

Parental Placements in Private Schools and Homeschools

Wyoming defines a private school as, “any non-public elementary or secondary school providing basic academic educational programs for children and may include parochial and church or religious schools and home-based educational programs. *W.S. §21-4-101(a)(iii)*. Because Wyoming law classifies home-based educational programs, or homeschools, as non-accredited private schools, children with disabilities who are homeschooled are entitled to the same rights as children with disabilities who are parentally-placed in private schools. When a parent unilaterally decides to dis-enroll a child with a disability from a public school and enrolls the child in a private school or homeschool when the provision of FAPE is not at issue, the local school district is responsible for developing a services plan for the child and ensuring that a proportionate share of the district’s federal special education funding is used to provide special education services to children with disabilities attending private schools and homeschools within the geographic boundaries of the district.

NOTE: A unilateral parental placement of a child with a disability in a residential facility when FAPE is not at issue and the placement is funded solely by the parent or funds from private insurance, is considered a parental placement in a private school and the same special education procedures should be followed as those for parental placements in private schools and homeschools, as long as the facility’s education program meets the definition of an elementary or secondary school as defined under the IDEA. *34 CFR §300.13 and §300.14*. For information about children with disabilities enrolled by their parents in private schools when FAPE is at issue, refer to *34 CFR §300.148*.

Parentally-placed children with disabilities in private schools and home schools are children who are voluntarily enrolled by their parents in private schools or homeschools when FAPE is not at issue, including religious schools or facilities that meet the definition of elementary or secondary schools. Children with disabilities in private elementary and secondary schools and homeschools must be provided an opportunity to participate in special education services, however, they have no individual right to special education or related services. The school district where the private school or homeschool is located must develop a services plan for the child and ensure that a proportionate share of federal special education funding is used to provide services to children with disabilities in private schools and homeschools.

Child Find

Child find activities for eligible privately-enrolled students must be conducted by the district and must be comparable to those conducted for public school students. The district must include all privately-enrolled students educated in the district, and provide all private schools and homeschools with information describing how students can access publicly-funded evaluations and special education services. Only preschool aged students (ages 3-5) who attend a public or private preschool program that meets the definition of an elementary school under the law may be included in child find activities for IDEA Part B grants.

School districts have an obligation to identify, locate and evaluate students with disabilities ages 3-21 enrolled by their parents in private schools and home schools located within the district. A proportionate

share of federal special education grant funds providing must be used to provide equitable services for these students. Preschool children with disabilities ages 3-5 are considered to be parentally-placed private school students only if they are enrolled in a private school that meets the definition of an elementary school under state law. *Chapter 7, Section 3(b)(ii)*.

Proportionate Share

Determining the amount of federal IDEA funds to be expended on parentally placed private school and homeschool children with disabilities is critical to ensuring the LEA meets its obligation to spend a proportionate share of these funds on special education and related services for these children.

“Proportionate share” refers to the ratio between the number of IDEA eligible children educated in private schools and homeschools within a district’s geographic boundaries and the number of IDEA eligible children enrolled in a district’s public schools. That ratio yields a percentage, which is multiplied by the district’s total amount of federal special education grant funds. The result is the amount a district must spend on special education services for children with disabilities in private schools and homeschools. How proportionate share funds are spent for allowable goods and services is at the discretion of the district.

It is important to note that in calculating proportionate share, students who attend private schools located in a district other than the one in which they live are not included when the district of residence calculates or decides how to spend the proportionate share of IDEA grant funds. Students who live in one Wyoming school district and attend private school in another district must be counted for proportionate share child count activities by the district in which they attend private school.

Example 1:

There are five eligible privately-enrolled students in private schools and homeschools within the geographic boundaries of District X; two are placed in private schools, and three are homeschooled. The district also serves 495 eligible students who are enrolled in the district. The total number of eligible students both privately-enrolled and enrolled in public schools in District X is 500. The district’s proportion of eligible parentally placed privately-enrolled students to all eligible students is 5:500 or 1%. If District X receives \$200,000 in federal special education grant funds, the “proportionate share” of the funds is 1% of the total \$200,000, or \$2,000. District X must spend at least \$2,000 for the five parentally-placed private school and home schooled students educated in the district to meet its proportionate share obligation.

Example 2:

There are 16 eligible privately enrolled students with disabilities living within the geographic boundaries of District X; nine attend private schools and homeschools located in District X, and seven attend a private school located in District Z. District X also serves 291 public school children with disabilities. The total number of eligible students both privately-enrolled and enrolled in public schools in District X is 300. ($9 + 291 = 300$). The district’s proportion of eligible parentally-placed privately-enrolled students with disabilities to all eligible students with disabilities is 3:300 or 3%. If District X receives \$150,000 in federal special education grant funds, the “proportionate share” of the funds is 3% of the total \$150,000, or \$4,500. District X must spend at least \$4,500 for the nine parentally-placed private school and home schooled students educated in the district to meet its proportionate share obligation. District Z would include the 7 children from out of district who attend the private school located in District Z in their child count in order to calculate proportionate share.

Services Plans

Instead of requiring an IEP for parentally placed students with disabilities in private schools and homeschools, the IDEA requires that districts develop a services plan. 34 CFR §300.132 (b). A services plan is “a written statement that describes the special education and related services the LEA will provide to a parentally-placed child with a disability enrolled in a private school or homeschool who has been designated to receive services, including the location of the services and any transportation necessary, consistent with 34 CFR §300.132. A services plan is developed and implemented in accordance with 34 CFR §300.137 through 34 CFR §300.139.” *34 CFR §300.37.*

The IDEA requires public schools to consult with representatives of private schools, homeschools, and parents to determine the educational provisions for students with disabilities who attend private schools. *34 CFR §300.134.* Effective consultation will provide private school representatives, homeschools, and parents an opportunity to express their views and to have those views considered by the district before the district makes decisions regarding services provided to parentally placed private school children with disabilities. In addition to the IEP team, the district must ensure that a representative of the private school or homeschool attends each meeting to develop the services plan and, “if the representative cannot attend, use other methods to ensure participation by the private school or homeschool, including individual or conference telephone calls.” *34 CFR §300.137 (c)(2).*

The district must develop a services plan to the same extent as an IEP; however, the services plan will likely differ from the contents of an IEP. An IEP will usually include much more than just the services that a child may receive. This is because a parentally-placed child does not have an individual entitlement to any or all of the services that the child would receive if enrolled in a public school. Furthermore, a services plan will describe only the specific services offered to the student. 71 Fed. Reg. 46,596 (2006);

Parentally placed private school children with disabilities may receive a different amount of services than children with disabilities in public schools. *34 CFR §300.138 (a)(2).*

Courts have explained that this means no parentally placed private school child with a disability has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school. *C.F. v. Delaware County Intermedia Unit*, 70 IDELR 250 (E.D. Pa. 2017). The school district has the discretion to determine which services will be provided through the services plan, and where and how the services will be provided. (Refer to sample Services Plan form Appendix A).

Differences Between IEPs and Services Plans

	IEP	Services Plan
What it is	A blueprint for a student's special education experience in a public school. The plan must ensure that the child receives a free appropriate public education, or <i>FAPE</i> .	A plan paid for by the local school district for students with disabilities who attend private schools. A services plan does not have to ensure a child is provided with <i>FAPE</i> .
What it does	An IEP spells out the services, supports and specialized instruction a child with a disability will receive in school. These services are provided at no cost to parents.	A services plan spells out the special education and related services the LEA will make available to a child. These services are provided at no cost to parents, but the student may not be able to receive these services at the private school. Instead, the LEA can require him to go to a public school for services like speech therapy sessions.
What law applies	IDEA is the federal special education law for children with disabilities that all public schools must follow.	§34 CFR 300.130 through §300.144 of IDEA is a specific section that describes how services are provided to children with disabilities in private school.
How IDEA funding applies	IDEA says that public school students with disabilities must receive individualized services to provide <i>FAPE</i> . It is not budget dependent. That means schools should not limit services because of money.	Students don't have an individual right to get the same special education and related services as they would in public school. Instead, they're entitled to "equitable services." This is based on the funding available for private schools.
Who's eligible	To qualify for an IEP, a child must have one of the 13 disabilities covered under IDEA and need special education for his disability in order to successfully benefit from and access a general education curriculum.	To qualify for a services plan, a child must be placed in a private school by his parents and have one of the 13 disabilities covered under IDEA and need special education in order to successfully benefit from and access a general education curriculum.
Who creates the services plan	An IEP must be created by a team that includes: <ul style="list-style-type: none"> ▪ A parent or legal guardian ▪ A general education teacher ▪ A special education teacher ▪ A professional who can interpret evaluation results ▪ A school administrator who knows about general and special education and who oversees special education services at the school. 	A services plan must be created by the same people who make up an IEP team, as well as a representative of the private school.

Parent consent	Parents must provide written consent for the school to evaluate a child. They also have to provide written consent before the school can provide the services in an IEP.	A parent must provide written consent for their child to be evaluated.
How often it's reviewed and revised	An IEP must be reviewed at least once a year. The student must also be re-evaluated every three years to see if services are still needed.	IDEA says a services plan must be reviewed "to the extent appropriate" as often as an IEP. It doesn't specify how

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Expenditures

Districts determine which services to provide following consultation with representatives of the private schools located in the district and parent representatives of eligible private school and/or home-schooled students. State and local funds may be used to supplement, but not supplant, the required expenditure of federal funds. Districts must document expenditures and other activities related to IDEA and proportionate share.

Examples of allowable and unallowable proportionate share expenditures are listed below:

Allowable Expenditures Unallowable Expenditures

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| <ul style="list-style-type: none"> ▪ Benefit only eligible students who are privately enrolled ▪ Direct services (preferred) ▪ Use of personnel: <ul style="list-style-type: none"> o Can make public school personnel available in facilities other than public facilities; or o Can pay for the services of an employee of a private school to provide services outside of his or her regular hours of duty and only if under public supervision and control. ▪ Indirect services, which can include, but are not limited to: <ul style="list-style-type: none"> o Consultative services o Equipment and materials o Training for private school teachers and other private school personnel ▪ Transportation | <ul style="list-style-type: none"> ▪ Administrative costs of Child Find and evaluation ▪ Child Find ▪ Evaluation ▪ Separate classes ▪ Repairs of private school facilities ▪ Minor remodeling of private school facilities ▪ Construction of private school facilities |
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Transportation

If necessary for a parentally placed child to benefit from or participate in the services provided under the services plan, he or she must be provided with transportation from the school or the 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.

LEAs are not required to provide transportation from the child's home to the private school. The cost of this transportation may be included in calculating whether the LEA has met the expenditure requirements of the proportionate share.

Data Collection

Districts are responsible for accurately reporting student data for parentally placed students in private schools and homeschools on all WDE data collections.

When entering data for parentally-placed students with disabilities in private schools on the WDE-684, districts must use the following codes:

WDE-684 Data Element	Code for Parentally Placed Private School Students
Service School ID	The school where the child receives special education services. Valid Service School ID can be obtained by contacting the WDE Collection Steward at 307-777-8751.
Student Environment	PP – Parentally Placed in Private School
Exit Code	TO 418 – Transferred to private school in Wyoming

When entering data for parentally-placed-homeschooled students on the WDE-684, districts must use the following codes:

WDE-684 Data Element	Code for Homeschool Student
Student Home Schooled	Y
Service School ID	Either the school where the child goes to receive special education services, or the school where the child would receive services if he/she was enrolled in the district. Valid ServiceSchoolID can be obtained by contacting the WDE Collection Steward at 307-777-8751.
Student Environment	PH - Homeschool
Exit Code	TO 450 – Transferred to homeschool as Primary Education

Homebound vs. Homeschool

It is important to note the difference between "homebound" and "homeschool" placements. *Homebound* is a placement in which the student with a disability is enrolled in a public school system and receives special education and related services in the student's home or other designated setting because the IEP team determined homebound is the most appropriate placement based on the student's individual health and/or

academic needs. Homebound students are entitled to all provisions of the IDEA, and the school district is responsible for ensuring FAPE is provided in the LRE and procedural safeguards are implemented.

Homeschool refers to students who are not enrolled in a public school system because the parent opted to deliver all instruction at home in accordance with state homeschool guidelines. The parent(s) of homeschool students may serve as the regular education teacher or special education teacher, depending upon the details of the services plan.

WY-TOPP Testing

Private school students and homeschool students are not required to participate in the state assessment, however, these students are invited to participate free of charge, if they choose to do so. The WY-TOPP assessment currently measures English Language Arts, Math, and Science. The test is administered in grades 1-10 in the fall and in grades 3-10 in the winter. To participate in the assessments, parents of homeschool students should contact their local school district.

Extra-Curricular Activities

Private school students and homeschool students may participate in extra-curricular public school activities, such as sports, music, clubs, etc. Wyoming law requires equal access to school activities sanctioned by the Wyoming High School Activities Association. Participation in activities at the elementary and junior high levels is a local district decision, and should be part of local school board policy. Any fees imposed by the district should be the same as those applied to students enrolled in public schools.

Access to Public School Courses

Private school students and homeschool students may be eligible to take some courses in public schools. Individual school districts have the right to determine whether private school students and homeschool students can enroll in certain courses (i.e. science labs, shop classes, etc.). Participation of private school students or homeschool students in public school courses is determined by school board policy, and should be uniformly applied to all students (e.g. the district cannot allow one family to participate, exclude another family). No fees can be assessed unless they are required of students regularly enrolled in the public school.

Complaint Procedure Regarding Consultation

A private school official or homeschool parent has the right to file a complaint with the Wyoming Department of Education (WDE) that the school district did not engage in consultation that was meaningful and timely, or did not give due consideration to his or her views. The private school official must provide the basis for his or her belief that the district did not comply with these consultation requirements. As part of this complaint process, the district must forward appropriate documentation related to the complaint to the WDE. If the private school official is dissatisfied with the decision of the WDE, he or she may submit a complaint to the U.S. Secretary of Education. The complaint should provide the basis of the official's belief that the school district did not comply with the consultation requirements, and the WDE must forward the appropriate documentation to the secretary.

School District/Public Agency		Private School Services Plan			
Name of Student	WISER ID	DOB	Grade	School Year	Date
Name(s) of Parent or Guardian			Name(s) of Parent or Guardian		
Address (City, State & Zip)			Address (City, State & Zip)		
Contact Information			Contact Information		
H:			H:		
C:			C:		
W:			W		
Email:			Email:		

District of Residence
District of Placement
Private School Placement

Description of Services Plan:

A services plan describes the special education and/or related services a parentally placed private school child will receive from the school district/public agency. No private school child with a disability has an individual right to receive all or some of the services that the child would receive if enrolled in a public school. The school district/public agency’s services must be secular neutral and non-ideological. The services may not supplant the private school’s instruction in the core curriculum areas.

The above named child has been determined to be a child with a disability and is eligible for special education and related services and is entitled to Free Appropriate Public Education (FAPE) if the child is enrolled full time in the public school. The parents have elected to enroll their child in a private school. The purpose of this meeting is to develop a Services Plan for the child while the child attends the private school. At a minimum, this plan will be reviewed annually. If at some point the parents decide to enroll their child in the public school, an IEP and placement to provide FAPE will be developed.

Name of Student	DOB	Grade
Test Student	1/1/2001	05

Amount of Special Education and/or Related Services to be provided:

Service Amount/Frequency/Duration Location

Beginning Date of Services Plan	Ending Date of Services Plan

Participants Present

List Service Plan Participants Attending or Participating by Alternate Means in the Services Plan Meeting	
Required Participant's Name	Other Participant's Name
School District/Public Agency Representative	
Special Education Teacher	
Regular Education Teacher	
Parent(s)	
Private School Representative	

Complaints:

Any individual or group may file a state complaint that a school district/public agency or WDE has failed to meet any of the legal requirements regarding children with disabilities enrolled by their parents in private schools. The complaint must be in writing and signed. It must allege a violation of special education law and include the facts upon which the allegation is based. Generally, the complaint must be filed within one year of the alleged violation. The parents of a private school child may request mediation or initiate a due process hearing about matters relating to child find and their child's evaluation and eligibility determination. Parents may not request mediation or a due process hearing about matters relating to parentally placed private school children, including the provision of services in the child's services plan. Due process does not apply because there is no individual right to special education services for a child attending private school.