



Information UPDATE

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

FROM: Carolyn Stanford Taylor, Assistant State Superintendent
Division for Learning Support

SUBJECT: Shortened School Day Bulletin

Each year the Wisconsin Department of Public Instruction (department) receives numerous questions from parents, school districts, and other stakeholders about the permissibility and requirements around shortening a school day for a student who is receiving special education services. Shortening a student's day raises issues regarding the provision of a free and appropriate public education (FAPE) under the Individuals with Disabilities Education Act (IDEA), as well as potential discrimination under 504 of the Rehabilitation Act. The department has developed this bulletin to address those questions and provide guidance in this area.

1. What is the general requirement regarding the length of the school day for students with disabilities?

Wisconsin public schools share responsibility with parents/guardians to ensure school-age children are enrolled in and attending appropriate educational programs. Under Wisconsin's compulsory school law, all children between age 6 and 18 must attend a public or private, or a home-based private educational program (home schooling) unless the student is excused under the law or has graduated with a regular diploma.

For students age 5 attending full day kindergarten programs, the statute 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. Districts may still offer full-day, part-day, or both full and part-day 5K programs. Attendance is mandatory for whatever program in which the child is enrolled.

Wisconsin's compulsory school law applies to students with disabilities in the same manner as it applies to students without disabilities. Students with disabilities must attend school for the same number of hours and minutes as non-disabled students, unless a student's individualized education program (IEP) team determines otherwise based on a student's unique, disability-related needs.

2. When is it appropriate for a school district to implement a shortened school day for a student with a disability?

The only time it is appropriate to shorten the school day for a student with a disability is when the student's IEP team determines a shortened day is required to address the student's unique disability-related needs. For example, if because of the student's medical needs, the student is physically unable to tolerate a full school day, a shortened day may be appropriate. Before deciding to shorten the student's day, the IEP team must consider if there are other ways to meet the student's needs.

When a student's school day is shortened, the student's IEP must include:

- an explanation of why the student's disability-related needs require a shortened day, and
- a plan for the student's return to school for a full day, including a plan to meet more frequently to review student data and determine whether the student is able to return to school full-time.

The student should return to a full school day as soon as she or he is able, and under most circumstances, a shortened school day should be in place for only a limited amount of time. The IEP team must meet more frequently than once a year, and as often as necessary to review the plan and to determine when the student is able to return to school full-time.

3. 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 decision that must be made through the IEP team process.

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

No. If a parent requests a change in the length of the student's school day, the district must respond to the parent's request. However, any changes to the regular school schedule must be made by the student's IEP team, which includes the parent. The only time it is appropriate to shorten the school day for a student with a disability is when the student's IEP team determines a shortened day is required to address the student's unique disability-related needs. This decision must be reflected in the student's IEP, including documenting the reasons for the shortened day and providing a plan for returning to a full day.

5. 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. 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.

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

No. A school district may not reduce a student'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.

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 means of discipline. 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 school day by demonstrating good behavior. Attendance may also not be conditioned upon the student's taking medication or receiving treatment, therapies, or other outside services.

The IEP team must develop an IEP that addresses the student's behavioral needs through annual goals, related services, and supplementary aides and services. The IEP must include positive behavioral interventions, supports and strategies to enable the student to participate in the full school day.

8. 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.

9. 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 regarding absences. When absences are frequent, the IEP team should meet to determine how to ensure the continued provision of FAPE in order for the child to continue to progress and meet the annual goals in the IEP. Districts must refer to their local attendance and excusal policies to determine whether absences are excused.

10. How should a shortened school day be documented in the student's IEP?

The IEP team has several options as to which section of the IEP to include this documentation. For example, teams may choose to include documentation in Form I-4 (Present Level of Academic Achievement and Functional Performance), Form I-9 (Program Summary) and in section V. documenting the student's participation in regular education classes and settings, and/or on Form P-2 (Determination and Notice of Placement). The IEP must specify why the unique disability-related needs of the child require a shortened day, and the IEP must provide a plan for returning the student to a full day as soon as the student is able.

The IEP should include goals and/or services designed to address the disability-related needs that result in a decision to shorten the student's school day. The IEP must include a clear description of the special education, related services, and supplementary aids and services to be provided including the amount, frequency, location, and duration of services.

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

School districts, through the IEP team process, should continuously monitor and review the student's progress and plan frequent IEP team meetings to determine whether a shortened school day continues to be necessary to meet the student's unique, disability-related needs. The student should return to a full day as soon as he or she is able, and under most circumstances, a shortened day should be in place for only a limited amount of time.

12. If a shortened school day is no longer necessary for a student, what steps must a district take in order to return the student to a full day?

If a shortened school day is no longer necessary, then the school district must conduct an IEP team meeting to return the student to a full school day. The IEP team must also review the student's IEP to ensure that it reflects a full day program with the requisite services and supports needed for the student's individualized needs. A copy of the revised IEP and notice of placement must be provided to the parent.

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 parent may elect to participate in mediation with the school district to resolve the dispute. Mediation is a voluntary process conducted by a trained, neutral mediator who helps facilitate discussion and assists parties in reaching a resolution. The parent may also file a special education complaint with the Wisconsin Department of Public Instruction. The complaint must be in writing, signed, and submitted within one year of the decision to shorten the school day. Additionally, the parent may file a request for a due process hearing challenging the IEP team's decision. The request must be filed within one year of the decision to shorten the school day. For more information on the dispute resolution options under special education law, visit the department's website at: http://sped.dpi.wi.gov/sped_tm-spedtopics.

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This information update can also be accessed through the Internet:

http://sped.dpi.wi.gov/sped_bulindex