

SCHOOL LAW

WITH WALSH GALLEGOS NEW MEXICO



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AUG 2024 | No. 109

IEP TEAM DECISIONS AND STUDENT-SPECIFIC DATA: LESSONS FROM ALASKA

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Welcome back to school! We hope your 2024-2025 school year has been off to a smooth start.

Because much of the legal landscape surrounding special education comes from the federal Individuals with Disabilities Education Act, we can often look to other states for examples on implementing the IDEA.

The Alaska Department of Education recently issued a ruling in response to a parent's complaint about their student's shortened school day. There, the parent alleged that the district shortened the student's school day based on staff issues rather than the student's needs. The Alaska Department of Education agreed and ordered the district to provide compensatory education for the student.

There are a number of lessons to take away from this ruling.

LESSON ONE: Parents shouldn't have to ask for the student to have a full school day. The full school day should be the default. This student had a shortened school day and the parents repeatedly asked that it be extended. Shortening a student's day is a classic red flag. It does not necessarily mean that the student is not receiving a Free Appropriate Public Education, but it requires some explanation. Why is the day shortened? What evaluation data shows that this is necessary? The burden falls to the school district to justify a shortened day.

LESSON TWO: If the parent asks that the shortened day be extended, the school should document its response in a Prior Written Notice, or at least some other form of written documentation that satisfies the requirements of the law. The requirement that decisions like this be properly documented not only enables the parents to participate in the

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process in a meaningful way; it also forces the school district to be thoughtful and analytical about the decision. A review of the student's evaluation data should take place to see if there truly is a student-based need for a shortened day. If there is no data to support the decision, then a review of the decision might be necessary.

LESSON THREE: If the reason that the student has a shortened day is because of the student's abusive behavior toward the staff, an IEP Team meeting should be convened to address this issue. In the case in Alaska, there wasn't. There are many ways to address student misconduct. Shortening the day is not a student-centered approach. It sacrifices the student's educational progress for the sake of the staff. Brainstorming about an issue like this is exactly what IEP Teams are supposed to do. How can we provide a full school day, and maintain safety at the same time?

LESSON FOUR: If the reason that the student has a shortened day is because of the student's abusive behavior toward the staff, there should also be a BIP to address this behavior. BIPs are designed to address behavior that impedes the learning of the student or others. This student had a BIP, but the BIP addressed other issues, ignoring his most serious behavioral problem. The Alaska Department of Education found this to be a glaring omission in this student's IEP.

LESSON FIVE: In the Alaska case, the student's IEP was amended in October 2023 to extend his school day, but such an extension was not implemented until January 2024, after a follow-up meeting with the parent, school principal, and special education

teacher. If the parties agree to an IEP amendment that extends the school day, that change should not take months to implement. Lesson Five is about IEP implementation, which is an administrative issue. You can have a perfect IEP meeting and develop an IEP that fully satisfies the law, but if not implemented properly, the District risks liability for failing to properly implement the IEP.

LESSON SIX: If that amendment says that the student will be in school until 3:30 p.m. each day, he should not be released at 3:15 p.m. But he was. It was only 15 minutes, but 15 minutes adds up if it happens every day.

YOU CAN HAVE A PERFECT IEP MEETING AND DEVELOP AN IEP THAT FULLY SATISFIES THE LAW, BUT IF NOT IMPLEMENTED PROPERLY, THE DISTRICT RISKS LIABILITY FOR FAILING TO PROPERLY IMPLEMENT THE IEP.

LESSON SEVEN: If the school acknowledges that there are staff shortages, and that paraprofessionals are being abused by the student, but there was never an IEP Team meeting to talk about this, or a BIP to address the behavior, it

looks pretty likely that the shortened day was based on administrative concerns rather than the individual needs of the student. The errors committed by the district were costly. The Alaska Department of Education ordered the district to provide 30 days of compensatory services and additional measures set forth in a Corrective Action Plan.

The decision to shorten a student's school day is one that should be made with careful consideration of all factors and evaluation of student-specific data. If you have any questions about making these determinations, be sure to seek assistance from your district's legal counsel. As always, Walsh Gallegos attorneys are available to assist.

FOR MORE INFORMATION

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