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Are Special Education Services Available for Students in Private Schools?

by Becky L. Spivey, M.Ed.

My daughter attends a private school. The teacher feels she may need special education services. There are no special education teachers in her school. Is she eligible to receive special education services from our area's public school district?

It depends. *The Individuals with Disabilities Education Act (IDEA 2004)* – the special education law – **does not** apply to individuals placed in private schools by *their parents*. Private schools are not covered under IDEA 2004.

If a public school places a child in a private school with an Individualized Education Program (IEP) – a part of the IDEA program, then the public school is responsible for ensuring that the private school implements the child's IEP. Children attending public schools are entitled to a free appropriate education **and** an IEP funded by the federal government. Private schools do not receive funding and are **not** required to provide a free appropriate education **or** an IEP. They are not required to provide any special education services to children with disabilities.

However, private schools **are** bound by Section 504 – the civil rights law. *Section 504 prohibits discrimination* against individuals with disabilities and ensures that the child with a disability has *equal access* to an education *and is not discriminated against for reasons related to his/her disability*. Private schools are only responsible for providing modifications, accommodations, and access to educational opportunities (such as a ramp for a child in a wheelchair). Public schools have few responsibilities for children with disabilities enrolled in private schools by their parents.

It is the responsibility of public school districts to identify and evaluate **all** children who may have disabilities under *IDEA's Child Find* mandate. If you have a student in a private school who is struggling academically and has not been evaluated, read what IDEA says about *Child Find*.

<http://www.wrightslaw.com/info/child.find.index.htm#sthash.PbV6gYdD.dpuf>

"Child Find is a major component of IDEA that requires states to identify, locate, and evaluate all children with disabilities ages three to 21 needing early intervention or special education services. Child Find involves a continuous process of public awareness activities, screenings, and evaluations in order to locate, identify, and refer children as early as possible."

The Individuals with Disabilities Education Act – 2004, or IDEA, states very clearly that students enrolled in private schools and identified with disabilities through Child Find may receive publicly funded special education services. It also states that students enrolled in private institutions by their parents do not have the same legal rights to special education services and may not receive as many services as the students enrolled in public school. Public school offerings differ from state to state and county to county, but IDEA does not.

Each year, public school districts designate some monies from the state and federal governments to fund special education students attending private schools. Public school districts will meet with the administrators of private schools in their LEA (local education area) to discuss the services they will/can provide. Funds vary from year to year, but the amount is usually insufficient to provide a substantial number of services.

According to IDEA, the public school district in your LEA must provide the following for students attending non-public schools. The public school district must:

- Evaluate any student attending a private school for special education services if a private school teacher makes a referral (through *Child Find*).
- Determine if the student is eligible to receive services.
- Develop an *Instructional School Plan (ISP)* for the child's private school.
- Consult with the student's parents and teachers when developing the ISP.

Once an evaluation is complete and the ISP written, it is up to the public school administrators to decide which services they will/can provide. Should the district decide to provide services to the private school student, the district cannot use the private school's personnel to provide the services. Public school personnel must provide services at a public facility.

IDEA regulations regarding special education services for students attending private school are too extensive to cover in this article. The links provided within, and following the end of this article, will take you to parent-friendly sites with discussions, explanations, and "translations" of IDEA regulations regarding public special education services to students placed in private school *by their parents*.

If your child is attending a private school and you, or your child's teacher, suspect he/she may need screening for special education services, consult your school's principal. He/she will know the procedures in contacting the public school personnel in charge of *Child Find*.

The following articles will give you a better understanding of how students placed in private school *by their parents* may receive public school special education services.

U.S. Department of Education, Office of Special Education Programs:

The Individuals with Disabilities Education Act:

Provisions Related to Children with Disabilities Enrolled by Their Parents in Private Schools (PDF)

<https://www2.ed.gov/admins/lead/speced/privateschools/idea.pdf>

Children Enrolled by Their Parents in Private Schools

<http://idea.ed.gov/explore/view/p/%2Croot%2Cdynamic%2CTopicalBrief%2C5%2C>

Questions and Answers on Serving Children with Disabilities Placed by Their Parents at Private Schools (April 2011)

<http://idea.ed.gov/explore/view/p/root.dynamic.QaCorner.1>

Children Enrolled by their Parents in Private Schools Video Clip (This video explains how IDEA 2004 calculates and designates funds to provide services to students enrolled in private school by their parents.)

<http://idea.ed.gov/explore/view/p/%2Croot%2Cdynamic%2CVideoClips%2C3%2C>

Wrightslaw

Parents, educators, advocates, and attorneys come to Wrightslaw for accurate, reliable information about special education law, education law, and advocacy for children with disabilities.

<http://www.wrightslaw.com/#sthash.ZB3quRv0.dpuf>

Learn more about Child Find under IDEA-2004.

Wrightslaw: *The Child Find Mandate: What Does It Mean to You?*

by Pamela Wright & Pete Wright, Esq. <http://www.wrightslaw.com/info/child.find.mandate.htm#sthash.3RQjPi6.dpuf>

Learn more about Section 504.

<http://www.wrightslaw.com/info/sec504.index.htm#sthash.EEFHi8kJ.dpuf>

IDEA 2004 and Private Schools

<http://www.wrightslaw.com/blog/?p=2198>

Resources

All resources reviewed for composing this article are cited throughout its content.

More FREE Handy Handouts®, go to www.handyhandouts.com

Helpful Products

The list of Super Duper® products below may be helpful when working with children who have special needs. Visit www.superduperinc.com and type in the **item name or number in our search engine**. If you're viewing this Handy Handout on a computer, click the links below to see the product descriptions.

Early Development Milestones

[Item #BK-311](#)

Early Language Development

[Item #BK-315](#)

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