

Parentally Placed Private School Students with Disabilities – Sec. 612(a)(10)
Individuals with Disabilities Education Improvement Act of 2004 (IDEA 2004)

STATUTORY COMPARISON

IDEA 1997 P.L. 105 – 17	IDEA 2004 P.L. 108 – 446	GUIDANCE
<p>(10) CHILDREN IN PRIVATE SCHOOLS.-- (A) CHILDREN ENROLLED IN PRIVATE SCHOOLS BY THEIR PARENTS.--</p> <p>(i) IN GENERAL.--To the extent consistent with the number and location of children with disabilities in the State who are enrolled by their parents in private elementary and secondary schools, provision is made for the participation of those children in the program assisted or carried out under this part by providing for such children special education and related services in accordance with the following requirements, unless the Secretary has arranged for services to those children under subsection (f):</p> <p>(l) Amounts expended for the provision of those services by a local educational agency shall be equal to a proportionate amount of Federal funds made available under this part.</p>	<p>(10) CHILDREN IN PRIVATE SCHOOLS-- (A) CHILDREN ENROLLED IN PRIVATE SCHOOLS BY THEIR PARENTS--</p> <p>(i) IN GENERAL- To the extent consistent with the number and location of children with disabilities in the State who are enrolled by their parents in private elementary schools and secondary schools in the school district served by a local educational agency, provision is made for the participation of those children in the program assisted or carried out under this part by providing for such children special education and related services in accordance with the following requirements, unless the Secretary has arranged for services to those children under subsection (f):</p> <p>(l) Amounts to be expended for the provision of those services (including direct services to parentally placed private school children) by the local educational agency shall be equal to a</p>	<p>Informational Update 11, <i>“Parentally Placed Private School Students with Disabilities,”</i> Developed May 2005</p>

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<p>(II) Such services may be provided to children with disabilities on the premises of private, including parochial, schools, to the extent consistent with law.</p>	<p>proportionate amount of Federal funds made available under this part.</p> <p>(II) In calculating the proportionate amount of Federal funds, the local educational agency, after timely and meaningful consultation with representatives of private schools as described in clause (iii), shall conduct a thorough and complete child find process to determine the number of parentally placed children with disabilities attending private schools located in the local educational agency.</p> <p>(III) Such services to parentally placed private school children with disabilities may be provided to the children on the premises of private, including religious, schools, to the extent consistent</p>	

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<p>(ii) CHILD-FIND REQUIREMENT.--The requirements of paragraph (3) of this subsection (relating to child find) shall apply with respect to children with disabilities in the State who are enrolled in private, including parochial, elementary and secondary schools.</p>	<p>with law.</p> <p>(IV) State and local funds may supplement and in no case shall supplant the proportionate amount of Federal funds required to be expended under this subparagraph.</p> <p>(V) Each local educational agency shall maintain in its records and provide to the State educational agency the number of children evaluated under this subparagraph, the number of children determined to be children with disabilities under this paragraph, and the number of children served under this paragraph.</p> <p>(ii) CHILD FIND REQUIREMENT- (I) IN GENERAL- The requirements of paragraph (3) (relating to child find) shall apply with respect to children with disabilities in the State who are enrolled in private, including</p>	

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	<p>religious, elementary schools and secondary schools.</p> <p>(II) EQUITABLE PARTICIPATION- The child find process shall be designed to ensure the equitable participation of parentally placed private school children with disabilities and an accurate count of such children.</p> <p>(III) ACTIVITIES- In carrying out this clause, the local educational agency, or where applicable, the State educational agency, shall undertake activities similar to those activities undertaken for the agency's public school children.</p> <p>(IV) COST- The cost of carrying out this clause, including individual evaluations, may not be considered in determining whether a local educational agency has met its obligations</p>	

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	<p>under clause (i).</p> <p>(V) COMPLETION PERIOD- Such child find process shall be completed in a time period comparable to that for other students attending public schools in the local educational agency.</p> <p>(iii) CONSULTATION- To ensure timely and meaningful consultation, a local educational agency, or where appropriate, a State educational agency, shall consult with private school representatives and representatives of parents of parentally placed private school children with disabilities during the design and development of special education and related services for the children, including regarding—</p> <p>(I) the child find process and how parentally placed private school children suspected of having a disability can participate equitably, including how parents, teachers, and</p>	

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	<p>private school officials will be informed of the process;</p> <p>(II) the determination of the proportionate amount of Federal funds available to serve parentally placed private school children with disabilities under this subparagraph, including the determination of how the amount was calculated;</p> <p>(III) the consultation process among the local educational agency, private school officials, and representatives of parents of parentally placed private school children with disabilities, including how such process will operate throughout the school year to ensure that parentally placed private school children with disabilities identified through the child find process can meaningfully participate in special education and related services;</p> <p>(IV) how, where, and by whom</p>	

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	<p>special education and related services will be provided for parentally placed private school children with disabilities, including a discussion of types of services, including direct services and alternate service delivery mechanisms, how such services will be apportioned if funds are insufficient to serve all children, and how and when these decisions will be made; and</p> <p>(V) how, if the local educational agency disagrees with the views of the private school officials on the provision of services or the types of services, whether provided directly or through a contract, the local educational agency shall provide to the private school officials a written explanation of the reasons why the local educational agency chose not to provide services directly or through a contract.</p>	

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	<p>(iv) WRITTEN AFFIRMATION- When timely and meaningful consultation as required by clause (iii) has occurred, the local educational agency shall obtain a written affirmation signed by the representatives of participating private schools, and if such representatives do not provide such affirmation within a reasonable period of time, the local educational agency shall forward the documentation of the consultation process to the State educational agency.</p> <p>(v) COMPLIANCE- (I) IN GENERAL- A private school official shall have the right to submit a complaint to the State educational agency that the local educational agency did not engage in consultation that was meaningful and timely, or did not give due consideration to the views of the private school official.</p>	

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	<p align="center">(II) PROCEDURE- If the private school official wishes to submit a complaint, the official shall provide the basis of the noncompliance with this subparagraph by the local educational agency to the State educational agency, and the local educational agency shall forward the appropriate documentation to the State educational agency. If the private school official is dissatisfied with the decision of the State educational agency, such official may submit a complaint to the Secretary by providing the basis of the noncompliance with this subparagraph by the local educational agency to the Secretary, and the State educational agency shall forward the appropriate documentation to the Secretary.</p> <p align="center">(vi) PROVISION OF EQUITABLE</p>	

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	<p>SERVICES-</p> <p>(I) DIRECTLY OR THROUGH CONTRACTS- The provision of services pursuant to this subparagraph shall be provided--</p> <p>(aa) by employees of a public agency; or</p> <p>(bb) through contract by the public agency with an individual, association, agency, organization, or other entity.</p> <p>(II) SECULAR, NEUTRAL, NONIDEOLOGICAL- Special education and related services provided to parentally placed private school children with disabilities, including materials and equipment, shall be secular, neutral, and nonideological.</p> <p>(vii) PUBLIC CONTROL OF FUNDS- The control of funds used to provide special</p>	

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	<p>education and related services under this subparagraph, and title to materials, equipment, and property purchased with those funds, shall be in a public agency for the uses and purposes provided in this title, and a public agency shall administer the funds and property.</p>	