



Children with Disabilities Enrolled By Their Parents in Private Schools

What the 2006 IDEA Part B Final Regulations say:

The IDEA 2006 regulations now require the local educational agency (LEA) where the private school is **geographically located** to conduct a thorough Child Find, including evaluations and/or re-evaluations, and provide equitable services for parentally-placed private school children. Previously, the LEA where the child resided was responsible to provide services for these children. The requirement to provide equitable services to parentally-placed private school children is now based on the total number of children with disabilities who are enrolled in private schools located in the LEA whether or not the children and their parents reside in the LEA. The LEA, where the private schools are located, is also responsible for paying for the equitable services provided to a parentally-placed private elementary school or secondary school child. The LEA must spend a proportionate amount of its Federal funds available under Part B of the Act for these services (§300.133). Parentally-placed private school children are addressed in §§300.129-300.148 of the 2006 IDEA Part B Final regulations. The following sections reflect the changes regarding parentally-placed private school children with disabilities:

A new provision (§300.131) regarding Child Find was added to clarify that each LEA, in which private elementary and secondary schools are located must include in its Child Find activities parentally-placed private school children who reside in a state other than the state in which the private schools that they attend are located.

§300.133 (a)(2)(ii) clarifies that children ages three through five are considered to be parentally-placed private school children with disabilities enrolled by their parents if they are enrolled in a private school that meets the definition of elementary school in §300.13 or secondary school in §300.131.

The determination of special education and related services for parentally-placed school children with disabilities is made through consultation among LEA officials, private school representatives, and representatives of parents of parentally-placed private school children with disabilities (§300.134). The consultation process must be timely and meaningful and must include:

- The Child Find process and how parentally-placed private school children suspected of having a disability can participate equitably, including how

parents, teachers, and private school officials will be informed of the process;

- The determination of the proportionate share of Federal funds available to serve parentally-placed private school children with disabilities, including the determination of how the proportionate share of those funds was calculated;
- How the 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;
- How, where, and by whom special education and related services will be provided including a discussion of types of services, such as direct services and alternate service delivery mechanisms; as well as how such services will be apportioned if funds are insufficient to serve all children and how these decisions will be made; and
- If the LEA disagrees with the views of the private school officials on the provision of services or the types of services, the LEA will provide a written explanation of the reasons why the LEA chose not to provide services directly or through a contract.

Under the Act, LEAs only have an obligation to provide these children an opportunity for equitable participation in the services funded with Federal Part B funds that the LEA has determined, after consultation, to make available to these children. LEAs are not required to spend more than the proportionate Federal share on those services. The Act, however, in no way prohibits states or LEAs from spending additional state or local funds in excess of those required in the Act, consistent with state or local policy. A services plan, which is generally less comprehensive than the individualized education program (IEP), should be developed to describe the specific special education and related services offered to a parentally-placed private school child with a disability designated to receive services.

§300.137 (b)(2) clarifies that, after this consultation process, the final decision with respect to the services provided to eligible parentally-placed private school children with disabilities is made by the LEA. Parentally-placed private school children do not have an individual right to special education and related services.

In §300.138 (a)(1) the regulations state that the highly qualified special education teacher requirements do not apply to teachers hired by the private schools.

§300.140 (a)(2) clarifies the due process complaint must be filed with the LEA in which the private school is located, and a copy must be forwarded to the SEA.

Implications for ASHA Members

Members working in districts where a private school is located should be aware that their local school district is responsible for Child Find services for parentally-placed private school children. The LEA responsible for these children in private schools is now determined by the geographic location of the private school, not the residence of the student. Even if the child resides in a different state, he/she will be included in this LEA's Child Find, including evaluations and reevaluations, and is entitled to equitable services. This may impact members working in districts with private schools.

The LEA should engage in consultation with private school officials and representatives of the parents regarding how services will be provided throughout the school year to ensure the child can meaningfully participate in special education and related services. The discussions should include the types of services (direct and alternate service delivery mechanisms) and how the services will be apportioned if funds are insufficient and how those decisions will be made.

While special education personnel employed by the public schools must be highly qualified, these qualifications do not apply to those employed by the private school.

What ASHA Members Can Do:

ASHA members should familiarize themselves as much as possible with the regulations pertaining to parentally-placed private school children with disabilities. Members should be aware of the private schools geographically located within their LEA(s) to ensure that appropriate services are being provided to parentally-placed private school children with disabilities. Members should also be familiar with the procedures for providing services to these children. For more information on these regulations, go to ASHA's Side-by-Side Comparison Analysis of the 2006 IDEA Part B Final Regulations on ASHA's Web site at <http://www.asha.org/about/legislation-advocacy/2006/IDEApartbsidebyside.htm> or go visit the U.S. Department of Education's Web site on IDEA at <http://idea.ed.gov>.

ASHA members also should familiarize themselves with state statutes and regulations pertaining to parentally-placed private school children with disabilities. Members should be aware that state requirements may be in addition to federal requirements and/or may create two sets of requirements for serving parentally-placed private school children with disabilities. One set of requirements (Federal IDEA) pertains to services provided with Federal funds. The other set of requirements (state) pertains to services provided with state/local funds.