

## **Procedural Guidance regarding Shortened School Day Schedules (“shortened schedule”<sup>1</sup>) for students with an Individualized Education Program (IEP)**

### **I. Introduction**

In general, the length of a school day should be no different for a student with an Individualized Education Program (IEP). Under certain specific circumstances though, an IEP team can agree to shorten the school day of a student with a disability where it is required to meet that particular child’s unique needs and provide him or her with a free appropriate public education (FAPE). Still, it should be very rare and typically, only temporary.

#### **a. Definition of a Shortened Schedule**

Students with an IEP must attend school for the same number of hours and minutes as non-disabled students, unless a student’s IEP team determines otherwise based on a student’s unique, disability-related needs. Any shortening of the school day from the number of hours and minutes attended by non-disabled students constitutes a shortened schedule for a student with an IEP.

#### **b. Circumstances in which a shortened schedule is permissible<sup>2</sup>**

A shortened schedule for a student with an IEP is permissible only under specific circumstances and when it is required to meet the child’s unique needs and provide him or her with FAPE. Examples of appropriate uses of a shortened schedule could include, but are not limited to:

- i. Student with a recent brain trauma, currently in recovery, needs a transitional reduced day due to cognitive fatigue associated with recovery;
- ii. Physician of a student transitioning to new seizure medications requests gradually increasing the length of the school day for the student;
- iii. Recently adopted student from another country is experiencing transition difficulties and the parents and therapist request a gradual transition to school;
- iv. Driving distance and full school day for a student with a seizure disorder has a direct impact on the student’s health causing increased seizures;
- v. For a student with school phobia, school refusal or selective mutism who is in treatment, when the student’s therapeutic plan specifies a gradual transition to full day attendance with beginning and end dates specified;
- vi. When due to a student’s severe emotional, behavioral and/or medical needs, the student is physically unable to tolerate a full school day despite extensive efforts to provide positive behavioral interventions, supports, strategies and/or medical intervention;
- vii. Student discharged from residential treatment experiences transition difficulties and the student’s therapist requests a gradual transition to school.

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<sup>1</sup> This procedural guidance pertains to shortened school days, not to otherwise modified schedules.

<sup>2</sup> All circumstances must comply with the requirements of applicable civil rights laws and regulations.

**c. Examples of impermissible reasons for a shortened schedule**

A shortened schedule raises issues regarding the provision of FAPE under the Individuals with Disabilities Education Act (IDEA), as well as potential discrimination under Section 504 of the Rehabilitation Act. There are clear impermissible reasons for a shortened schedule including, but not limited to:

- i. Administrative convenience;
- ii. Cost savings or limited funding;
- iii. Unavailability of staff (due to staff shortages);
- iv. Driving distance (exclusive of impact on student);
- v. Difficulty with implementation of the child's IEP;
- vi. For management of student behavior or discipline, and/or as a form of punishment, or in lieu of an appropriate behavioral intervention plan (BIP) or necessary behavioral supports;
- vii. For transportation convenience which leads to a reduction of instructional time for a student with an IEP (i.e. either by starting the student's school day later or by releasing the student earlier than non-disabled peers);
- viii. Establishing a standard for an alternative program for an entire group of students with IEPs for fewer hours of instruction than non-disabled students;
- ix. Making a change based upon a parent request alone (the IEP team is obligated to offer and implement a legally compliant IEP, and thus may refuse a parent request if the team believes the shortened day does not constitute FAPE or provide a student with an opportunity to receive educational benefit);
- x. Indefensible rationales (For instance, "We knew he shouldn't attend school only one hour a day, but we didn't know what else to do so now we are shortening his day" or "We can't have him at our school. He gets in too many fights in the afternoon. He's fine in the morning, so we will only have him on campus for the first three periods." Having a parent come pick a student up in these temporary situations is considered removal, so caution is warranted).

**d. Who makes the decision regarding a shortened day schedule<sup>3</sup>**

The decision regarding a shortened day schedule must be made on an individual, case-by-case basis by the student's IEP team after the IEP team fully considers if there are other ways to meet the student's needs. When considering a shortened schedule, the IEP team must be mindful of legal mandates regarding FAPE, least restrictive environment (LRE), and educational benefit. IEP teams should exercise caution as a shortened day may limit a student's ability to make adequate progress, to access the general education curriculum, to meet graduation requirements and to receive FAPE.

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<sup>3</sup> This provision must comply with applicable regulations for IEP teams.

**e. Requirements of the Individualized Education Program (IEP) of each student on a shortened schedule**

An IEP team meeting must be held before the school district shortens the length of a school day for a student with an IEP. At a minimum, the IEP generated shall include:

- i. Specific details related to the shortened schedule, including, at a minimum, the student's school start time and end time for each day of the school week (i.e., Monday to Friday) in the accommodations section of the IEP;
- ii. The student's need for a shortened school day in the present levels of performance section of the IEP, for example, "The IEP team has determined that the student is unable to attend school for the required number of hours because... Therefore, a full school day is not appropriate for the student to receive his public education";
- iii. The parent's or parents' input regarding the shortened schedule in the present levels of performance section of the IEP;
- iv. A description of the special education and/or related services resulting from the change in the service delivery section of the IEP, if the shortened schedule changes the student's special education and/or related services from the student's then-current IEP;
- v. A description of the LRE resulting from that change in the LRE section of the IEP, if the shortened schedule changes the LRE for the student from the student's then-current IEP;
- vi. Team discussion of the continuum of services and placement, including a shortened schedule and any alternatives considered as appropriate in the Prior Written Notice (PWN) section of the IEP;
- vii. At a minimum, an IEP Amendment is required each time the shortened schedule changes for the student.

A shortened day may be an appropriate offer of FAPE in limited circumstances. An offer of services and placement must provide a student educational benefit in the LRE.

**f. IEP teams must review the student's need for a shortened schedule**

Use of a shortened schedule to provide FAPE may be appropriate for limited students, in limited circumstances, and for limited periods of time. IEP teams should continuously monitor and review a student's progress and plan and meet for an IEP meeting at least annually, and more frequently, if needed, to determine whether a shortened school schedule continues to be necessary to meet the student's unique, disability-related needs<sup>4</sup>. The student should return to a full day schedule as soon as he or she is able.

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<sup>4</sup> This may be at the annual review. This provision must comply with applicable regulations for IEP teams.

**g. Transportation providers for students on a shortened schedule must be notified, in writing, of the initiation of, the elimination of, and any interim changes to shortened schedules**

If a student is placed on a shortened schedule due to an IEP team decision, the school district is required to offer transportation to the student to accommodate their modified schedule if that student is otherwise eligible for special education transportation.

The transportation director and bus driver(s) for a student with a shortened schedule must be notified, in writing, of the initiation of, the elimination of, and any interim changes to a shortened schedule for a student.

At a minimum, the transportation director and bus driver(s) will be provided with:

- i. Specific details related to the shortened schedule, including, at a minimum, the student's school start time and end time for each day of the school week (i.e., Monday to Friday).

This written notification to the transportation director and bus driver(s) will be provided by the building principal, unless delegated by the building principal to another designated member of the IEP team.