



Statewide Parent
Advocacy Network

Empowering families,
professionals, and others
interested in the well-being
and education of children
and youth

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When parents elect to send their child with a disability to a private school at their own expense (even a religious school), the district still has obligations with respect to addressing the child's disability. While those obligations are not the same as what's required for children with a disability educated in a public school, those obligations are important for parents to know.

The Rights of Children with Disabilities Enrolled by their Parents in Private Schools

Children with disabilities placed in private schools by a school district are entitled to all the same special education services as children placed in public schools. However, the Individuals with Disabilities Education Act (IDEA) states that no parentally placed private school child with disabilities has an individual right to all or even some of the special education services that the child would receive if enrolled by their parents in public school.

Who Qualifies

Any child with a disability that has been independently enrolled by their parents in a private school is considered "parentally placed". This does *not* include children who have been placed in a private school by the decision of a school district or other public agency.

How Children Are Identified

The local education agency (LEA) or school district is responsible for engaging in timely and meaningful consultation with private school representatives in that district before conducting a child find process to determine the number of parentally-placed children with disabilities attending private schools in that district. The responsibility for conducting child find is with the district where the private school is located, *not* necessarily the district where the child lives. Furthermore, the school district is responsible for consulting representatives of the private school and representatives of parents of parentally placed private school children in the development of education and services, including how children will be identified by the child find process, how the funding for these services will be determined, and what types of services will be provided by the district. ***However, the ultimate decision as to how services are provided and who is eligible to receive them lies with the school district.***

Funding of Services

The school district has an obligation to spend a proportionate amount of IDEA Part B funds on parentally placed private school children with disabilities to provide for appropriate services in their schools. This amount is determined by a formula that considers the federal funding the district receives for all of the children with disabilities in the district and the share of those children who are enrolled in private schools.

These funds *cannot* be paid directly to the private school and funds cannot be used for meeting the general needs of the private school or to serve the general student population of the private school. In addition, the title to any materials, equipment, and property purchased with IDEA funds must be held by the school district and not the private school.



Services the School District Must Provide

The parents of a parentally placed private school child deemed eligible for special education services have the right to participate in meetings (initiated by the district) to develop a service plan for the special education of that child. A child may not be evaluated or receive services without prior parental consent. Services may, but are not required to be provided on the grounds of the private school, even if that school is religiously affiliated. If the child must travel to a location other than the private school in order to gain special education benefits, then the district is responsible for providing transportation from the child's home to the location or from the private school to the location. If services can be accessed from the private school, the district is *not* responsible for providing transportation from the child's home to the private school. Special education services may be provided by making public school employees available in private school facilities or by contract between the district and private school employees, so long as the services provided remain secular. If special education services are provided by private school employees, those employees are *not* required to meet the Highly Qualified Teacher (HQT) standards required of public school employees by IDEA.

In addition, all eligible children are entitled to remedial and auxiliary services. This means the district is required to identify and provide supplementary and remedial services to children that need improvement in computational or communication skills (e.g. – speech and language services). Employees providing these specific services are required by the New Jersey State Special Education Code to be highly qualified and have the necessary certification or license to provide services.

Complaint Process

Parents of parentally placed private school children may only access mediation and due process for complaints regarding location, identification, evaluation, determination of eligibility, and reevaluation of their child. Complaints about the special education and related services themselves are not resolvable through mediation or due process, but must be handled through a complaint investigation process. These complaints are processed by the state Office of Special Education and if deemed necessary, an investigation must be completed within 60 calendar days from when the complaint was received.

Other Resources:

You can access a training module and resources concerning the rights of parentally placed children and their parents, and the obligations of schools, in English and Spanish, at www.parentcenterhub.org/repository/partb-module16/.

To access a model letter informing your district that you intend to place your child in a private school at public expense because you believe they have not provided your child with a free, appropriate public education, go to <http://www.parentcenterhub.org/repository/private/>.

For more information on parental placement in a private school, go to <http://www.parentcenterhub.org/repository/private/>.

In some cases, the most appropriate placement for a child may be in a private school. When this placement decision is made by the IEP team, the public school pays the cost. Sometimes, a parent may feel strongly that the recommended public school placement is not appropriate, and may reject that placement and decide to enroll their child in a private school and seek reimbursement from the district. A court or hearing officer may require a district to reimburse the parent if they decide that (a) the public school did not make FAPE available in a timely manner prior to the child's enrollment in the private school, and (b) the private placement is appropriate. The request for reimbursement may be reduced or denied if, before enrolling their child in the private school, (a) at the most recent IEP meeting, the parent didn't inform the school that they were rejecting the proposed placement, including stating their concerns, and intended to enroll their child in a private school at public expenses, or (b) at least 10 days before removing the child from the public school, the parent didn't give the school written notice. The parent must also request a due process hearing so a hearing officer can decide whether the public school must reimburse the parent for the costs of the private school.

Learn More:

A summary of federal IDEA regulations on this topic, Provisions Related to Children With Disabilities Enrolled by Their Parents in Private Schools, can be found at <https://www2.ed.gov/admins/lead/speced/privateschools/idea.pdf>.

The NJ Special Education Code, including provisions related to parentally-placed students (6A:14-2.10 Reimbursement for unilateral placement by parent), can be found at <http://www.state.nj.us/education/code/current/title6a/chap14.pdf>



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