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## CURRENT EVENTS

# Navigating State & Federal Special Ed Programs

Here's what WCRIS principals need to know to get services for your students, as planning for the next school year begins.

There are two programs to help Wisconsin students with special needs.

First, there is the federal [Individuals with Disabilities Education Act \(IDEA\)](#). Public school districts have an obligation under the IDEA to locate, identify and evaluate children suspected of having a disability. This is known as "Child Find." For parentally-placed private school students, the responsibility and power to initiate a district's Child Find obligation **rests with the parents/guardians of the private school student**, ([34 CFR § 300.131](#)).

Second, there is the state's [Special Needs Scholarship Program \(SNSP\)](#). This law was written with a connection to the federal IDEA. The IDEA requires that the public school district writes an Individual Education Plan (IEP) for students with disabilities that need special education and related services.

These two programs intersect because in order for a student to be eligible for the SNSP, they must have an active IEP or services plan from the public school district.

However, private school student's participation in the SNSP **does not** eliminate the public school district's "Child Find" obligations under the federal IDEA.

Furthermore, private schools that have not engaged with their district about the IDEA prior to joining the SNSP will find it very difficult to get an IEP or services plan for their students suspected of having a disability. Under the IDEA, parents are the only ones who can demand an evaluation and IEP for their child. A private school cannot do this for the parents. [Helping parents understand](#) this responsibility will also help them potentially access the SNSP.

Principals interested in learning more about the SNSP, should get [a WCRIS Choice Handbook](#). Click "Order Now" below to download an order form.

### **Drilling into the IDEA**

Here's what you need to know about the IDEA as you begin consulting with public school district officials about special education services for the upcoming school year.

Under the IDEA, a parent can request an initial evaluation at **any time** to determine if their child has a disability. If the district agrees with the referring parents that the child may be eligible for special education and related services, the district **must** evaluate the child. ([34 CFR § 300.301\(b\)](#)).

Once a request/referral has been made to evaluate a child, the district has 15 business days to get parental consent to evaluate the child. ([Wis. Stat. 115.777\(3\)\(e\)](#)).

Next, the district must conduct the initial evaluation within 60 days, once they receive parental consent to evaluate a child ([34 CFR § 300.301\(c\)](#) and [Wis. Stat. 115.78 \(3\)\(a\)](#)).

The evaluations for parentally-placed private school students must be consistent with activities carried out in the Child Find process for public school students ([34 CFR § 300.131](#)), which meet state statutes outlined in [Wis. Stat. 115.78](#) and [115.782](#).

The law requires that eligible parentally-placed private school students with disabilities have access to equitable services provided by the public school district with a proportional share of IDEA federal funds. (34 CFR § 300.133).

Once the evaluation has occurred, there are some nuances to the law that principals must understand as it relates to parentally-placed private school students and the provision of equitable services:

1. During the evaluation process the evaluation team is determining whether or not a student has a covered disability under the IDEA **AND** if that disability effects them academically to the point of needing special education and related services. The process goes both ways. So for example, a public school student could have a covered disability under the IDEA but found not to be in need of special education and related services and so this student would not receive services under the IDEA.
2. Once a parentally-placed private school student is evaluated, if he/she is found to have a disability and in need of special education and related services, the public school district provides the student with an offer of a “Free, Appropriate Public Education” (FAPE). **If the parents decline the offer of FAPE, the individual student is no longer legally entitled to special education and related services under the IDEA.** The public school district’s obligation is only to spend a proportionate share of IDEA federal funds to provide equitable services **to the group of parentally-placed private school students with disabilities** located in their district. It is the discretion of the public school district, in consultation with private school representatives and parents of eligible students, what services will be provided, by whom, where

and who will be served. This is why consultation is so important.

3. A public school district has met their IDEA obligations for private schools if the following has been met:

The district spent a proportionate share of IDEA funds to serve the parentally-placed private school students with disabilities with the services they've said they'll offer during consultation with private school officials and parents of eligible students.

4. This means the district has still met that obligation, if for example, the following situations occur:

- a. The proportionate share of federal funds is insufficient to serve all of the parentally-placed private school students with disabilities;
- b. If the district only offers speech-language services or another single, service to parentally placed private school students; or,
- c. If the funds are not sufficient to provide services for the entire school year, and thus are not continued after the first semester or once the proportionate share of funds has been expended.

(These are all real scenarios that are currently at play in Wisconsin.)

5. Further, this could also mean that there are parentally-placed private school students that have been found to have disabilities covered by the IDEA, but do not receive some or all of the available services from the public school district.

6. A services plan for a parentally-placed private school students should reflect only the services the LEA will provide to a parentally-placed private school student with a disability who is designated to receive services (from the US DOE IDEA brochure). The DPI has a Q&A bulletin that outlines this question as well. The question is included below for reference:

***16. What services must a school district provide to a parentally-placed private school student with a disability?***

*Children with disabilities enrolled in private schools by their parents have no individual entitlement to receive some or all of the special education and*

*related services they would receive if enrolled in a public school other than child find, which includes evaluations. A school district only must provide for the “equitable participation” of parentally placed private school students with disabilities as a group. The IDEA requires that annually a school district spend a proportionate share of IDEA funds on special education and related services for private school students with disabilities as a group. The expenditures must be consistent with the other requirements of the IDEA regulations.*

*After initially evaluating a student and determining the student is eligible for special education, the school district should explain to the parents what services are available if the student remains in the private school. If the student remains in the private school and will receive services from the school district, the district must develop a “services plan” for the student. Also, the school district must inform the parents that the student’s school district of residence is responsible to provide the child free appropriate public education (FAPE) if the student leaves the private school and enrolls in public school. If the parent makes clear his or her intention to keep the child in the private school, the school district where the child resides need not develop an IEP and make FAPE available to the child. However, if the parent requests an IEP, an IEP must be developed by the resident school district.*

7. As a result of the above guidance, if a parentally-placed private school student has a disability covered by the IDEA, but is not designated to receive services from the public school district, the district is not required to develop a services plan. However, a parent can request that an Individualized Education Program (IEP) be written with an offer of a Free Appropriate Public Education (FAPE) so that they may determine the best educational setting for their child. ([34 CFR § 300.320](#)).

8. The funds expended for Child Find and the evaluation process for parentally-placed private school students **are not** included when determining if a district has spent a proportionate share of IDEA funds. Basically, the district is obligated to carry out Child Find and evaluations at their own cost.

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