

Implications of the Shortened School Day for Students with Disabilities

June 25, 2024

Susan Henry
Director of Compliance
Special School District of St. Louis County



Agenda/Participant Outcomes from this session

- Concept of shortened school days
- Benefits and challenges
- Legal and practical considerations for students with suspected or confirmed disabilities
- Best practices for implementation and documentation of students' shortened school days

Participants will gain understanding of the appropriate use of shortened school day schedules for students with disabilities and learn practical strategies for their use that ensure students are able to continue to access the general education curriculum and their special education and related services.

Applicable Laws and Assumptions for this Presentation

- Individuals with Disabilities Education Act (IDEA)
 - Schools must provide a free and appropriate public education to meet the needs of students with disabilities
 - Comprehensive evaluations and IEP must be developed for students with disabilities
 - Services in the least restrictive environment, including transition services and specific protections for students with disabilities related to discipline
 - Parent involvement and procedural safeguards
- Section 504 of the Rehabilitation Act
 - Schools must provide a free and appropriate public education for students with disabilities
 - Non-discrimination because of disability, must provide reasonable accommodations and equal opportunity to participate in and benefit from the programs and activities
 - Accessible facilities, procedural safeguards and no retaliation for asserting rights

Shortened School Days: What are we talking about?

Shortened school days occur when a district unintentionally or purposefully shortens the amount of instructional time a student receives during the school day.

Used with students with disabilities, shortened school days may deny the student access to an appropriate amount of instruction, special education and related services.

In the discipline context, according to the U.S. Department of Education, such days occur when the school day is reduced by school personnel, rather than the IEP team.

specialconnection.com

Reasons a student's school day is shortened

- Behavior difficulties/class disruption
- Medical condition or illness
- Fatigue/lack of stamina
- Recovery from medical, psychological treatment
- Adjustment to school/gradual return after leave
- Parent choice to remove student from a portion of the day
- Other Principal decisions to send a student home early, for any reason

For students with disabilities, these might be related to their disability and a shortened school day is a necessary accommodation under IDEA and Section 504.

Benefits and Challenges of a Shortened School Day

Benefits

- Reduced stress/anxiety
- Time to heal/recover
- Availability for private therapies/treatments
- Individualized to student need

Challenges

- Access to general ed curriculum
- Delivery of special education and related services
- Discrimination
- Social isolation
- Logistical issues for parent/guardian
- Impact on peer relations
- Missed opportunities/exposure to routine of attending school

Legal Considerations and FAPE*

- Shortened school days may inappropriately limit a student's access to instructional time and their special education services
- Districts should not unilaterally shorten a disabled student's school day unless the IEP team (or 504 team) determines it is necessary for FAPE
- Decisions should be made based on student's individual needs, not availability of resources or blanket policies
- Be mindful of unintentional removals
 - sending students home for a break/afternoon off
 - routine late bus arrivals/early departures
 - frequent assignments to calming rooms/"snack and a soda" in principal's office

*Free appropriate public education

Shortened School Days, Discipline and “Removals” from Placement

- The Office of Special Education Programs (OSEP, division of U.S. Dept of Education) indicated that subjecting students to shortened school days to address problematic behavior qualifies as a short-term disciplinary measure and “if implemented repeatedly...could constitute a disciplinary removal from the current placement*.” *Letter to Mason* (OSEP 2018)
- The Office of Special Education and Related Services (OSERS) reiterated this guidance as it applies in the context of discipline in its 2022 publication, *Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA’s Discipline Provisions*.
- “Informal removals”: Frequent and repeated shortened school days due to misbehavior may need to be counted as disciplinary removals for the purposes of counting days for a manifestation determination, and a potential change of placement

*“Placement” in the context of IDEA refers to not a location or school site, but rather the types and amount of services a student with a disability receives and the extent of removal from the regular classroom.

Case Examples

Christopher M. v. Corpus Christi Independent School District and Mary Grett Memorial School

- 5th Circuit found that 4 hour school day proposed by the IEP team was appropriate for student that had developmental age of 2-6 months old, physical disabilities and limited ability to process sensory input
- Court gave weight to teacher, school personnel testimony because they often have greater contact with student

Dixie Elementary School District, (OCR, 2013)

- IEP team properly denied parent's request for shortened school day after proper consideration of the request.
- IEP team thoroughly considered information and evidence that disproved the need for a shortened day

Case Examples

- ***Allegheny County (NC) Schools (OCR 2016)***
 - Parent requested a shortened school day due to violent and aggressive behavior toward staff and peers. School principal agreed and instituted a shortened day schedule without consulting IEP team.
 - Parent later withdrew support for modified schedule
 - District violated Section 504 and Title II because the change constituted a change of placement and denied the student FAPE

Case Examples

- ***Round Rock Ind. School District v. Amy M. (2022)***
 - Student had TBI and OHI from an accident, ongoing headaches, mental and physical fatigue and deteriorated as the day progressed; she missed large amount of school (which later led to the district's filing of truancy charges against the parent and disenrollment of the student)
 - Parent with physician support requested shortened school days to which school refused
 - Districts found to have denied FAPE and ordered to pay for a year's tuition at a private alternative school that accommodated her needs

Case Examples

- ***Wisconsin District (unnamed) (WI State Educational Agency, 2022)***
 - District shortened a student's school day but did not properly document why the student's disability required the student to leave school early or its efforts to maintain a full-day schedule for the student.
 - "This should be a very rare occurrence," the state ED wrote, when an IEP team determines a shortened day is required to address the student's unique, disability-related needs.
 - The IEP contained no plan for returning the student to full-time learning and only stated the student's day would be shortened because he lacked academic stamina and became aggressive
 - The IEP also failed to explain the services, supports and other placement options the team considered in an attempt to maintain a full-day schedule

Case Examples

- ***Cassia School District No. 151 (Idaho State Educational Agency, 2016)***
 - Student was put on a bus to go home 15-20 minutes earlier than other students due to bus route availability
 - Total amount of school time missed because of busing schedule was 51.25 hours
 - Deprivation of instruction time was a violation of IDEA and a denial of FAPE
 - District was ordered to provide hour-for-hour compensatory education over a two week period
- ***Lake Local School District (Ohio State Educational Agency, 2019)***
 - Parent claimed school district improperly shortened the school day of her child (and that of 7 other students) when her child had to board the school bus 20-30 minutes before the end of the school day
 - The District had, however, adjusted the students' morning bus schedule to ensure they arrived 20-30 minutes early every morning.
 - This adjustment allowed the students to receive the same amount of instructional time as nondisabled students and there was no denial of FAPE.

Case Examples

- ***Lamar (CO) RE-2 School District (OCR 2023)***
 - Colorado school district discriminated against a student with a disability when it subjected the student to informal removals without conducting a manifestation determination review.
 - The school repeatedly called family member to pick up the student early because of the student's behaviors
 - The removals exceeded 10 school days but no manifestation determination reviews were held
- ***Millennium Community School Ohio State Educational Agency (2016)***
 - Special education director emailed student's IEP team stating that "in an effort to help (Student) be successful here, mom and I both agree that going to half days would be most beneficial."
 - The school's decision to remove the student due to behavior was a removal that amounted to a change of placement requiring a manifestation determination review, which was not done.
 - The school also failed to amend the IEP to reflect the change or to address how the student would continue to receive services.

What themes arise in these case examples?

- There are times when a shortened day schedule is appropriate
- Parents may agree to a shortened day schedule—at first
- The IEP team must be the decision maker when shortened day schedules are implemented
- Shortened day schedules due to behavior may be considered disciplinary removals that require a manifestation determination review and provision of services during the removal if the removals are more than 10 days
- IEPs must document
 - the reasons why a student's unique needs resulting from their disability require a shortened day schedule
 - what other services, supports and placement options were considered before deciding on a shortened day schedule
 - a return-to school plan should be developed for the student and documented in the IEP

Best Practices When Considering a Shortened Day Schedule

Because a shortened school day may inappropriately limit a student's access to instructional time and IEP services, a district should not shorten a student's school day unless the IEP team determines that a shortened school day ***is necessary for FAPE.***

Best Practices When Considering a Shortened Day Schedule

1. Take a time-out! Requests for a shortened day schedule for a student with a disability should make you pause, ask questions for clarity and respond with a recommendation to convene the student's IEP team to discuss the request.



Best Practices When Considering a Shortened Day Schedule

2. Resist sending students home for behavior without coding it as a disciplinary removal.
 - coding it as a disciplinary removal will help you keep track of the days of removal that may trigger the need for an manifestation determination



Best Practices When Considering a Shortened Day Schedule

3. Work with SSD's and your district's behavior specialists to develop building-wide positive behavior intervention systems and with individual student's IEP teams to develop student specific plans to address behavior.

- An evaluation and a behavior intervention plan may be needed.
- Delays in pursuing a plan could be a denial of FAPE.



Best Practices When Considering a Shortened Day Schedule

4. IF a shortened day schedule might be necessary, consider and exhaust other options for services, supports and placement before committing to the shortened day schedule. Document the other options considered and why rejected.



- this is wise to do even with students who do not have disabilities. A student may be a part of another protected class.

Best Practices When Considering a Shortened Day Schedule

5. WHEN a shortened day schedule is appropriate and required for a student to receive FAPE:

- develop a detailed implementation plan that includes a transition back to school plan and return to school goal date.
- continuously monitor and review student's progress
- meet frequently to determine if the schedule remains appropriate
- the student should return to full day attendance as soon as the student is able



Questions?

References and Resources

- Special Ed Connection
specialedconnection.com
- [OSERS Discipline Discussions: Informal Removals](#)
- <https://sites.ed.gov/idea/files/osep-letter-to-mason-07-27-2018.pdf>
- [DESE Myth of the Month Shortened School Day](#)
- Reduced School Days: Shortened Obligations or Shortened Path to a Lawsuit?
Presentation by Josh Douglas & Abbey Widick, Mickes O'Toole, LLC; Dr. Tim Lewis, University of Missouri MOCASE Annual Conference, 2023



The Missouri Department of Elementary & Secondary Education Office of Special Education partners with LRP Publications to provide a subscription to **Special Ed Connection**® to all districts within the state.

Special Ed Connection® provides resources and tools that School Staff can use to obtain clarification of special education requirements and services. This resource provides the legal, regulatory and practical guidance that is necessary to ensure that students receive the services to which they are entitled in a manner that enhances their education and post-school quality of life.

With **Special Ed Connection**® School Staff will receive:

- Explanation and guidance to assist them in meeting legal requirements for IDEA, FERPA, Section 504 and other key laws and regulations affecting students with disabilities.
- News, updates, and latest trends in special education such as RTI, PBIS, Transition services, Early Childhood, IEP best practices, BIPs and much more.
- Professional development tools that enhance in-house training plans that support administrators in guiding colleagues and other stakeholders through both individual and collective learning experiences.
- Tools that explain complex legal and regulatory issues, providing practical implementation strategies and tips to help special education professionals carry out their responsibilities.

Special Ed Connection® has been designed specifically for special education professionals whose priority is to provide high-quality services to children with disabilities and their families – through the legal and practical guidance that is necessary to ensure that students receive the services to which they are entitled and in a manner that enhances post-school quality of life for individuals with disabilities.

To find out more about this exciting resource, or to schedule a website tutorial for you and your staff, call the **Special Ed Connection**® Hotline: 1-800-515-4577 x6303 or Email: specialedconnection@lrp.com.



- Reduced School Days: Shortened Obligations or Shortened Path to a Lawsuit?
Presentation by Josh Douglas, Mickes O



Contact Information

Susan Henry, Director of Compliance, Special School District
314-989-8143 srhenry@ssdmo.org

Sarah Kline, Assistant Director of Compliance, Special School District
314-989-8155 sekline@ssdmo.org