




Bulletin 24.01

SPECIAL EDUCATION INFORMATIONAL BULLETIN

March 2024

TO: District Administrators, CESA Administrators, CCDEB Administrators,
Directors of Special Education and Pupil Services, and Other Interested Parties

FROM: Paul Manriquez, Assistant State Superintendent 
Division for Learning Support

SUBJECT: Shortened School Day Bulletin (Replaces Bulletin 14.03)

Introduction

Each year the Wisconsin Department of Public Instruction (department) receives numerous questions from parents, school districts, and other partners about shortened school days for students receiving special education services. The department has revised this bulletin to address those questions and to provide further clarification and guidance in this area.

In Wisconsin, each student's individualized education program (IEP) team determines their educational placement. [Wis. Stat. § 115.78\(2\)\(c\)](#). In determining the appropriate educational placement for a student, the IEP team must follow the least restrictive environment (LRE) requirements. Under LRE requirements, IEP teams must ensure each student is educated, to the maximum extent appropriate, with their nondisabled peers. Special classes, separate schooling, or other removal from the regular education environment should not occur unless education in the regular educational environment with the use of supplementary aids and services cannot be achieved satisfactorily. [Wis. Stat. § 115.79\(1\)](#). **It is not appropriate to shorten the school day for a student with a disability unless the student's IEP team determines a shortened day is required to address the student's unique, disability-related needs.**

Removing a student from their regular educational environment, whether it is changing the student's physical location or reducing the time a student spends with peers, is a significant intervention and must not occur without the IEP team's careful deliberation. Any time an IEP team is considering a more restrictive option for a student with a disability, the IEP team needs to ascertain what characteristics of the student's current, less-restrictive placement are not meeting the student's disability related needs. The team should consider whether adjustments to environmental factors, instructional arrangements, or adult practices might better address the needs of the student.

Shortening the school day of a student with a disability creates significant barriers to providing a free, appropriate public education (FAPE) under the Individuals with Disabilities Education Act (IDEA). The IEP team is responsible for developing an IEP that is reasonably calculated to enable the student to make

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progress both in the general education curriculum and toward the IEP goals that is appropriate in light of the student's circumstances. [Questions and Answers \(Q&A\) on U. S. Supreme Court Case Decision Endrew F. v. Douglas County School District Re-1](#). Shortening the school day of a student with a disability may also constitute discrimination under Section 504 of the Rehabilitation Act.

1. What are the general requirements regarding the length of the school day and attendance for students with disabilities?

School districts must provide all students with disabilities the same opportunities as nondisabled peers and may not exclude students from attendance based on their disability. Section 504 of the Rehabilitation Act of 1973, [34 CFR 104.4](#). Wisconsin's compulsory school attendance law applies to all students. Students with disabilities must attend school for the same number of hours and minutes as nondisabled students, unless a student's IEP team determines otherwise based on a student's unique, disability-related needs. [34 CFR § 300.11\(c\)\(2\)](#). All children between ages 6 and 18 must attend a public or private school, or a home-based private educational program (home schooling), unless the student is excused under state law or has graduated with a regular diploma. State law requires a child who is enrolled in 5-year-old kindergarten (5K) in a public or private school to regularly attend kindergarten during the school year. [Wis. Stat. §§ 118.15\(1\)\(a\); 118.15\(1\)\(am\); 118.15\(4\)](#).

Even though students with disabilities aged 3-5 are under the age of compulsory school attendance, districts must provide them a FAPE. Districts must provide these students the same opportunities as their nondisabled peers. School districts may not exclude students under age 6 from attendance based upon their disability.

2. What strategies should the IEP team consider prior to shortening a student's school day?

Shortening the school day of a student with a disability creates significant barriers to providing a FAPE under the IDEA. Before considering a shortened school day for a student with a disability, the IEP team must meet to review the student's IEP and revise, as appropriate, the student's supplementary aids and services, specially-designed instruction, related services, and program modifications and supports for school personnel. IEP teams are responsible for regularly monitoring and evaluating the impact and efficacy of the services in each student's IEP.

IEP teams must thoroughly consider other options before deciding to shorten a student's school day. For example, an IEP team might consider whether modifying the student's instruction or schedule of activities, incorporating breaks, and including more choice and high-interest opportunities can support the student's ability to tolerate a full school day. More information on positive behavioral interventions and supports can be found in the [Functional Behavior Assessment \(FBA\) Bulletin](#).

3. Is it ever appropriate for an IEP team to consider implementing a shortened school day for a student with a disability? What must the IEP team document in the student's IEP?

It is not appropriate to shorten the school day for a student with a disability unless the student's IEP team determines a shortened day is required to address the student's unique, disability-related needs. This should occur only in rare circumstances, and in most cases, a shortened school day should be in place for only a short amount of time.

In determining if a student requires a shortened day, the IEP team must discuss and document the following:

- An explanation of why the student's unique, disability-related needs warrant shortening the student's day;
- What supports will be provided to address these needs, so the student is able to return to a full day as soon as possible;
- The ongoing educational needs of the student and how the IEP team will ensure their continued progress in the general education curriculum and toward their IEP goals during the time instruction is limited;
- The IEP team's plan to meet more frequently to review student progress, including current medical information or other data, so that the student is returned to a full day as soon as possible including:
 - the interventions the IEP team will employ including how these interventions will support the student,
 - methods the IEP team will use to demonstrate the interventions are effective, and
 - the student data the team will review to measure the student's progress to return to a full day of school ([Form 1-4](#) Section IV. Program Summary); and other options the IEP team considered and rejected. All information must be documented within the IEP, usually on the placement page ([Form P-1](#) or [P-2 Notice of Placement](#))

4. Must an IEP team meeting be held before shortening the length of a student's school day?

Yes. Shortening a student's school day is a placement decision that must be made through the IEP team process. [Wis. Stat. § 115.78\(2\)\(c\)](#).

5. Must a school district shorten a student's school day upon request of the student's parent?

No. A parent cannot unilaterally decide to shorten a student's school day. Any changes to the regular school schedule must be made by the student's IEP team, which includes the parent. It is not appropriate to shorten the school day for a student with a disability unless the student's IEP team determines a shortened day is required to address the student's unique, disability-related needs.

If a student is repeatedly absent from school the district should refer to their school board policies regarding attendance for next steps [Wis. Stat. § 118.16](#). An interruption of special education services due to student absences, even if excused, could result in a denial of a FAPE. Whether an interruption of services constitutes a denial of a FAPE must be determined by the student's IEP team on a case-by-case basis. [Letter to Clarke \(OSEP, 2007\)](#).

The [Wisconsin Special Education Mediation System](#) is available to all parents and LEAs in the State of Wisconsin at no cost and can be used to reach agreements on educational placements through mediation or a facilitated IEP. If a decision regarding placement is made through mediation, the IEP should be revised to reflect that placement decision at the following IEP team meeting.

6. May a school district implement a standard shortened school day for all students with disabilities or for a group of students with disabilities?

No. Any decision to shorten a student's school day must be made on an individual, case-by-case basis by the student's IEP team. [See Question C-6 in OSEP Q&A 22-02](#). For example, it is not permissible for a school district to establish an alternative program for students with disabilities with fewer hours of instruction than the regular school day for a similarly situated student not in the alternative program.

7. May an IEP team implement a shortened school day for a student in order to manage student behavior or as a means of discipline?

No. Shortened school days may not be used to manage student behavior or as a substitute for discipline. Any removals initiated by the district where the student is removed from school for any length of time in response to student behavior is considered a disciplinary removal. Disciplinary removals must be tracked and counted. There are many requirements related to discipline of students with disabilities. See DPI's bulletin on [Legal Requirements Relating to Disciplining Children with Disabilities](#).

A school district may not reduce a student's instructional time as a form of punishment or in lieu of a suspension or an expulsion. In addition, a school district may not require a student to "earn" back the return to a longer or full day by demonstrating good behavior. The school district may not place additional requirements on the student in order to attend school, such as taking medication or receiving treatment, therapies, or other outside services.

The IEP team is responsible for addressing the student's behavioral needs through annual goals, specially-designed instruction, related services, and/or supplementary aids and services. The IEP must include positive behavioral interventions, supports and strategies to enable the student to participate in the full day. The IEP team should address the effects of the student's disability by conducting a root cause analysis to identify the student's unique, disability-related needs. A functional behavioral assessment may be necessary to identify the root causes of the behaviors and create a plan for addressing them. See DPI's Bulletin 23.01, [Providing Positive Behavioral Supports and Interventions to Students with Disabilities and Use of the Functional Behavior Assessments \(FBA\)](#).

According to the Office of Special Education Programs of the U.S. Department of Education, "The failure of an IEP Team to consider and provide for needed behavioral supports through the IEP process may result in a child not receiving... FAPE. In addition, an LEA's failure to make behavioral supports available throughout a continuum of alternative placements, including in a regular education setting, could result in an inappropriately restrictive placement and constitute a denial of placement in the least restrictive environment ... If the student's IEP already includes behavioral supports, upon repeated incidents of student misbehavior or classroom disruption, then the IEP Team may need to meet to consider whether the student's behavioral supports are being consistently implemented as required by the IEP or whether they should be changed. It is critical that IDEA provisions designed to support the needs of students with disabilities and ensure FAPE are appropriately implemented so as to avoid an overreliance on, or misuse of, exclusionary discipline in response to a student's behavior." [Question A-6 in OSEP Q&A 22-02](#).

8. May a school district implement a shortened school day for a student with a disability based on issues related to transportation?

No. A school district may not reduce a student with a disability's instructional time by starting the student's school day later or releasing the student earlier than nondisabled peers in order to accommodate a transportation schedule. For example, it is not permissible for a district to release students with disabilities earlier than their nondisabled peers in order to schedule an earlier bus route. [See Question 8 in DPI Transportation Bulletin](#).

9. May an IEP team shorten a student's school day for administrative convenience?

No. A student's school day may not be shortened for administrative convenience, including staffing shortages. [Osseo Area Schs., Indep. Sch. Dist. No. 279 v. A.J.T., 122 LRP 34295 \(D. Minn. 09/13/22\)](#).

10. May an IEP team shorten a student's school day to accommodate regularly scheduled outside therapies?

No. IEP teams may not shorten a student's school day solely to accommodate regularly scheduled non-school medical or therapeutic appointments. Parents and districts should communicate regularly regarding outside appointments that result in a student being absent from school. Districts must refer to their local attendance and excusal policies to determine whether absences are excused. For further information on attendance requirements see DPI's [Compulsory School Attendance](#) guidance.

An interruption of special education services resulting from frequent student absences may result in a denial of a FAPE, and IEP teams must monitor each student's progress individually to determine whether the student is continuing to receive a FAPE. [Letter to Clarke \(OSEP, 2007\)](#). Any time a student is absent from school frequently, even if absences are excused, the student's IEP team should meet to review the student's IEP to ensure the services the district is providing continue to allow the student to progress in the general curriculum and toward meeting the annual goals in their IEP.

11. After an IEP team has implemented a shortened school day for a student, what obligation does the school district have to monitor the student's shortened day?

While the student is on a shortened day, the IEP team must meet more frequently to ensure the district is continuing to provide the student a FAPE, including ensuring the student continues to make progress in the general curriculum and toward meeting the annual goals in their IEP. This includes a thorough review of the district's implementation of the IEP team's plan to ensure it effectively addresses the student's disability-related needs, and if not, revising the plan in the IEP accordingly to ensure the student expeditiously returns to a full day and that the student continues to receive a FAPE. If the student is not progressing, the IEP team must meet and revise their IEP to determine whether a shortened day continues to meet the student's unique, disability-related needs in the least restrictive environment.

It may be appropriate, under some circumstances, to progressively increase the student's day over a period of time. This progression should only be done in rare situations and for a limited amount of time as it should be part of the IEP team's plan to return the student to a full school day as soon as possible.

12. If a shortened school day is no longer necessary for a student, what must the IEP team do in order to return the student to a full day?

When the IEP team determines that a shortened day is no longer necessary for a student, it must return the student to a full day. At that time, the IEP team must review and revise, as appropriate, the student's IEP to ensure that it reflects a full day program with the requisite services and supports needed to meet the student's unique, disability-related needs. A copy of the revised IEP and notice of placement must be provided to the parent prior to its implementation.

13. What can a parent do if they disagree with an IEP team's decision to implement a shortened school day?

If a parent disagrees with the decision to implement a shortened school day, the department encourages the parties to attempt to resolve their disagreement with their local school district. In addition to working with staff at the student's school, parents should consider contacting the district's [director of special education](#).

Additionally, a parent may also utilize any of the three dispute resolution options under state and federal special education law: mediation, due process hearing, or IDEA state complaint.

Mediation and Facilitated IEP Team Meetings: Parents can request a facilitated IEP team meeting and/or mediation through the Wisconsin Special Education Mediation System (WSEMS). The services of WSEMS are free of charge. More information about WSEMS can be found at <http://www.wsems.us/>.

IDEA State Complaint: Anyone may file a state special education complaint with DPI if they believe a district has violated state or federal special education requirements. More information about complaints, including a model form to file a complaint, is available at <http://dpi.wi.gov/sped/dispute-resolution/complain>.

Due Process Hearing: Parents have the right to request a due process hearing in writing whenever there is a dispute over the district's proposal or refusal to initiate or change their child's special education identification, evaluation, the development and/or implementation of their child's IEP, the child's educational placement, or the provision of a free appropriate public education (FAPE). Information about how to request a due process hearing is available at <http://dpi.wi.gov/sped/dispute-resolution/due-process>.

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DPI Resources:

[DPI's Functional Behavior Assessment \(FBA\) Bulletin](#)

[Functional Behavioral Assessment and Behavior Intervention Plan Toolkit](#)

[Inclusive Strategies to Address Behavioral Needs for Students with IEPs](#)

[Culturally Responsive, Evidence-Based Practices](#)

[DPI-DHS joint guidance](#)

Other Resources:

[Positive, Proactive Approaches to Supporting the Needs of Children with Disabilities: A Guide for Stakeholders](#)

[Supporting Neurodiverse Students Professional Learning System](#)

[National Organizations to Support Implementation of Evidence-Based Practices for Students with IEPs](#)

For questions about this information, contact the DPI Special Education Team at (608) 266-1781.