

Special Education Services To Children With Disabilities

Enrolled by Their Family in Nonpublic Schools



MPS Department of Special Services
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INTRODUCTION

Background

The final regulations for the reauthorized Individual with Disabilities Education Act (IDEA) 2004 were published in the Federal Register on August 14, 2006, and became effective on October 13, 2006. These regulations contain a number of significant changes from the existing law and regulations.

The new regulations require that public school districts, after timely and meaningful consultation with nonpublic school representatives and nonpublic school parents of students with disabilities representatives, conduct a thorough and complete child find process to determine the number of parentally-placed children with disabilities attending nonpublic schools located within the public school district's boundaries. The requirements make clear the obligation to spend a proportionate amount of IDEA Part B funds to provide special education services to children with disabilities enrolled by their parents in nonpublic schools. Additionally, the regulations require that children with disabilities parentally-placed in a nonpublic school be served by the public school district within which the nonpublic school is located. Other key changes relate to a consultation process, calculation of the proportionate share, and standards applicable to personnel providing equitable services.

Non-Public School Services Plan 2009-2010

Disability/Impairment/Related Services	Service Location
<p>Speech and Language, Other Health Impairment, Emotional Behavioral Disabilities, Specific Learning Disabilities, Significant Developmental Delay, Cognitive Disabilities for students in grades K4-9 (priority given to students currently receiving services from a services plan). A waiting list will be developed after reaching capacity. Students must be enrolled in non-public schools within the City of Milwaukee.</p> <p>Students eligible for itinerant teacher services may receive related services of Speech and Language. Students may receive more than one (1) service as space is available.</p>	<p>Services will be provided at the non-public school the student attends in Milwaukee.</p>
<p>IDEA 2004 – Effective July 1, 2005 the responsibility for Child Find, evaluations and services plans (LEA) is the school district where the non-public school is located.</p> <p>* The district of residence is responsible for the offer of FAPE (Free Appropriate Public Education) ** The district of residence is responsible for providing Child Find evaluations if requested by the parent/or legal guardian.</p>	

For Additional Information

For more information, or if you have questions about the provision of special education services for children with disabilities parentally-placed in nonpublic schools, please contact Dare Boling, Coordinator, Department of Special Services, Office of Non-Conventional Programs, 438-3413.

OVERVIEW

Children With Disabilities Parentally-Placed in Nonpublic Schools (Ages 3-21), Free Appropriate Public Education (FAPE)

The final (IDEA) 2004 regulations clarify eligible children with disabilities parentally-placed in a nonpublic school means “children with disabilities placed by their parents in a nonpublic, including religious schools, home schools, and schools of facilities, which meet the definition of “elementary school” or “secondary school”. Preschool children (ages 3-5) attending preschools which are part of an approved or accredited elementary school are also included under IDEA 2004 regulations of eligible children with disabilities parentally-placed in nonpublic schools.

This document refers only to eligible children (ages 3-21) with disabilities parentally-placed in nonpublic schools, including religious schools, home schools, or facilities that meet the definition of elementary school or secondary school.

The public school district within which the nonpublic school is located is responsible for:

- Child Find
- Taking a child count of nonpublic children with disabilities
- Calculation of proportionate share
- Consultation with Nonpublic schools and determination of equitable services
- Provision of equitable services as determined through the consultation process for children (ages 3-21) with disabilities parentally-placed in a nonpublic school within the district’s boundaries.

CONSULTATION

Milwaukee Public Schools, at least annually conducts a timely and meaningful consultation meeting with parent representatives and officials of nonpublic schools which are within their district's jurisdiction. The purpose of the consultation meeting is to provide an opportunity for nonpublic school representatives and parents/or guardians to participate and provide input into the design and development of special education and related services for children with disabilities attending nonpublic schools.

Timely and meaningful consultation is an ongoing process and should address the following topics:

Consultation Plan Checklist

Requirements for Consultation under the Individuals with Disabilities Education Act as reauthorized in 2004. The public school district shall consult with nonpublic school representatives and representatives of parents of children with disabilities parentally-placed in a nonpublic school during the design and development of special education and related services for the children regarding:

_____ **Child Find:** How parentally-placed nonpublic school children suspected of having a disability can participate equitably, including how parents, teachers, and nonpublic school officials will be informed of the process; restrictions on sharing information;

_____ **Proportionate Share Calculation:** How the proportionate share of IDEA Part B and IDEA Preschool federal funds is calculated including the amount of the proportionate share funds available for the ensuing school year;

_____ **Consultation Process:** How the consultation process will operate throughout the school year to ensure that children (ages 3-21) with disabilities parentally-placed in nonpublic schools identified through the Child Find process can meaningfully participate in special education and related services;

_____ **Special Education and Related Services:** How, where, and by whom special education and related services will be provided for children (ages 3-21) with disabilities parentally-placed, including a discussion of types of services, how such equitable services will be apportioned if funds are insufficient to serve all children, and how and when decisions will be made;

_____ **Disagreement:** How, if the public school district disagrees with the views of the nonpublic school officials on the provision of services or the types of services, the public school district shall provide to the nonpublic school officials a written explanation of the reasons why the district chose not to provide services.

Documentation Required: MPS Department of Special Services shall maintain records of written affirmation signed by officials of each participating nonpublic school that the consultation regarding special education and related services has occurred.

Upon conclusion of a consultation meeting with nonpublic school representatives and parent representatives, the school district must obtain written affirmation signed by the representatives of the participating nonpublic schools.

If representatives of the nonpublic schools do not provide written affirmation within a reasonable period of time, the school district must forward documentation of the consultation process to the Wisconsin Department of Public Instruction (DPI).

A nonpublic school official has the right to submit a complaint to the Wisconsin Department of Public Education that the school district did not engage in consultation that was meaningful and timely, or did not give due consideration to the views of the nonpublic school official.

(Insert Affirmation Page)

CHILD FIND

The school district must locate, identify, and evaluate all children with disabilities (ages 3-21) who are parentally-placed in nonpublic schools, home schools, including religious, elementary schools and secondary schools which are within the school district's jurisdiction.

The child find process must be designed to: 1) ensure the equitable participation of children parentally-placed in nonpublic schools; 2) result in an accurate count of these children; 3) consist of similar activities as those undertaken for public school children; 4) be conducted in a time period that is comparable to that for children attending the public school; and 5) must include out of state children parentally placed attending a nonpublic school within the district.

The school district must consult with appropriate representatives of nonpublic schools on how the child find activities will be conducted. The costs of carrying out the child find process, including individual evaluations, cannot be included in the proportionate share expenditures.

Questions and Answers - Child Find

- 1. Which school district is responsible for child find activities in nonpublic schools?**
The school district within which the nonpublic school is located is responsible.
- 2. Can the school district which has evaluated a nonresident child share information with the child's resident school district?**
Not unless the parent gives written consent. A parent must give written consent before any personally identifiable information about the child is released between the school district within which the nonpublic school is located and the school district of the child's residence. If sharing information would facilitate identifying and serving the child, it may be appropriate to seek parental consent, but the school district can not require the parent to provide consent.
- 3. Do these requirements apply to children who are home schooled?**
Yes. If the child attends an exempt school (home schooled) the child with disabilities is considered to be parentally-placed in a nonpublic school. Therefore, the IDEA provisions relating to children with disabilities parentally-placed in a nonpublic school apply to children in home schools (home schooled).
- 4. Are children who reside out-of-state the responsibility of the school district within which the nonpublic school is located?**
Yes. The school district within which the nonpublic school is located is responsible for child find, evaluation, and provision of services for children with disabilities who reside out-of-state. Out-of-state residents must be included in the group of children with disabilities parentally-placed in nonpublic schools whose needs are considered in determining the types and amounts of services to be provided.
- 5. How does a school district meet its child find responsibilities to children with disabilities parentally-placed in a nonpublic school?**

The school district within which the nonpublic school is located has options as to how it ensures that child find responsibilities are met. For example, the school district may assume the responsibility itself, or contract with another school district or agency. The school district should determine its child find procedures through the consultation process and plan.

6. What are the required child find activities in nonpublic schools?

The school district within which the nonpublic school is located must conduct similar child find activities to those undertaken in the public school. The child find process must be designed to ensure the identification and evaluation of all children parentally-placed in nonpublic schools, who are suspected of having a disability. Additionally, the child find process must be designed to allow for the equitable participation of such children, and result in an accurate count of children with disabilities, ages 3-21.

Child find activities for nonpublic school children must be similar to those for public school children. This generally includes such things as distribution of informational brochures, public service announcements, staffing exhibits at health fairs and community activities, and creating direct liaisons with nonpublic schools. The activities must be completed in a time period comparable to that for children attending the public schools.

7. What if the parent of a child parentally-placed in a nonpublic school refuses to consent for an initial evaluation?

If the parent does not provide written consent for an initial evaluation or reevaluation, or fails to respond to a request to provide consent, the school district cannot use due process procedures to challenge a parent's refusal.

8. Is it possible that a child could be evaluated at the same time by the child's school district of residence and school district within which the child's nonpublic school is located?

Yes. There is nothing to prohibit parents from requesting an evaluation from the child's resident school district, which is responsible for FAPE, at the same time that the parents have requested that the district within which the nonpublic school is located evaluate their child.

This is not encouraged, and may not be in the best interest of the child. Simultaneous evaluations may not ensure that the evaluation is a meaningful measure of whether a child has a disability nor provides an appropriate assessment of the child's educational needs. Unless a parent chooses to inform the school district that their child is being evaluated by another school district, the two school districts may not know the child is being evaluated by both school districts.

School districts must obtain parental consent before any personally identifiable information about the child is released between officials in the school district within which the nonpublic school is located and officials in the school district in which the child resides.

9. Who is responsible for paying for an evaluation of a nonpublic school child?

The school district within which the nonpublic school is located is responsible for conducting and paying for an evaluation of a child with a suspected disability.

10. Can the costs expended for child find, including individual evaluations, be included in the required amount of funds to be expended on services for parentally-placed children?

No. There is a distinction under the Act between the obligation to conduct child find activities and the obligation to expend a proportionate share for the provision of special education services to nonpublic school students. Child find and evaluation expenditures can not be included in the proportionate share expenditures.

11. Is the school district where the parentally-placed child attends a nonpublic school required to reevaluate the child?

Yes. Reevaluation is part of a school district's child find obligation. The child find requirements apply to children with disabilities parentally-placed in nonpublic schools. Therefore, a school district must initiate a reevaluation of a nonpublic school child at least once every three years. If the parent does not consent for reevaluation, or fails to respond to a request to provide consent, the school district may not use override procedures, and is not required to consider the child as eligible for services.

12. If the school district conducts an individual evaluation, and the parents disagree with the evaluation and want to request an independent educational evaluation (IEE), to which school district must the parents bring their request: the school district within which the nonpublic school is located; or the school district where the child resides.

Parents should file the request for an IEE with the school district that conducted the evaluation with which the parent disagrees.

Provision of Equitable Services

Services Plan

The public school district within which the nonpublic school is located is responsible for the development of a services plan for children with disabilities parentally-placed in a nonpublic school. The services plan does not entitle children with disabilities to a free and appropriate public education (FAPE). Therefore, the services plan may not include the same services they would receive if enrolled in a public school.

The services plan describes the specific special education services that the district will provide to the child in light of the equitable services that the school district has determined through the consultation process.

The services plan, to the extent appropriate, must be developed, reviewed, and revised in the same manner as an IEP. Similarly, the services plan must to the extent appropriate include present levels of performance, goals, and equitable services.

MPS will initiate and conduct meetings to develop, review, and revise a services plan and ensure the participation of a nonpublic school representative. If the representative of the nonpublic school cannot attend, the school district shall use other methods to ensure participation by the nonpublic school representative, including individual or conference telephone calls.

Special education services provided to children with disabilities parentally-placed in a nonpublic school must be provided by personnel meeting the same standards as personnel providing services in the public schools.

Questions and Answers - Services Plan

1. What must a services plan include?

Children with disabilities parentally-placed in a nonpublic school designated by the school district to receive special education services must have a services plan in place before the child can receive services. A services plan describes the specific special education the child will receive from the school district in light of the services the school district has determined will be available to nonpublic school children. To the extent appropriate, the services plan includes IEP elements. The elements in each child's services plan may vary depending on the services to be provided as determined in the consultation plan.

2. What should an equitable services plan include?

As appropriate, the services plan should include: 1) the child's present levels of educational performance in the areas targeted for services by the school district (i.e., speech, reading, math, etc.); 2) annual goals specific to the services to be provided; and 3) the type, amount, frequency, location, and duration of the services to be provided.

3. How often must a services plan be written?

Services plans must be reviewed and revised at least annually.

4. Must the parent of a child with disabilities parentally-placed in a nonpublic school participate in the development of a services plan?

Parents of the child are necessary participants and should participate in the meeting to develop the services plan for their child. If neither parent/ or guardian can attend the services plan meeting the school district shall use other methods to ensure their participation, such as conference phone calls.

5. What is the difference between an individualized education program (IEP) and a services plan (SP)?

A services plan will reflect only available special education services and related services the child with disabilities is designated to receive, and must, to the extent appropriate, meet the IEP content requirements.

The services plan will describe the specific special education and possible related services that the school district will provide to the child in light of the services that the school district has determined through the consultation process.

6. Can a services plan be revised?

Yes. A services plan can be revised using appropriate team members. Since services to children with disabilities parentally-placed in a nonpublic school are determined based on funding, when services costs unexpectedly exceed the proportionate share of funds available for nonpublic school children, the public school district may convene another meeting to revise and/or cease the services plan.

7. What if a parent is not satisfied with the special education services the public school district will provide pursuant of the child's services plan?

Parents who wish to access a greater level of support for their child than what is offered through the consultation plan and included on the child's services plan, may elect to receive a free appropriate public education (FAPE) from the child's resident (*where the child resides*) public school district.

8. Can a parent, whose child is receiving equitable services, at any time request FAPE from the resident school district?

Yes. At any time a parent may request FAPE from the district where the child resides.

9. Can a child with disabilities parentally-placed in a nonpublic school have both an individualized education plan and a services plan at the same time?

No.

10. How are services and location of services provided to children with disabilities parentally-placed in a nonpublic school determined?

The services and location of services are discussed during the consultation process with representatives of the nonpublic school. The public school makes the final decision, using input through the consultation process.

COMPLAINT

Questions and Answers - Complaints

1. Can a representative of a nonpublic school file a complaint about the consultation process?

Yes. A nonpublic school official has the right to submit a complaint to Wisconsin Department of Public Instruction (DPI) if the public school: 1) did not engage in consultation that was meaningful and timely; or 2) did not give due consideration to the views of the nonpublic official.

The nonpublic school official must provide to Wisconsin DPI, the basis of the noncompliance by the public school district with applicable nonpublic school provisions in this part; and the public school district must forward the appropriate documentation to Wisconsin DPI.

If the nonpublic school official is dissatisfied with the decision of the Wisconsin DPI, the nonpublic official may submit a complaint to the Secretary of the U.S. Department of Education. The Wisconsin DPI must forward the appropriate documentation to the Secretary of the U.S. Department of Education.

2. Can a parent of a nonresident child with disabilities parentally-placed in a nonpublic school file a due process complaint?

Yes. But only if the school district has failed to meet the child find requirements, or did not provide timely and meaningful consultation with representatives of the nonpublic schools and parent representatives.

However, parents are not able to request mediation or a due process hearing regarding the services the child is receiving, because there is no individual right to them under the law

PRESCHOOL CHILDREN WITH DISABILITIES (Ages 3 through 5)

Children with disabilities ages three through five are considered to be “parentally-placed in a nonpublic preschool” including religious preschools, home preschools, and elementary schools only if they are enrolled in a nonprofit nonpublic preschool or facility that is a part of an approved or accredited elementary school. Accordingly, if a nonprofit nonpublic preschool, day-care program, or other nonpublic early childhood program or facility, including home schools are a part of an approved or accredited elementary school, child find and equitable participation requirements apply to those children with disabilities enrolled by their parents in such programs.

Therefore, a school district is not responsible for child find activities and the provision of equitable services for non resident children with disabilities parentally-placed in preschools which are within the school district that are not a part of an approved or accredited elementary school.

Many preschool children with disabilities parentally-placed in nonpublic preschools, because they attend a nonpublic preschool or a facility that is not a part of an approved or accredited elementary school, are the responsibility of the child’s resident school district for child find and the provision of a free and appropriate public education (FAPE).

NCLB QUALIFIED TEACHERS (NO CHILD LEFT BEHIND)

Services provided to children with disabilities parentally-placed in a nonpublic school must be provided by personnel meeting the same standards as personnel providing services in the public schools.

SPECIAL EDUCATION DEFINITIONS / TERMS

Accommodations

A support provided to help the student fully access the regular education curriculum (the ordinary subject matter or content being taught in regular math, science, etc.).

An accommodation does not change the content of what is being taught (for example, the student may be required to read *Moby Dick*, but perhaps also listens to the audio version, or has the chapters divided into smaller units with review questions to ensure comprehension). The student completes the same curriculum as general education students. Accommodations help the student reach the same "bar" (standards or expectations) as general education students.

Modifications

A change to the general education curriculum or other subject content being taught. Teaching strategies are modified so that the material is presented differently, and/or the expectations of what the student will master are changed.

For example, a student might be allowed to read a shorter, or more simplified version of *Moby Dick*.

Specialized Instruction

An adaptation of instructional level, content, or performance criteria (for example, grading based on different requirements). Specialized instruction is usually delivered by specialized staff (such as a counselor, special education teacher, speech therapist, occupational therapist, or physical therapist, etc.).

This is instruction not normally available to students in the general education program, but instead is specially designed for students with a disability.

Adapted from schoolpsychiatry.org

Nlm8/5/2009



**MILWAUKEE
PUBLIC SCHOOLS**

DEPARTMENT OF SPECIAL SERVICES

6620 W. Capitol Drive
Milwaukee, WI 53216-2092
(414) 438-3699
(414) 438-3543, FAX

(SAMPLE LETTER)

Date

Dear Administrator,

As you know, _____ (students name) attends your school. This student currently has a services plan to receive special education services and/or speech services by a licensed special education itinerant teacher and/or speech therapist employed by Milwaukee Public Schools. The parents/or guardians of _____ (students name) have agreed for these services to be provided at your school.

The MPS special education teacher/or speech therapist providing these services are _____ (MPS staff member names) In order to maximize student achievement we are requesting that the student and MPS staff member have access to a consistent and quiet space for teaching and learning to occur at your school.

If you have any questions, please contact _____ (teachers name) at _____ (phone) OR Dare Boling, Coordinator for Non-Conventional Programs at 438-3631.

Sincerely,

Dare Boling, Coordinator
Office of Non-Conventional Programs

DB:nlm