

The Council of Administrators of Special Education (CASE)

A Position Statement

Special Education Students Parentally Placed in Private Schools

The statute and regulations associated with the reauthorization of the Individuals with Disability Education Act (IDEA) in 2004 are now official. While the Council of Administrators of Special Education (CASE), an international association including more than 5,000 of our Nation's local school district special education administrators, is pleased with a number of the improvements contained in this new Federal education policy, we are very concerned with *the newly established statute and regulation relating to the provision of services to children with disabilities enrolled by their parents in private schools.*

CASE understands the intent of Congress is to ensure that federal IDEA funds go toward the special education costs of all children with disabilities in our Nation. This is laudable. However, our nation is built around two systems as it relates to the education of our Nation's children and youth: a public school system funded through local, state and federal governments and private/parochial schools for children and youth whose parents prefer a unique and specialized education not believed by them to be available in the Nation's public schools. These schools are privately funded and operate independently of any accountability for special education. Students attending are not guaranteed a Free and Appropriate Public Education.

- CASE also understands that Congress and the U.S. Department of Education want to ensure the availability of services to private school students and the ability of private schools to effectively collaborate with public schools in the provision of equitable special education services. To this end, *the statute and regulations require the local education agency (LEA) where the private school is located, rather than the resident district, to be legally responsible for the provision of special education services.* This places a major logistical and fiscal burden on the already under funded public school systems. There are many local education agencies with literally hundreds of private/parochial schools within their boundaries. To make a district use its limited federal IDEA funds (appropriated at only 17% of the national per student cost, rather than the 40 % Congress is authorized to fund) to serve students from communities in other towns, counties, and states is not reasonable. This is especially true for states that have restrictions on the use of state and local funds for out of state children.
- The time and manpower involved in the following activities is extensive and, in many respects, not possible due to limited resources:
 - Conducting child find
 - Screening through evaluation activities
 - Equitable special education and related services,
 - Transportation
 - Monitoring to ensure the equipment and supplies placed by the public school are only used for Part B purposes

- Consultation by the LEA with private school officials and representatives of parents of parentally-placed private school children with disabilities
 - Provision of a detailed written explanation of a disagreement with the private school representatives as to the reasons why an LEA chose not to provide services
 - Provision of due consideration to the views of a private school official
 - Submission of written requests to have a show cause hearing and participate in the hearings
- It is not reasonable to allow private schools to formally complain to the State Education Agency (SEA) that an LEA did not engage in consultation that was meaningful and timely and not also allow the LEA to formally complain about a lack of meaningful cooperation on the part of private school personnel, inappropriate use of supplies and equipment placed at the private school for the provision of Part B. Local AND State Education Agencies must have a means of holding private school's accountable for meeting their responsibilities in this cooperative endeavor. To hold an LEA responsible for monitoring a private school's appropriate/inappropriate use of equipment with IDEA funds and not allow the LEA to complain to the SEA regarding this is not reasonable.
 - CASE believes it is not reasonable to require public schools to provide highly qualified special education teachers and not require private schools to hold to the same standards. Allowing private schools to not use highly qualified teachers increases the chances those teachers will not provide research based instructional strategies, resulting in lowered student achievement and a proportionate increase in the adverse affect the student's disability has on their ability to learn the knowledge and skills necessary.
 - Allowing a by-pass provision and only private school complaints to the SEA inherently places public schools in a position of losing control over the IDEA funds generated and appears designed to enable private schools to ultimately by-pass the collaboration with the public school officials and receive the funds directly from the state. This assumes a lack of cooperation will only be from the professional educators in public education and opens the door for private schools to by-pass their responsibility to collaborate and ultimately demand the funds directly from the SEA. This sets a very dangerous precedent and must not be permitted.

As mentioned earlier, CASE is pleased with many of the new changes in statute and regulation. However, we are extremely concerned with the comprehensive requirements placed on LEAs for the provision of equitable services to children with disabilities enrolled by their parents in private schools. The lack of two-way accountability combined with the responsibilities only placed upon the public school personnel presents extreme challenges for implementing this provision.

CASE respectfully asks for this statutory requirement to be amended and recommends the return to the principles and language of IDEA 1997, shifting responsibility back to the resident's LEA, rather than the district where the private school is located.

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