

# **Individuals with Disabilities Education Improvement Act of 2004 (IDEA 2004)**

## **Children with Disabilities Placed by Their Parents in Private Schools**



U.S. Department of Education  
Office of Innovation and Improvement  
Office of Non-Public Education



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Our mission is to represent the interests, activities and needs of the private elementary and secondary school community at the U.S. Department and to consult with the private school community on the participation of students and teachers in programs and initiatives of U.S. Department of Education.

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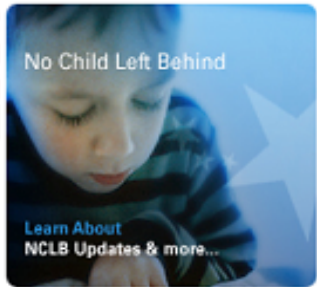
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# Today's Focus



## IDEA Amendments of 2004

Provide an outline of the benefits and services available to children with disabilities enrolled by their parents in private schools when FAPE\* is not at issue.



\*Free Appropriate Public Education



# Key Points to Remember

- 1) New Statutory Language
- 2) Consultation
- 3) Written Affirmation
- 4) Child Find
- 5) Equitable Services
- 6) Data Collection
- 7) Compliance
- 8) Additional Information



# Key Point #1

## New Statutory Language

Equitable participation applies to students enrolled in private schools in the school district served by an LEA.

This language may be further clarified in regulations.





# Public Control of Funds

## The public agency must

Control and administer the funds and property used to provide special education and related services.

Hold title to

- Materials,
- Equipment, and
- Property.



# Key Point #2

## Consultation

Each LEA (or where appropriate, SEA) shall consult with

- private school representatives, and
- representatives of parents of parentally placed children with disabilities

during the design and development of special education and related services.

Section 612(a)(10)(A)(iii)



# Consultation Topics

- Child find process
- Determination of proportionate amount of federal funds available for services
- Consultation process itself
  - Including how the process will operate throughout the school year to ensure meaningful participation of eligible children in special education and related services





# Consultation Topics (cont'd.)

- Provision of special education and related services
  - How, where, and by whom
  - Types of services, including direct services and alternate service delivery mechanisms
  - How services will be apportioned if funds are insufficient to serve all children
  - How and when these decisions will be made



# Disagreement

## WRITTEN EXPLANATION

If the LEA 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 LEA must provide a written explanation to the private school officials of the reasons why it chose not to provide services.



# Key Point #3

## Written Affirmation

When timely and meaningful consultation has occurred as required, the LEA obtains a written affirmation signed by representatives of participating private schools.



## Written Affirmation (cont'd.)

If private school officials do not provide written affirmation within a reasonable period of time, the LEA shall forward the documentation of the consultation process to the SEA.



# Key Point #4

## Child Find

- **Costs** – separate from other LEA obligations
- **Purpose** – to ensure equitable participation and an accurate count
- **Process** – thorough and complete
- **Consultation** – must be timely and meaningful
- **Activities** – similar to those for public school children
- **Completion period** – comparable time period as for public school children



# Key Point #5

## Equitable Services

- Proportionate share of federal funds to be expended for services (formula may be clarified in regulations)
- On-site services allowed, including at religious schools, to the extent consistent with law
- Can include direct services
- Provided directly by LEA employees or through contracts
- Must be secular, neutral, nonideological (including materials and equipment)

Section 612(a)(10)(A)(vi)





# Key Point #6

## Data Collection

LEAs shall maintain and provide to the SEA data on the number of parentally-placed children

- Evaluated;
- Determined eligible; and
- Served.



# Key Point #7

## Compliance



Private school officials are entitled to submit a complaint to the SEA that the LEA did not

- **engage in meaningful and timely consultation; or**
- **did not give due consideration to the views of private school officials.**

If a private school official is dissatisfied with the decision of the SEA, the official may submit a complaint to the secretary of education.

**Section 612(a)(10)(A)(v)**



# Key Point #8

## Additional Information

House Education and the Workforce  
Committee

### Bill Summary

<http://edworkforce.house.gov/issues/108th/education/idea/1350confsummary.htm>

**PL 108-446**



# Contact Us

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