



- **Convene IEP team, amend IEP for changes to students' schedules**
- **Track students' disciplinary removals**
- **Recognize when to conduct MDR**

Use caution when shortening student's school day to address behavior

A public charter school student with autism and an emotional disturbance is suspended frequently over the course of a school year, with 10 days of removals in total. In an effort to address his behavioral issues, which increase in the afternoons, the school's special education director and the student's mother agree to shorten his school days to half days. The change to the student's schedule is emailed to his IEP team.

The school is later found to have violated the IDEA and ordered to undergo training. Where did it go wrong?

In this recent case, *Millennium Community School*, [116 LRP 11957](#) (SEA OH 03/25/16), the school violated the IDEA when it cut the student's school day in half without convening his IEP team. It also failed to conduct a [manifestation determination](#) review of the student's disciplinary removals.

Follow these guidelines to avoid a similar misstep in your district:

Convene IEP team when making changes to students' schedules

Whenever a school determines that a change to a student's schedule is needed for disability-related reasons, convene an IEP team meeting, said Anne Littlefield, a school attorney at [Shipman & Goodwin LLP](#) in Hartford, Conn. Be prepared to show data and discuss why the change is necessary for the student's progress, she said.

"You have to be cautious whenever you shorten a student's school day, because you're ending up with a child with a disability who has less instructional time than a child without a disability," Littlefield said.

Once the IEP team has agreed on changes to a student's schedule, amend the IEP to reflect the changes and address how the student's educational services will continue to be provided, said Nina Gupta, a school attorney at [Nelson Mullins Riley & Scarborough LLP](#) in Atlanta, Ga. Don't rely on emails or verbal agreements with parents; document all changes in writing, she said.

In the *Millennium* case, the charter school shortened the student's school day in hopes of alleviating his afternoon behavior problems. However, the decision was made between the special education director and the student's mother outside of an IEP team meeting. Outside agreements with parents often don't work long term, Littlefield said. They also can amount to a denial of FAPE if changes in placement are made without an IEP meeting or an amended IEP, she said.

Conduct MDR promptly when required

Under the IDEA, a district is required to conduct an MDR once a student has been removed for disciplinary reasons for: 1) more than 10 consecutive school days; or 2) a pattern of removals that total more than 10 days in a school year. [34 CFR 300.536](#).

Ensure communication between special education staff and the individuals responsible for administering discipline, Littlefield said. Keep track of students' disciplinary removals so you are prepared to conduct an MDR when required.

Gupta and Littlefield both recommend that schools conduct an MDR as soon as possible once a student reaches the 10-day threshold. Ideally, hold the MDR within 10 school days of the 10th day of disciplinary removals, Littlefield said. If the student is undergoing a long-term suspension, don't wait until the end of the suspension period to make arrangements for the MDR, Gupta said. Also, remember to give parents enough advance notice to attend the meeting.

Recognize that shortened school days can count toward MDR trigger

In the above case, the student's suspensions totaled 10 days. However, because the school also shortened his school days for behavioral issues without convening the IEP team, the reduced schedule counted as a "disciplinary exclusion" and pushed the student over the 10-day threshold, Littlefield said.

Some students may need reduced schedules for medical reasons, such as a student with fatigue who needs to leave early or a student with a sleep disorder who needs to begin school later, Littlefield said. But if a student needs a reduced schedule for discipline reasons, that warrants an IEP team meeting and possibly an MDR, Gupta said.

See also:

- [Ruling Roundup: Shortened school day](#) (April 7)
- [Read answers to colleagues' top questions regarding MDRs](#) (March 2)
- [Consider 8 tips to avoid parent-led litigation over shortened school days](#) (March 11, 2014)

Ragini Algole covers postsecondary transition and charter school issues for LRP Publications.

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