

Regulation: Abbreviated School Day for Students with Disabilities

As required by House Bill (HB) 24-1063, Regulation JB-R, Abbreviated School Day, clarifies “when and how abbreviated school day schedules may be implemented” in compliance with the requirements of the Individuals with Disabilities Act (IDEA), Section 504 of the Rehabilitation Act of 1973 (Section 504), and the Exceptional Children’s Educational Act (ECEA). For children identified under IDEA, compliance with HB24-1063 for abbreviated school days and abbreviated school day schedules will be subject to ongoing monitoring consistent with CDE’s responsibility for general supervision under IDEA 34 C.F.R. § 300.600 and ECEA 7.05.

1. Definitions

a. Abbreviated School Day for a Child with a Disability:

Abbreviated school day means any school day during which a child with a disability receives instruction or educational services for fewer hours than the majority of other students who are in the same grade and school as the child with a disability, whether the abbreviated school day was planned or unplanned.

b. Abbreviated School Day Schedule:

Abbreviated school day schedule means a schedule designed and approved by the IEP or 504 team that plans for a child with a disability to regularly receive instruction or educational services for fewer hours than the majority of other students who are in the same grade and school as the child with a disability.

c. Child with a Disability:

For purposes of the definitions in ECEA Rule 2.01 and 2.01(1) and the required policy regarding abbreviated school days, a child with a disability means a child who has been determined eligible for services under the Individuals with Disabilities Education Act (IDEA) or Section 504 of the Rehabilitation Act of 1973, or for whom a request or referral for evaluation under either law has been made.

2. Application of Abbreviated School Day to Discipline for a Child with a Disability:

- a. When a school unilaterally shortens a child’s school day to address behavioral concerns, it must count this as a disciplinary removal even if the child was not formally suspended. This includes, but is not limited to, the following circumstances: when the school calls the child’s parent to pick them up early due to behavior; when a teacher does not allow a child to attend class due to behavior; and when a school official unilaterally determines that the child must attend an abbreviated school day due to behavior. This applies even if the parent agreed or consented to pick the child up early. This does not apply if the parent requested to pick the child up early.
- b. These partial removals must be accurately recorded and tracked to ensure the child receives the disciplinary protections to which they are entitled, such as a manifestation determination review, should the combined removals constitute a disciplinary change of placement under Section 504 or the IDEA. Each removal should be submitted as a record in the Department’s discipline data collection.

- c. This provision does not mean that a school is prohibited from disciplining a child with a disability for conduct that violates the student code of conduct as long as it does so consistent with the protections afforded to children with disabilities under IDEA and Section 504.

3. Application of Abbreviated School Day for a Child with a Disability to Attendance:

- a. A child with a disability in high school who voluntarily enrolls in a reduced class load or as a part-time student, consistent with other non-disabled students in the school, and who is on track to graduate, is not considered to be on an abbreviated school day schedule.
- b. A child with a disability who is appropriately placed on an abbreviated school day schedule by an IEP or 504 Team may not be considered truant or chronically absent based solely on the abbreviated schedule. Compulsory school attendance requirements pursuant to Section 22-33-104, C.R.S., do not apply to children with disabilities who have been placed on an abbreviated school day schedule by an IEP or 504 team in accordance with the Department's policy and state and federal law.
- c. A child with a disability should have the same opportunity to participate in field trips, school functions, and extracurricular activities as their nondisabled, same-aged peers. A child who has been placed on an abbreviated school day schedule by their IEP or 504 team should not be determined ineligible to participate in field trips, school functions, and extracurriculars based solely on the abbreviated schedule. If a child with a disability needs supplementary aids and services to meaningfully participate in field trips, school functions, and extracurricular activities, these should be determined by the IEP or 504 team and described in the IEP or 504 plan.

4. Permissible and Impermissible Circumstances for Placing a Child with a Disability on an Abbreviated School Day Schedule:

- a. It is permissible to place a child with a disability on an abbreviated school day schedule only when the child's IEP or Section 504 team has determined that such a schedule is necessary to provide a free appropriate public education (FAPE) in the least restrictive environment (LRE) based on the child's unique, individualized needs. Placement on the abbreviated school day schedule must be consistent with Sections 5, 6, 7, and 8 below.
- b. Placement on an abbreviated school day schedule to address behavioral challenges should not be considered unless and until the school has first made reasonable efforts to maintain the child's full school day placement. For a child who is IDEA-eligible, the IEP team must consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior if the child's behavior impedes their learning or the learning of others.¹¹ While a school must first make reasonable efforts to maintain a full school day placement, the IEP/504 team is not required to wait until the child fails in a full school day placement before offering an abbreviated school day schedule if an abbreviated school day schedule is otherwise appropriate based on the child's individualized needs and consistent with IDEA/Section 504.

- c. It may be permissible for a student who has met graduation requirements and no longer needs core academic instruction to be placed on an abbreviated school day schedule to receive services to address unmet post-secondary transition needs (e.g., some students in 18-21 transition programs), depending on the student's unique circumstances.
- d. It is not permissible to place a child with a disability on an abbreviated school day schedule based on administrative convenience or lack of resources, which includes, but is not limited to, the availability of licensed and appropriately trained staff, retention of staff, the child's assignment to a waiting list for an alternative placement, accessible facilities, and the availability of related services (e.g., nursing and transportation services).
- e. If a parent requests an abbreviated school day schedule, the IEP or 504 Team must determine whether FAPE in the LRE can be provided with an abbreviated school day schedule. This would include a parent's request for an abbreviated schedule so the child can receive services at home during the school day. Because the AU is legally obligated to offer and provide FAPE in the LRE, it should not agree to a parental request for an abbreviated school day schedule that is not consistent with its obligations under IDEA/504. For an IDEA-eligible student, the IEP team must document its refusal to place the child on an abbreviated school day schedule in a prior written notice (PWN), consistent with 34 C.F.R. § 300.503.

5. The Role of the IEP or 504 Team in Determining an Abbreviated School Day Schedule:

- a. The IEP or 504 team must determine whether an abbreviated school day schedule is appropriate based on the child's unique disability-related needs, consistent with IDEA and Section 504. For an IDEA-eligible child, initial placement on an abbreviated school day schedule may not be determined through the IEP amendment process described in 34 C.F.R. § 300.324(a)(4). Prior to any meeting to discuss an abbreviated school day schedule, the parent must be provided with a copy of the Procedural Safeguards Notice.
- b. In making this determination, the team must consider and document in the IEP or 504 plan how FAPE will be achieved with the abbreviated school day schedule and whether the abbreviated school day schedule will impact the ability to educate the child with disabilities in the LRE. FAPE and LRE must be determined consistent with the requirements of IDEA or Section 504.
- c. At a minimum, the team must determine and describe the following components of an abbreviated school day schedule in the IEP or Section 504 plan:
 - i. How the abbreviated school day schedule is designed to support the child's return to a full day schedule, including a description of the stages for gradual reintroduction to return the child to a full day schedule. If the child's IEP or 504 team determines that gradual reintroduction is not appropriate based on the child's unique circumstances (e.g., static or degenerative medical condition), the team must document its rationale based on child-specific data in the IEP or 504 plan or a prior written notice;
 - ii. How the abbreviated school day schedule will ensure progress towards the child's

- IEP or learning goals and progress in the general education curriculum;
 - iii. The number of hours of instruction and related services to be provided to the child while placed on an abbreviated schedule and the percentage of the school year that the child will be on an abbreviated school day schedule;
 - iv. How the child's progress towards IEP goals, including any short-term objectives or benchmarks, will be measured;
 - v. The date by which the child is expected to return to a full day schedule, as appropriate based on the child's unique needs; and
 - vi. The date by which the team will meet to review the abbreviated school day schedule, which must be no longer than 30 days from placement on the abbreviated school day schedule or the last review meeting, unless the AU and parent agree to a different schedule at the initial meeting.
- d. The IEP or 504 team must determine when the abbreviated school day schedule will be reviewed and document the review schedule in the IEP or 504 plan.
 - i. The IEP or 504 team must review the abbreviated school day schedule within 30 calendar days of placement, unless the AU and parent agree to a different schedule at the initial meeting.
 - ii. The IEP or 504 team must determine the frequency of any subsequent review meetings and document the schedule in the IEP or 504 plan. A review schedule of more than 30 calendar days must be agreed upon by the parent, legal guardian, or custodian of the child. Regardless of agreement, the abbreviated school day schedule must be reviewed annually.
- e. For an IDEA-eligible child, the AU must provide prior written notice (PWN) following the meeting, consistent with 34 C.F.R. § 300.503. The PWN must also include the following components related to the proposal/refusal to place a child on an abbreviated school day schedule:
 - i. Supports, services, and alternatives that have been provided or considered prior to placing the student on an abbreviated schedule; and
 - ii. Outcomes for placing the child on an abbreviated school day schedule, including the justification for the abbreviated school day schedule.
 - iii. Note: If the AU embeds PWN in the IEP, rather than using a stand-alone PWN, the IEP must contain the information above.

6. Requirements for Regular Review of an Abbreviated School Day Schedule for a Child with a Disability:

- a. The IEP or 504 team must review the abbreviated school day schedule on a regular basis, consistent with the child's IEP or 504 plan, to determine whether the schedule is necessary, consistent with Section 5(d) above.
- b. During the review meeting, the IEP or 504 team must discuss the child's progress towards IEP goals and the stages described by the team for gradual reintroduction as appropriate, given the child's unique needs and circumstances. Based on this child-specific data, the team must determine the need for continuing an abbreviated school day schedule. If the child is not making the expected progress towards the outcomes, goals, and stages for

reintroduction, the team must consider adjusting the supports and services provided to ensure progress.

7. Requirements for Consent and Information Provided to Parents of a Child with a Disability Placed on Abbreviated School Day Schedule.

- a. There are times when a lawfully convened IEP or 504 team meets and determines that an abbreviated school day schedule is necessary to ensure a FAPE for the student (e.g., a student with a medical condition that requires homebound). When an offer of FAPE is made that includes an abbreviated school day schedule, and the parent disagrees that the abbreviated school day schedule is necessary for FAPE, the parent can pursue existing remedies under state and federal law. For an IDEA-eligible child, the parent can request mediation, file a state complaint, or file a due process complaint. For a child on a 504 plan, the parent can file a complaint with the Office of Civil Rights.
- b. For any abbreviated school days or abbreviated school day schedules that are not connected to the offer of FAPE determined by the IEP or 504 team (and are not lawful and proper disciplinary removals), the school must obtain informed and written consent from the child's parent prior to implementing the abbreviated school day or abbreviated school day schedule. A parent may revoke this consent in writing at any time.
- c. Prior to implementing an abbreviated school day schedule for a child with a disability that is not connected to the offer of FAPE, the school must obtain informed and written consent from the child's parent.
- d. The request for written consent for an abbreviated school day schedule that is not connected to the offer of FAPE must contain the following information:
 - i. The child's right to access the same number of hours of instruction and educational services as other children who are in the same grade within the school.
 - ii. A statement that the school may not unilaterally place a child with disabilities on an abbreviated school day schedule.
 - iii. A statement explaining student rights related to discipline and informal removals for conduct or behavior as described in section 2 above.¹⁶
 - iv. A statement that consent for placement on an abbreviated school day schedule was not requested before parents had a meaningful opportunity to participate in an IEP or 504 meeting to determine the need for an abbreviated school day schedule.
 - v. A statement that parents have the right to revoke consent or oppose the abbreviated school day schedule in writing at any time.
 - vi. Details about the abbreviated school day schedule, including:
 1. Supports, services, and alternatives that have been provided or considered prior to placing the child on an abbreviated schedule.
 2. How the abbreviated school day schedule is designed to support the child's return to a full day schedule, including a description of the stages for gradual reintroduction to return the child to a full day schedule.
 3. How the abbreviated school day schedule will ensure progress towards

- the child's IEP goals and progress in the general education curriculum.
4. The number of hours of instruction and related services to be provided to the child while placed on an abbreviated schedule.
 5. How the child's progress towards IEP goals, including any short-term objectives or benchmarks, will be measured.
 6. The date and frequency of meetings to review the child's progress on the abbreviated school day schedule.
 7. The date by which the child is expected to return to a full-day schedule.
- e. The request for consent must be provided in a language and format that is accessible to the child's parent, legal guardian, or custodian, including their native language or mode of communication, if appropriate.

8. Requirements for Documentation and Record Keeping for Abbreviated School Day Schedule:

The documentation for each child with a disability who is placed on an abbreviated school day must include:

- a. The daily school schedule of the child with disabilities;
- b. Whether the child's parent consented to the assigned abbreviated school day schedule if the abbreviated school day is not connected to the offer of FAPE;
- c. The Administrative Unit's justification for the abbreviated school day schedule;
- d. A description of how the delivery of a FAPE will be achieved if the child has an IEP or 504 plan;
- e. A description of whether the abbreviated school day schedule will impact the ability to educate the child with disabilities in the LRE;
- f. A timeline to review the abbreviated school day schedule to determine the percentage of the school year the child with disabilities is in school and whether it is appropriate and complies with applicable federal and state laws and regulations;
- g. The appropriate point of contact for parents if there is a concern that a law, regulation, or policy has been violated; and
- h. Documentation that the child's parents have been provided with procedural safeguard information prior to any meeting to discuss an abbreviated school day schedule, including an IEP or 504 meeting.