

Who Are Parentally Placed Students in Private and Religious Schools?

These students are those who are attending a private or religious school (under Education Article §2-206 or COMAR 13A.09.09.01) who have been placed there by their parents and not the school system (under Education Article §8-406).

Eligibility for Special Education and Related Services

The student's eligibility for special education and related services is determined either by the local education agency (LEA) in the county where the student resides or the LEA in which the school the student attends is located. If a family intends for their child to remain in the private school, typically they go to the LEA where the private school is located. If the family is uncertain about where their child will go, or they want to transition to the LEA where they reside, they should go to the LEA where they live. However, the family always has the choice. The Child Find process is the same as it is for students enrolled in the LEA. The student is entitled to a comprehensive assessment in all areas of suspected disability and areas that may be impacted by their disability. However, the private or religious school may not be held to the same criteria, meaning the LEA cannot require that the private school implement interventions, or that a student have a specific delay or degree of impact prior to referral.

Eligible Services

Each LEA must consult with representatives from the private and religious schools in their jurisdiction, as well as parents of students parentally placed in private and religious schools at least annually. The LEA and these representatives collaboratively determine the services that will be provided to eligible students and where the services will be provided. Each LEA provides different services. Services may be provided at the private school or in an LEA school. If the services are not in the private school, transportation services between a student's private or religious school and the LEA school where the student will receive services must be offered.

Is an IEP Developed for Students Parentally Placed in Private and/or Religious Schools?

Eligible students who want to continue in their private or religious school will receive an Individualized Services Plan (ISP). Should the parent choose to keep the student in the private school and decline the offer of a free appropriate public education (FAPE), then the LEA is not responsible for providing special education and related services. No parentally placed student with a disability has an individual right to receive some or all of the special education and related services that they would receive if enrolled in the public school. That said, the student may be eligible for equitable services, which may include special education and related services. How, where, and by whom special education and related services will be provided for parentally placed private school children with disabilities are determined during the consultation process. Equitable services provided in a service plan are not the same as those that would be provided if the student were in enrolled in their LEA.

Return to the LEA

At any point, a parent may decide to discontinue enrollment in a private school and the process to develop an Individualized Education Program to provide FAPE would begin by the LEA of the student's residence. In gathering information, a family may ask the resident county LEA what they would offer should the student decide to return to their home LEA. In these cases, even if the student's private school is in a different LEA, the team where the student resides would develop an IEP for the student.

Procedural Safeguards

Because these students who are enrolled at a private or religious school are not entitled to FAPE, they are not entitled to request mediation and/or due process hearings regarding disagreements about the amount of services on their individual plans. They are, however, able to access all their procedural safeguards for any disputes surrounding Child Find and eligibility decisions. If there are concerns about the Consultation process, a State Complaint may be filed. A State Complaint may also be filed if there are implementation concerns and compensatory services may be warranted. 34 CFR 300.140