

Children in Private School	

Legal Framework: [Private School Children](#)

Category: Private School Children

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PERSONS RESPONSIBLE: Program Specialist for Assessment, Campus Evaluation Staff

TIMELINES: Child Find Timelines

MATERIALS: [Request for an Evaluation for a Student Parentally Placed in a Private School](#)

[How To Create A Service Plan](#)

[Service Plan Sample](#)

All procedures referencing students parentally placed in private or religious schools also include students who are home-schooled.

Parent(s) of a student parentally placed in a private or religious school within the Tomball ISD attendance zone should complete the [Request for an Evaluation Form for a Student Parentally Placed in a Private School](#) to start the Child Find/Special Education evaluation process. Tomball ISD will assess all students suspected of having a disability who attend a private or religious school within the Tomball ISD attendance zone. As long as the student attends a private or religious school within the Tomball ISD boundaries the student does not have to live within the Tomball ISD attendance zone. If someone other than the parent initiates the referral, the parent must be informed and sign consent before the evaluation process can begin.

All requests for evaluation for students parentally placed in a private or religious school are received by the Student Support Department. The Student Support Department will then notify the campus in which the student would attend, if the student were enrolled in a Tomball ISD school. Student's who reside in the TISD district and attend a private or religious school within the district, the campus that the student would attend if enrolled will receive the evaluation request. The Student Support Department will notify the campus closest to private school to begin the evaluation process for a student not zoned to Tomball ISD. The evaluation will take place either on the TISD campus or on the private/religious school campus based on the circumstances.

All Child Find timelines apply for students parentally placed in private schools.

Following the Special Education evaluation an Admission Review and Dismissal (ARD) meeting will be held on the Tomball ISD campus for students who reside within the district's attendance zone. The ARD meeting will be held at the private/religious school campus for students who do not reside within the district's attendance zone. Tomball ISD will follow the ARD membership rules for all ARD meetings for students parentally placed in private or religious schools. A representative from the private school must be invited to all ARD meetings.

Re-Evaluations

Students who are parentally placed in a private school who have been evaluated and are eligible for Special Education (whether they receive services or not) must be re-evaluated

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every three years. The Program Specialist for Assessment will notify campus personnel annually of parentally placed private school students who are in need of a reevaluation. The evaluation campus personnel will then follow the standard re-evaluation process.

Individual Service Plan Meeting

Following the ARD meeting, for a student who is eligible for Special Education, if a parent wishes not to enroll into their zoned Tomball ISD school or return to a campus in the public school district in which they reside, an Individual Service Plan (ISP) meeting will be held by Tomball ISD personnel. Tomball ISD will follow the ARD membership rules for all ISP meetings. A representative from the private school must be invited to all ISP meetings.

During the ISP meeting a proposal will be presented to the parent for the student to receive a proportionate share of the services the student would receive if enrolled in a public school. The ISP meeting must be held annually to determine the following year's service.

Private or Religious School Consultation

The proportionate share services are determined annually by need and by the private and religious school directors. Typically, the category of services identified by the private and religious schools' directors include Speech Therapy and Instructional Consultation. This may change, however, based on the annual consultation. The Program Specialist for Dyslexia and Instruction is responsible for conducting the annual consultation with private and religious school directors to determine the services provided to students parentally placed in private schools.

Dual Enrollment

Students age three to five may dually enroll in Tomball ISD and a private/religious/home school. Parents of students ages three to five may maintain enrollment in the private/religious/home school while seeking a portion of the IEP services offered by the ARD committee on a Tomball ISD campus. All services determined appropriate by the ARD committee are available to the parent at a decreased frequency rate through dual enrollment. For example the parent may select to enroll their student for four days per week instead of five, if the ARD committee has determined a five day placement is appropriate. Other examples include the parent selecting only speech services provided at the Tomball ISD Campus rather than a five day placement, while maintaining enrollment in the private or religious school.

Ages 3-5

"We believe it is important to clarify in the regulations that children aged three through five are considered parentally-placed private school children with disabilities enrolled in private elementary schools only if they are enrolled in private schools that meet the definition of elementary school in § 300.13." 71 Fed. Reg. 46591 (2006).

Child Find

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"Under 34 CFR § 300.131, the [local educational agency] LEA where the private school is located is responsible for conducting child find for parentally placed private school children. The child find requirements for parentally placed children make clear that the LEA, after timely and meaningful consultation with private school representatives, must conduct a thorough and complete child find process to determine the number of parentally placed children with disabilities attending private schools located in the LEA. (Under the prior provisions of the [Individuals with Disabilities Education Act] IDEA, the responsibility to conduct child find for parentally placed private school children rested with the LEA in which the children resided.)" [OSERS Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools Q/A #B-1 \(April 2011\).](#)

"[State educational agencies] SEAs and LEAs must undertake activities similar to those activities undertaken for their publicly enrolled or publicly-placed children. This would generally include, but is not limited to, such activities as widely distributing informational brochures, providing regular public service announcements, staffing exhibits at health fairs and other community activities, and creating direct liaisons with private schools. Activities for child find must be completed in a time period comparable to those activities for public school children. This means that LEAs must conduct child find activities, including individual evaluations, for parentally-placed private school children within a reasonable period of time and without undue delay, and may not wait until after child find for public school children is conducted." 71 Fed. Reg. 46593 (2006).

"[N]either the IDEA nor its implementing regulations distinguish between parentally-placed private school children with disabilities whose parents reside in other countries and those whose parents reside in the United States, with respect to the requirements in 34 CFR §§ 300.130 through 300.144. These provisions include the child find requirements in 34 CFR § 300.131 for parentally-placed private school students." [OSEP Letter to Sarzynski \(July 6, 2015\).](#)

"Child find is an on[-]going process. Therefore, if a child who enters a private school without having been previously identified as a child with a disability is suspected of having a disability during the school year, the LEA where the private school is located is responsible for ensuring such a child is identified, located, and evaluated." [OSERS Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools Q/A #B-2 \(April 2011\).](#)

Consultation

"As used in the regulations, consultation is a mandatory process that involves discussions between the LEA, private school representatives, and representatives of parents of parentally placed private school children with disabilities on key issues relating to the equitable participation of eligible private school children with disabilities in Federally funded special education and related services. . . . Each LEA (or, if appropriate, an SEA) must consult, in a timely and meaningful way, 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 parentally placed private school children." [OSERS Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools Q/A #A-1 \(April 2011\).](#)

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"The consultation process is very important because discussions between public school and private school representatives and parents must address, among other matters: how parentally-placed private school children with disabilities identified through the child find process can meaningfully participate in special education and related services; how, where, and by whom special education and related services will be provided; and the types of services to be provided, including direct services and alternate service delivery mechanisms. 34 CFR § 300.134(d)(1). The LEA where the private school is located must make the final decisions with respect to the services provided to eligible parentally-placed private school children with disabilities. 34 CFR § 300.137(b)(2)." [OSEP Letter to Sutton and Rubel \(September 29, 2014\).](#)

"Effective consultation provides a genuine opportunity for all parties to express their views and to have those views considered by the LEA before the LEA makes any decision that has an impact on services to parentally placed private school children with disabilities. Timeliness is critical to effective consultation and requires collaboration between the LEA and private school officials in developing a timeline and selecting dates for consultation. Successful consultation establishes positive and productive working relationships that make planning easier and ensure that the services provided meet the needs of eligible parentally placed private school children with disabilities. A unilateral offer of services by an LEA with no opportunity for discussion is not adequate consultation, as such an offer does not meet the basic requirements of the consultation process." [OSERS Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools Q/A #A-1 \(April 2011\).](#)

"There are a number of ways to carry out the consultation process. As such, the Department does not endorse any specific consultation model. Examples of consultation practices that have proven to work for LEAs include establishing a private school working group to serve as the vehicle for ongoing consultation. In selecting members for this group, LEAs may contact larger private school organizations such as the Catholic Schools Office in the local diocese or the Board of Jewish Education for the region. Groups such as these can help facilitate communication between their member schools and the LEAs in which they are located. Also, establishing a timeline for consultation can help ensure that timely and meaningful consultation occurs throughout the school year. The timeline can include meeting dates and times as well as topics to be discussed." [OSERS Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools Q/A #A-4 \(April 2011\).](#)

"Each LEA (or if appropriate, an SEA) must consult, in a timely and meaningful way, 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 parentally-placed private school children. The consultation process must include discussion of how that process will operate throughout the school year to ensure that parentally-placed private school children with disabilities can meaningfully participate in special education and related services. 34 CFR § 300.134(c). The process could include conversations about changes that may need to be made based on fluctuations in the population of students to be served that would include the issue of children who are identified during the school year in which the expenditures are being made. . . . [A]n LEA is

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not required to expend more than the proportionate share of funds on the provision of equitable services to children with disabilities. Thus, ongoing consultation and careful planning to account for fluctuations in the population of children to be served are critically important.” [OSEP Letter to Apostle \(August 8, 2012\)](#).

“Some have asked if signing an attendance sheet at a meeting is all that is needed to document adequately that timely and meaningful consultation has occurred. Though these attendance sheets provide an accounting of who has attended meetings, the sheets themselves do not provide evidence that ongoing consultation has occurred. Therefore, the written affirmation signed by the representatives of the participating private schools should reflect that those officials have indeed participated in timely and meaningful consultation that has continued throughout the school year.” [OSERS Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools Q/A #A-3 \(April 2011\)](#).

“Neither the IDEA nor its implementing regulations distinguish between parentally-placed private school children with disabilities whose parents reside in other countries and those whose parents reside in the United States with respect to the requirements in 34 CFR §§ 300.130 through 300.144. [Office of Special Education Programs] OSEP's long standing position regarding equitable participation for children from other countries enrolled in private elementary schools and secondary schools by their parents is that the obligation to consider children with disabilities for equitable services extends to all children with disabilities in the State who are enrolled by their parents in private schools within each LEA's jurisdiction, regardless of whether or not the parent resides in that State. See Assistance to States for the Education of Children with Disabilities and Preschool Grants for Children with Disabilities, Final Rule, Analysis of Comments and Changes, 71 Fed. Reg. 46540, 46591 (Aug. 14, 2006). Therefore, if the international students with disabilities are enrolled in private elementary schools or secondary schools that meet the definitions in 34 CFR § 300.13 and § 300.36, respectively, the LEAs where the private schools those children attend are located must consider them for equitable services in accordance with the requirements in the IDEA.” [OSEP Letter to Corwell \(February 4, 2013\)](#).

Evaluation

“[T]he LEA where private schools are located may not seek reimbursement from the LEA of residence for the cost of conducting the evaluation or to request that the LEA of residence conduct the evaluation. However, the LEA where the private elementary school or secondary school is located has options as to how it meets its responsibilities. For example, the LEA may assume the responsibility itself, contract with another public agency (including the public agency of residence), or make other arrangements.” 71 Fed. Reg. 46592 (2006).

“LEAs may not exclude children suspected of having certain disabilities, such as those with specific learning disabilities, from their child find activities. The Department recommends that LEAs and private elementary schools and secondary schools consult on how best to implement the State's evaluation criteria and the requirements under this part for identifying children with specific learning disabilities enrolled in private schools by their parents.” 71 Fed. Reg. 46592 (2006).

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"[M]any private schools collect assessment data that would permit a determination of how well a child responds to appropriate instruction. The group making the eligibility determination for a private school child for whom data on the child's response to appropriate instruction are not available may need to rely on other information to make their determination, or identify what additional data are needed to determine whether the child is a child with a disability." 71 Fed. Reg. 46648 (2006).

"As part of the evaluation, the eligibility group must consider whether the child received appropriate instruction from qualified personnel. For children who attend private schools or charter schools or who are homeschooled, it may be necessary to obtain information from parents and teachers about the curricula used and the child's progress with various teaching strategies. The eligibility group also may need to use information from current classroom-based assessments or classroom observations. On the basis of the available information, the eligibility group may identify other information that is needed to determine whether the child's low achievement is due to a disability, and not primarily the result of lack of appropriate instruction. The requirements for special education eligibility or the expectations for the quality of teachers or instructional programs are not affected, and do not differ, by the location or venue of a child's instruction." 71 Fed. Reg. 46656 (2006).

"[A]lthough IDEA permits the use of [response to intervention] RTI in evaluating children suspected of having learning disabilities, it does not require LEAs to use RTI. Even if a State's criteria permit LEAs to use RTI in evaluating children suspected of having learning disabilities, IDEA does not require an LEA to use RTI for parentally placed children attending private schools located in its jurisdiction. It would be inconsistent with the IDEA evaluation provisions in 34 CFR §§ 300.301-300.311 for an LEA to delay the initial evaluation because a private school has not implemented an RTI process with a child suspected of having learning disabilities and has not reported the results of that process to the LEA." [OSERS Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools Q/A #B-3 \(April 2011\).](#)

"We recognize that there could be times when parents request that their parentally-placed child be evaluated by different LEAs if the child is attending a private school that is not in the LEA in which they reside. For example, because most States generally allocate the responsibility for making [free appropriate public education] FAPE available to the LEA in which the child's parents reside, and that could be a different LEA from the LEA in which the child's private school is located, parents could ask two different LEAs to evaluate their child for different purposes at the same time. Although there is nothing in this part that would prohibit parents from requesting that their child be evaluated by the LEA responsible for FAPE for purposes of having a program of FAPE made available to the child at the same time that the parents have requested that the LEA where the private school is located evaluate their child for purposes of considering the child for equitable services, we do not encourage this practice. We note that new § 300.622(b)(4) requires parental consent for the release of information about parentally-placed private school children between LEAs; therefore, as a practical matter, one LEA may not know that a parent also requested an evaluation from another LEA. However, we do not believe that the child's best interests would be well-served if the parents requested evaluations of their child by the resident school district and the LEA where the private school is located, even though these evaluations are conducted for different purposes. A practice of subjecting a child to repeated testing by separate LEAs in

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close proximity of time may not be the most effective or desirable way of ensuring that the evaluation is a meaningful measure of whether a child has a disability or of providing an appropriate assessment of the child’s educational needs.” 71 Fed. Reg. 46593 (2006).

Confidentiality

“The Act is silent on the obligation of officials of the LEA where private elementary schools and secondary schools are located to share personally identifiable information, such as individual evaluation information, with officials of the LEA of the parent’s residence. We believe that the LEA where the private schools are located has an obligation to protect the privacy of children placed in private schools by their parents. We believe that when a parentally-placed private school child is evaluated and identified as a child with a disability by the LEA in which the private school is located, parental consent should be required before such personally identifiable information is released to officials of the LEA of the parent’s residence.” 71 Fed. Reg. 46592 (2006).

Services/ Service Plans

“[T]he provision in 34 CFR § 300.138(b)(2)(ii), which requires that an equitable services plan must, to the extent appropriate, be developed, reviewed, and revised in accordance with the requirements in 34 CFR §§ 300.321 through 300.324 for each parentally-placed child with a disability selected to receive services, would also apply [to international students]. In instances where parents may not be able to attend meetings to develop and review their child's services plan in person, we would expect school districts to use other methods to ensure parent participation as required in 34 CFR § 300.322(c). Such methods may include conference calls and video conferences. 34 CFR § 300.328.” [OSEP Letter to Sarzynski \(July 6, 2015\)](#).

“IDEA does not require an LEA to spend the proportionate share only for direct services. Rather, through the consultation process described in 34 CFR § 300.134, a determination must be made about how the available amount of funds will be utilized so that the parentally placed private school children with disabilities designated to receive services can benefit from the services offered. Depending on the discussions during the consultation process, local circumstances, and the amount of funds available to expend on services for this population of children, an LEA could determine, after timely and meaningful consultation, that it will provide its population of parentally placed private school children with disabilities with indirect services. See 34 CFR § 300.134(d)(1). These services could include consultative services, equipment, or materials for eligible parentally placed children with disabilities or training for private school teachers and other private school personnel. Under 34 CFR § 300.138(c)(2), special education and related services provided to parentally placed private school children with disabilities, including materials and equipment, must be secular, neutral, and nonideological.” [OSERS Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools Q/A #D-4 \(April 2011\)](#).

“The Department has previously advised that 34 CFR § 300.141 would not prohibit other children in the private school from deriving a benefit that is incidental to the provision of the Federally-funded special education and related services to those parentally-placed private school children with disabilities designated to receive services under IDEA. For example, if

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consultation services are provided to a private school teacher as a means of providing special education and related services to a particular parentally-placed private school student with a disability and that teacher uses the acquired skills in providing education to other children, whatever benefit those other children receive is incidental to the provision of special education and related services and is not prohibited by 34 CFR § 300.141.” [OSEP Letter to Sutton and Rubel \(September 29, 2014\)](#).

“The Part B regulations require that if necessary for the child to benefit from or participate in the services provided under the private school provisions, an LEA must provide a parentally placed private school child with a disability transportation from the child's school or the child's home to a site other than the private school; and from the service site to the private school, or to the child's home, depending on the timing of the services. See 34 CFR § 300.139(b)(1)(i). LEAs are not required to provide transportation from the child's home to the private school. See 34 CFR § 300.139(b)(1)(ii).” [OSEP Letter to Luger and Weinberg \(December 6, 2011\)](#).

“The IDEA and its implementing regulations do not specify how often a services plan must be updated. As provided in 34 CFR § 300.138(b)(2)(ii), a services plan must, to the extent appropriate, be developed, reviewed, and revised in accordance with the individualized education program (IEP) requirements in 34 CFR §§ 300.321 through 300.324. The regulations in 34 CFR § 300.324(b)(1) require that a child's IEP be reviewed periodically and not less than annually, to determine whether the annual goals for the child are being achieved, and to be revised as appropriate. As such, the Department suggests that a services plan be reviewed periodically, not less than annually, to determine whether the annual goals for the child are being achieved and to be revised as appropriate.” [OSERS Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools Q/A #E-1 \(April 2011\)](#).

“[T]o the extent appropriate, the meeting to develop a services plan should be conducted in accordance with 34 CFR § 300.321. Under 34 CFR § 300.321(a)(1), the parents of the child are required participants. Given the emphasis on parent involvement in the IDEA, the Department believes that parents should have the opportunity to participate in meetings to review and develop the services plan for their child.” [OSERS Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools Q/A #E-2 \(April 2011\)](#).

LEAs Operating Guidelines

Through the implementation of the policies and procedures as outlined in the [Legal Framework](#) for the Child-Centered Special Education Process, the ensures it meets its obligations to parentally-placed private school children as required by the IDEA and its accompanying federal regulations, state statutes and regulations.