



Question: Can a school shorten a student's day so that they can attend outside therapies such as ABA Therapy?

Answer: Each year the Nebraska Department of Education 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.

To address questions relating to shortening a student's school day, the Nebraska Department of Education issued The "Shortened Days" Guidance Document in 2017.

Students who receive special education services through an Individualized Education Program (IEP) have the same rights to access public education as students who do not receive special education services. This includes the right to attend a full day of school as per Nebraska's compulsory school law. Thus, students who receive special education through 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.

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, including providing additional supports and services.





When a student's school day is shortened, the IEP team must meet to discuss this decision and documentation of the following must be included in the student's IEP:

- 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.

When a school day is shortened, 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. To appropriately monitor a student receiving a shortened school day, 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. 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





In addition to the documentation and decision-making requirements above, there are situations and conditions when shortening a school day is not permitted including:

- **a school or district cannot implement a standard shortened school day for all students with disabilities or for a group of students with disabilities**
- **a school district cannot implement a shortened school day for a student based on issues related to transportation**
- **the decision to shorten a students' school day cannot be made solely on a parent request. The decision must be made through an IEP team meeting and based on the student's unique disability-related needs.**
- **an IEP team cannot shorten a student's school day for administrative convenience (e.g. staffing shortages)**
- **an IEP team cannot shorten a student's school day to accommodate regularly scheduled medical or therapeutic appointments. Districts must refer to their local attendance and excusal policies to determine what absences are excused.**
- **an IEP team cannot implement a shortened school day for a student in order to manage student behavior or as a means of discipline**

A caution around shortening the school day for outside therapies relates specifically to why the school district would feel that the student would need to access these services instead of receiving services that should meet the students' needs within the school day. Specifically, by saying that the student should have a shortened day to access the Free Appropriate Public School, the school is saying that the services are needed and thus the school would ultimately be responsible, both in providing and/or fiscally for those supports.

