calculated to address the student's behavioral needs and enable the student to participate in the full school day. Even when the parents and the district agree to incorporate a shortened school day as part of a student's IEP due to behavioral needs, it is important to remember to follow all procedures for developing or amending an IEP.

For example:

- OSPI found that a district did not follow procedures for decreasing the student's services/schedule following an unexpected behavioral incident. The district made a unilateral decision to change the student's placement, absent an evaluation or manifestation determination. SECC 15-84 (2015).
- OSPI found that while the IEP team agreed that the student needed a shortened day due to a series of behavioral incidents, the district never amended the student's IEP or provided a prior written notice reflecting the change. Ultimately, the district was required to provide compensatory services as an equitable remedy for improperly shortening the student's school day. SECC 15-09 (2015).

It is important to remember that the general education regulations in our state define classroom exclusions. A classroom exclusion occurs when a student excluded for all or any portion of the balance of the school day in which the student was excluded from the student's classroom or instructional or activity area. When a student is excluded from the student's classroom or instructional or activity area for longer than the balance of the school day, the school district must provide notice and due process for a suspension, expulsion, or emergency expulsion. [WAC 392-400-330](#). The regulations further define suspensions and expulsions. [WAC Chapter 392-400](#).

Districts should carefully monitor and avoid informal removals, defined by the U.S. Department of Education Office of Special Education and Rehabilitative Services (OSERS) as "action taken by school personnel in response to a child's behavior that excludes the child for part or all of the school day, or even an indefinite period of time. These exclusions are considered informal because the school removes the child with a disability from class or school without invoking IDEA's disciplinary procedures." OSERS notes that, "Informal removals include administratively shortened school days when a child's school day is reduced by school personnel, outside of the IEP Team and placement process, in response to the child's behavior." See, [Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions \(OSERS, 2022\)](#). OSPI notes that a decision to send a student home early, or request the parent pick a student up early or a pattern of such decisions/requests, may result in improperly shortening a student's school day absent IEP team agreement. Additionally, a pattern of

“informally” sending a student home early, despite not recording the event as discipline may count as a classroom exclusion or suspension that could trigger special education discipline protections.

For example:

- OSPI found that a District’s decision to place a student on a temporary shortened school day due to behaviors was effectively a classroom removal. SECC 22-59 (2022).

## Transportation

Districts should provide transportation in a manner that allows students with disabilities to access a full day of school, to the same extent as their non-disabled peers. Beaverton (OR) Sch. Dist., 68 IDELR 113 (OCR 2016). This standard applies when transportation arrangements require a student to leave school early or result in a student getting to school late. See, e.g., Eldon (MO) R-I Sch. Dist., 352 IDELR 144 (OCR 1986) (Finding that a transportation schedule requiring a student to leave school prior to her last class period denied her an opportunity to attend a full day of school).

District decisions to provide alternative transportation arrangements—for example to allow a student to leave class early to navigate the hallway while it is less crowded—are often well-intentioned and result from concerns that students may get overwhelmed, lost, or bullied at the start or end of a school day. However, districts should carefully consider whether alternative transportation arrangements end up unintentionally reducing the students’ instructional time.

For example:

- OSPI found that a District may not unilaterally reduce a student’s school day to avoid crowds at the end of the day, even if there are concerns about sensitivity to crowding and noise. SECC 15-38 (2015).
- OSPI found that a District’s practice of having students leave their classroom 20 minutes before school ended in order to allow time for students to be transported to and loaded onto the buses resulted in an improperly shortened school day. SECC 14-21 (2014).

## Permissible Use of a Shortened School Day

Students eligible for special education should attend school for the same amount of time as students without disabilities, unless the IEP team decides that a shortened school day is necessary to ensure access to FAPE. See Shoreline School District No. 412, 55 IDELR 178 (OCR 2010) (Finding that a student with a disability has the right to the same length school day as a nondisabled student).

If the IEP team decides that a shortened school day is necessary based on the student’s specific and individualized disability-related need, then it may be appropriate to temporarily shorten the school day for a student receiving special education. A decision to shorten a school day should be rare and based on the student's unique needs. A shortened school day be considered along

with exploring all other alternatives; for example, the IEP team could consider a homebound placement or alternative instructional methodology (such as remote/online learning) rather than a shortened school day. It is important that the IEP team look at all available data before shortening a student's day particularly in light of *Endrew F. v. Douglas County School District RE-1*, which clarified that an IEP should be "reasonably calculated to enable the child to make progress appropriate in light of his circumstances." 69 IDELR 174 (U.S. 2017). When a student is unable to attend a full day of school, the decision should be made through a process that conforms to the requirements of the IDEA, and the IEP should document the unique needs that justify a shortened day. Districts should take steps to ensure that any shortened days are limited in duration, necessary, and for a specific purpose. The IEP team is encouraged to consider including a systematic and data driven plan in the IEP to gradually increase the student's time at school, monitor the student's progress, regularly check in with IEP team, and return the student to a full school day.

In some circumstances a shortened school day may be medically necessary for a student, such as when a student is adjusting to new medication, recovering from an operation, or lacks the stamina to attend a full day of school based on the student's unique circumstances.

For example:

- OSPI found that the IEP team, which included the parent, appropriately shortened the Student's school day based on the Student's lack of stamina to participate in a fully school day and that the decision was based on the Student's unique disability related needs. SECC 15-70 (2015).

### **Best Practices for IEP Teams Considering a Shortened School Day**

OSPI recommends that any offer of or request to shorten the school day for an eligible student be for a specific purpose that is designed to meet the student's unique needs, in order for that student to receive FAPE, and be considered by the IEP team, including the parents. Districts are advised to hold an IEP meeting and to keep thorough documentation that the team requested input from all team members and made decisions in accordance with the IDEA. The following is a (non-exhaustive) list of possible considerations for an IEP team to discuss:

- If the parents requested a shortened school day, find out why. For example, a student may come home from school upset from bullying or exhausted from cognitive overload. A shortened school day may or may not be the appropriate solution and the IEP team should consider the reason for the request and possible alternatives.
- Is there evidence demonstrating the student's individualized need for a shortened school day, i.e., student observations, parent input, private medical or other providers, recent reevaluation data, and consideration of multiple settings?
- Does the shortened school day result in a change of placement or violate the least restrictive environment mandate?

- Does the IEP team need to consider a homebound placement or alternative instructional methodology (such as remote/online learning) rather than a shortened school day?
- Is the district following all policies and procedures to develop an IEP, amend an IEP, and/or change a student's placement?
- Does the student need to be reevaluated, including a functional behavioral assessment (FBA)?
- Would positive behavioral supports, staff training, supplementary aids or services, related services, or a different instructional strategy meet the student's needs?
- Can the district supplement the shortened school day to ensure the student has opportunities to learn and make educational progress?
- Has the district provided prior written notice following all requests for a shortened school day that includes evidence that the district considered the request?