

Shortened School Day And Homebound Decision Guidance

FOR STUDENTS RECEIVING SPECIAL EDUCATION SERVICES



Arkansas Department of Elementary
and Secondary Education
Special Education Unit

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1. Rationale and Background

In the spring of 2020, the Arkansas Department of Education (ADE), Division of Elementary and Secondary Education (DESE), Special Education Unit (SEU), identified the need for guidance related to shortened school day and homebound placements for students with disabilities. A task force was developed consisting of personnel from the SEU and local education agency (LEA) special education supervisors from across the state.

One of the cornerstones of special education is providing education in the least restrictive environment (LRE). A shortened school day or a homebound placement undeniably moves a student to the most restrictive option since the student is removed from all opportunities to participate in an environment with his or her non-disabled peers. Individualized Education Program (IEP) teams should exercise caution when placing a student on a shortened school day or homebound services as it may affect a student's ability to make adequate progress, access the general education curriculum, meet graduation requirements, and receive a free appropriate public education (FAPE).

This guidance document outlines the considerations necessary for making decisions regarding a shortened school day or homebound services. This document should be used in conjunction with the DESE Special Education and Related Services, Procedural Requirements and Program Standards (Rules) and the Individuals with Disabilities Education Act (IDEA) and its implementing regulations. It reinforces the basic legal requirement that every child is entitled to a free appropriate public education in the least restrictive environment, and supports teams in their efforts to implement that requirement.

2. FAPE and the LRE

The Individuals with Disabilities Education Act (IDEA) ensures that all children with disabilities have access to "a free appropriate public education" (FAPE). FAPE is individually determined for each student with a disability, must include the provision of special education in the least restrictive environment (LRE), as well as related services, transition services, supplementary aids and services, and/or assistive technology devices and services, as appropriate.

3. Compulsory Attendance and Length of the School Day

- Ark. Code Ann. § 6-18-201 makes school attendance compulsory for children age 5 through 17 with the following exceptions:
 - Any child who has received a regular high school diploma
 - Any child sixteen (16) years of age or older who is enrolled in a:
 - postsecondary vocational-technical institution,
 - community college,
 - two-year or four-year institution of higher education, or
 - adult education program.
- The DESE Rules Governing Standards for Accreditation (July 2020) state that each public school district shall provide a minimum of 178 days of student-teacher interaction time.



4. Appropriate Uses of Shortened School Day and Homebound Services

A shortened school day or homebound services should only be used when necessary to address a student's unique disability-related needs. For example, if the student is physically unable to participate in a full school day because of the student's medical needs, a shortened day may be appropriate. Before deciding to shorten the student's day or provide homebound services, the IEP team must consider other less restrictive ways to meet the student's needs.

When the team determines it is appropriate to shorten a student's school day or provide homebound services, the student's IEP must include:

1. An explanation of why the student's disability-related needs require a shortened day or homebound services, AND
2. A plan for the student's return to a full school day, including a plan to meet more frequently to review student data (a minimum of every 90 days) and determine whether the student can 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 or homebound services should only be in place for only a limited amount of time. Some examples of brief, specific-purpose shortened days and/or homebound services that may be an appropriate provision of FAPE are listed below (this is not an exhaustive list):

- A student with recent brain trauma, currently in recovery, needs a transitional reduced day due to cognitive fatigue associated with recovery.
- Physician of a student transitioning to new seizure medications requests gradually increasing the length of day.
- A recently adopted student is experiencing transition difficulties and his therapist recommends a gradual increase in the school day for attachment purposes.
- Underlying medical conditions limit the amount of time a student can participate in the school day.
- [ABC](#) or [Scatterplot data](#) indicate patterns of behavior indicating specific needs for a shortened day. Data must continue to be used to assist the team in determining when to increase the length of the day.

5. Inappropriate Uses of a Shortened Day

If any student is currently on a shortened school day due to circumstances similar to those described below, the IEP team should meet as soon as possible to determine immediate steps to return the student to a full school day and prevent further denial of access to FAPE.

Behavior and Discipline

- A student's instructional time may not be reduced as a form of punishment or in lieu of a suspension or an expulsion.
- An LEA cannot require that a student take medication, receive medical treatment or therapy, or any other outside service in order to attend school.



- In the case of a student whose behavior impedes the student’s learning or that of others, the IEP must include positive behavioral interventions, supports, and strategies reasonably calculated to **enable** the student to participate in the full school day.
 - School removals are not positive behavioral supports.
- Removing a child from in-person learning to a virtual setting due to behavior is not an appropriate behavior management strategy.
- On August 1, 2016, the U.S. Department of Education’s Office of Special Education and Rehabilitative Services (OSERS) issued guidance in the form of a [Dear Colleague Letter](#) (DCL) that emphasizes the requirement that schools provide positive behavioral supports to students with disabilities who need them.
 - The repeated use of disciplinary actions may suggest that children may not be receiving appropriate behavioral interventions and supports.
 - When schools fail to consider and provide for needed behavioral supports through the IEP, it is likely to result in a child not receiving FAPE.

Accommodating Transportation Schedules

- An LEA may not reduce a student’s instructional time by starting the student’s school day later or releasing the student earlier than non-disabled peers to accommodate a transportation schedule.

Administrative Convenience

- A student’s school day may not be shortened or the student provided homebound services for administrative convenience, including staffing shortages.

Accommodating Regularly Scheduled Outside Therapies

- IEP teams may not shorten a student’s school day based solely on a parent’s request to accommodate regularly scheduled medical or therapeutic appointments. The district is responsible for providing services the team determines is necessary for FAPE. Adjustments to attendance requirements may be considered.
- Parents and schools should communicate regarding absences related to the student’s disability. When absences are frequent, the IEP team should meet to determine how to ensure the continued provision of FAPE for the child to continue to progress and meet the annual goals in the IEP.
- Schools must refer to their district attendance and excusal policies to determine whether absences are excused.

Upon Parent Request

- If a parent requests a change in the length of the student’s school day due to the student’s disability, the LEA must convene an IEP meeting to consider the parent’s request.



- Any changes to the length of a school day must be made by the student's IEP team, including the parent.
- The only time a student's school day is shortened or a student is placed on homebound services is through an IEP team decision.

6. Procedures

The two frequently used reasons for providing a shortened school day or homebound services are medical and behavioral. Usual procedures for those conferences should be followed, including, but not limited to, a notice of conference, committee decision, and a notice of action.

BEHAVIORAL PROCEDURES

<p>Before the conference:</p>	<ul style="list-style-type: none"> ○ Confirm teacher access to due process folder including existing accommodations and modifications to IEP as well as Functional Behavior Assessment (FBA) and Behavior Intervention Plan (BIP) ○ Collect Scatterplot or ABC data to determine any patterns of behavior ○ Gather all disciplinary reports including OSS/ISS days and if any manifestations have been conducted and outcomes ○ Gather all academic data to help determine the potential adverse effect ○ Collect all information regarding previously implemented behavior interventions and effectiveness ○ Have teacher input based on data that shows areas of concerns ○ Gather existing FBA and/or BIP to review at the conference ○ Invite all necessary IEP team members ○ Invite outside providers as appropriate (i.e., mental health providers) ○ Send Notice of Conference to the parent that a conference discussing behavior will occur
<p>During the conference:</p>	<ul style="list-style-type: none"> ○ Review all data including behavior (i.e., office referrals, OSS/ISS, ABC data, Scatterplot) and academic ○ Review teacher input or allow teachers to provide input if present at the meeting ○ Allow parent input and outside service providers' input (i.e. mental health providers) ○ Review the current IEP, including: <ul style="list-style-type: none"> ■ Accommodations ■ Modifications ■ Behavior interventions and effectiveness ■ BIP and measures of the fidelity of implementation ■ Is the current BIP based on an FBA ○ Review existing FBA <ul style="list-style-type: none"> ■ Develop a BIP if the FBA is current ○ If FBA has not been conducted, then obtain consent for an FBA <ul style="list-style-type: none"> ■ Develop a Crisis Plan while the FBA is being conducted if the student is a harm to self or others ○ Look at Supplementary Aids and Services needed ○ Consider continuum of services ○ Determine a plan to reconvene at least every 30-60 days to review progress on behavior interventions or BIP



	<p>If all above has been reviewed and implemented, and the team has made the decision for a shortened school day or homebound services, then consider:</p> <ul style="list-style-type: none"> ○ Develop a plan for providing instruction on a shortened basis (how much time, what classes, arrival/dismissal times, etc) ○ Determine transportation needs ○ Determine criteria for increasing time on campus ○ Amend the IEP or develop a new one via annual review ○ Determine a plan to reconvene at least every 30-60 days to consider the placement and potential for return to campus
<p>After the conference:</p>	<ul style="list-style-type: none"> ○ Send parent Notice of Action ○ If consent for FBA was obtained, then begin the FBA process. ○ Reconvene to discuss results of FBA and determine next steps (i.e. revision of current behavior interventions, implement targeted interventions, or develop BIP) ○ If BIP developed, then train staff on interventions and implement all components of BIP as created with ongoing data collection and fidelity of implementation <p>If a decision was made to shorten the school day, then the team may consider:</p> <ul style="list-style-type: none"> ○ Continue data collection and review data, including behavior (i.e., office referrals, OSS/ISS, ABC data, baseline data) and academic ○ Reconvene at least every 30-60 days to consider the placement: <ul style="list-style-type: none"> ■ Review all data ■ Review the criteria for increasing time on campus ■ Discuss the potential for a return to campus ■ Modify and adjust IEP including BIP as needed



MEDICAL PROCEDURES

<p>Before the conference:</p>	<ul style="list-style-type: none"> ○ Obtain consent to talk to the medical provider ○ Gather all medical and academic information available ○ Invite all necessary IEP team members, including the school nurse, personal care provider, and any outside providers ○ Send notice of conference to the parent indicating that the option will be considered
<p>During the conference:</p>	<p>Before making a decision:</p> <ul style="list-style-type: none"> ○ Consider information from: <ul style="list-style-type: none"> ■ medical documentation ■ attendance records ■ academic records ■ physician ■ teacher ■ parent ■ outside service provider(s) ○ Review current IEP including <ul style="list-style-type: none"> ■ supplementary aids and services ■ accommodations ■ modifications ■ personal care needs ○ Consider the full continuum of services, including other virtual or hybrid instruction (example: in-person ½ day & virtual ½ day). <i>This situation would not be considered a shortened day.</i> ○ Consider the ability of the family to care for the child during the school day ○ Review the impact on academics and current academic performance ○ Discuss the impact on graduation credits (if applicable) <p>If the team decides to place the student on a shortened school day:</p> <ul style="list-style-type: none"> ○ Develop a plan for providing instruction on a shortened basis (how much time, what classes, arrival/dismissal times, etc) ○ Determine transportation needs ○ Determine criteria for increasing time on campus ○ Amend the IEP or develop a new one via annual review ○ Determine a plan to reconvene at least every 90 days to consider the placement and potential for a return to campus
<p>After the conference:</p>	<ul style="list-style-type: none"> ○ Provide notice of action to parents ○ Implement the IEP as written ○ Reconvene at least every 90 days to consider the placement and potential for a return to campus ○ Consider gradually increasing time on campus ○ Maintain close contact with the parent to monitor the student's medical status



7. Clarifying Questions

Q: *Can a shortened school day or homebound services be an option to manage student behavior or discipline?*

A: An LEA may not reduce a student's instructional time as a form of punishment or in lieu of a suspension or an expulsion. Attendance may also not be solely 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. In the case of a student whose behavior impedes the student's learning or that of others, the IEP must include positive behavioral interventions, supports, and strategies reasonably calculated to enable the student to participate in the full school day. School removals are not positive behavioral supports.

Q: *Can a shortened school day be a request made by the parent to take the student to regularly scheduled outside therapy sessions?*

A: IEP teams may not shorten a student's school day based solely on a parent's request to accommodate regularly scheduled medical or therapeutic appointments. Parents and schools should communicate regarding absences. When absences are frequent, the IEP team should meet to determine how to ensure the continued provision of FAPE for the child to continue to progress and meet the annual goals in the IEP. Schools must refer to their local attendance and excusal policies to determine whether absences are excused and whether adjustments to attendance requirements are permitted.

Q: *How long can the student remain on a shortened school day or homebound services?*

A: 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 or homebound services should be in place for only a limited amount of time. The IEP team must meet as often as necessary and at least every 90 days to review the plan and determine when the student can return to school full-time.



8. Additional Legal Resources

- FAPE definition
 - Federal [1412\(a\)\(1\)](#)
 - [Arkansas Regs §5](#)
- School day definition [Federal 34 CFR §300.11\(c\)\(1\)](#)
- LRE
 - [Federal 34 CFR §300.114](#)
 - [Arkansas Regs §13](#)
- [Arcadia Unified Sch. Dist.](#), 09-14-1322, December 22, 2014 (OCR)
- [Christopher S. v. Stanislaus County Office of Educ.](#), 384 F. 3d 1205, 03-15178 (9th Cir. 2004)
- [Dixie Elem. \(CA\) Sch.](#) 2014110335, (2015)
- [Gwinnett County \(GA\) Sch. Dist.](#), December 1, 2015 (OCR)
- [Timothy W v. Rochester, N.H. School District.](#), 875 F. 2nd 954, 88- 1847 (1st Cir. 1989)
- [Plainville Board of Education v. R.N.](#), 3:09-CV-241(RNC) (D. Conn. 2012).
- [Alex U. v. Dep't of Educ., Haw.](#), 62 IDELR ¶ 104 (D. Haw. 2013)
- [Noah D. v. Dep't of Educ.](#), Haw., 61 IDELR ¶ 43 (D. Haw. 2013)
- [J.J.E. v. Indep. Sch. Dist.](#) 279, 69 IDELR ¶ 105 (Minn. Ct. App. 2017)
- [K.F. v. Francis Howell R-III Sch. Dist.](#), (E.D. Mo. 2018).
- [Bay Village \(Ohio\) 65 IDELR 275 \(OCR 15-14-1207\)](#)
- [Allegheny County \(NC\) Schs.](#), [117 LRP 3016](#) 09/20/16 (OCR).
- [Letter to Mason](#), July 27, 2018 (OSEP)
- [OSEP Dear Colleague Letter on Ensuring Equity and Providing Behavioral Supports to Students with Disabilities \(PDF\)](#) August 1, 2016 (OSEP)

