

Eligibility for Special Education and Related Services for Private School Students in Maryland

A parentally placed private school student is a student enrolled in private school by their parent(s) or guardian(s) rather than by their local education agency. Had the student been enrolled in a private school by their local education agency, the enrollment would have taken place after the student's individualized education program (IEP) team had determined that the student's needs could not be met in a public school placement and the student required a placement at a private separate day school (nonpublic school).

How do I know if my child is eligible for special education and related services?

Whether a child enrolled in private school is eligible for special education and related services is determined by either the local education agency for the jurisdiction in which the child resides or the local education agency for the jurisdiction in which the child attends school. If a family wants their child to remain in the private school, they should consult with the local education agency for the jurisdiction in which the private school is located. If the family is unsure if they want their child to remain in the private school, they should consult with the local education agency for the jurisdiction in which they reside.

The Individuals with Disabilities Education Act (IDEA) requires a local education agency to use Child Find, a process that locates, identifies and evaluates all private school students with disabilities enrolled in a private school within the agency's jurisdiction, including out-of-state students attending private schools within the jurisdiction, at no cost to families.

While the IDEA requires local education agencies to provide a free appropriate public education (FAPE) to students with disabilities enrolled in

public schools, parentally placed students with disabilities do not have the right to receive the same special education and related services that they would have received if enrolled in public school systems. However, parentally placed students with disabilities may be eligible to receive equitable services, which are determined by local education agencies.

Services and Service Plans

If designated to receive services, the student will have an individualized services plan (ISP). The ISP outlines the specific services the student will receive, which are generally less comprehensive than those provided to students enrolled in public schools.

Equitable services must be provided by personnel who meet the same standards as personnel providing similar services in the public school setting. The exception to this requirement is that private school teachers providing equitable services are not required to meet the highly qualified special education teacher requirements.

Location of Services and Transportation

Special education and related services may be provided at the student's private school or at another location, such as a school within the student's local education agency.

Transportation services must be provided between the private school and the local education agency school if the special education services cannot be provided at the private school.

Dispute Resolution

- **Disputing special education services:** A parentally placed private school student's parent(s) or guardian(s) may not use due process or mediation to dispute the type or amount of special education services offered by their local education agency.
- **Disputing Child Find outcomes:** Parents and guardians may file a due process complaint only for a dispute about the Child Find process (e.g., if the local education agency failed to properly identify or evaluate the child).
- **State complaint:** If a parent, guardian or private school official believes the local education agency did not properly consult or consider private school input, they can file a state complaint against the local education agency in which the private school is located. The Maryland State Department of Education (MSDE) investigates these complaints.

Resources

Maryland State Department of Education

- Guidance Brief: Students Parentally Placed in Private and/or Religious Schools: Overview of eligibility, services and dispute resolution options for parentally placed private school students with disabilities in Maryland.
- Special Education Services in Maryland: Special Education Process: A step-by-step guide for families to learn about the special education process, rights and available supports.

Statutes and Regulations

- Maryland Code, Education Article, Title 8: Governs special education services, including eligibility, evaluation and procedural safeguards for all students with disabilities, including those in private schools.

- COMAR 13A.05.01.10: Addresses Child Find, the evaluation process, and the provision of equitable services and service plans for students with disabilities in private schools.
- Section 504 of the Rehabilitation Act of 1973: Applies to most private schools that receive federal funds, requiring reasonable accommodations for students with disabilities.

Helpful Links

- The People's Law Library of Maryland: Private Schools: Includes summaries of private school laws and special education requirements.
- Disability Rights Maryland: Special Education Rights—A Handbook for Maryland Families and Professionals: Contains guidance for families navigating special education in Maryland.

Contact Information

Maryland Center for Developmental Disabilities at Kennedy Krieger Institute

1741 Ashland Avenue
Baltimore, MD 21205

For more information, please visit us at **KennedyKrieger.org/ProjectHEAL** or contact us at **443-923-4414**.

