

Whose IDEA Is This?

A Parent's Guide to the *Individuals with Disabilities Education Improvement Act of 2004 (IDEA)*

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John R. Kasich, Governor

**Department
of Education**

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permitted to do so by the Family Educational Rights and Privacy Act (FERPA).

NONPUBLIC (PRIVATE) SCHOOLS

In Ohio a private school is called a nonpublic school.

What kind of nonpublic schools are there, and does it make a difference to me or my child?

A nonpublic school is a school operated by private individuals or a private corporation or organization. There are two kinds of nonpublic schools: (1) chartered, which are authorized by the state of Ohio and (2) nonchartered, which are permitted to operate but do not meet *all* of the conditions required to be state-authorized. (See the definition of nonpublic schools in the “Definitions” section).

Individual students with disabilities who are placed by their parents in a nonpublic school (chartered or nonchartered) *may* still receive services from the public school district as described in this section. However, there is no guarantee. See the following question to learn about what determines whether your child will receive services.

What are my rights if I am considering placing my child with a disability in a nonpublic school without consent or referral by the school district?

If you are considering placing your child in a nonpublic school without consent or referral by the school district:

- Your district of residence is not required to pay the cost of education, including special education and related services, unless the school district has not made a free appropriate public education available to your child. (This means your school district has offered you special education and related services and you have declined them).
- If your child is eligible for services, the school district where you live (called the school district of residence) is responsible for making a free appropriate public education available to your child. If you make clear your intention to keep your child enrolled in the nonpublic

school, the district where you live does not need to develop an IEP for your child.

- If you choose to enroll your child in a nonpublic school instead of your school district of residence, your district of residence is not required to pay the cost of education, including special education and related services, unless the school district has not made a free appropriate public education available to your child.
- You have the right to have your child evaluated by the school district where the nonpublic school is located, which may not be your school district of residence.
- The school district where the nonpublic school is located will consult with the nonpublic school about how that school district will spend some of its money to serve children in the nonpublic school.
- The school district may decide to spend some of this money to serve your child, but the district is not *required* to serve your child. In other words, there is no individual right for your child to receive service.
- The school district makes the final determination of whether your child will receive any services and, if so, the services your child will receive.
- If the district decides to serve your child, it will develop a service plan.
- A service plan is different from an IEP because a service plan does not provide a free appropriate public education.

See *Guidelines for Providing Services to Children with Disabilities Parentally Placed in Ohio Chartered and Nonchartered Nonpublic Schools* for additional information. These are posted on EdresourcesOhio.org, keyword search: *Parentally Placed Nonpublic School Children*.

What can I do if the nonpublic school my child attends does not consult with the school district where the nonpublic school is located about spending money to serve children at the nonpublic school?

In this case you can contact that school district directly to request services for your child.

Can the school district where the nonpublic school is located share information with our school district of residence?

You must give your consent before personal information about your child is shared between officials in the school district where the nonpublic school is located and the school district where you live.

Do I give up any rights when I place my child in a nonpublic school?

You should be aware that your procedural safeguards rights are not the same if you choose to place your child in a nonpublic school.

Due Process: You have no due process rights beyond “child find,” the district’s responsibility to identify, locate and evaluate your child; the district offering an appropriate program for your child, whether you choose to take advantage of this program or not; and the district providing the appropriate amount of money as stated in law to provide *some* special education and related services to the group of children with disabilities placed in nonpublic schools by parents.

Also, your child is not guaranteed any service or any amount of a service that your child would receive if enrolled in a public school.

Complaints: You do have the right to file a written complaint with the Ohio Department of Education about:

- Child find (identifying, locating and evaluating your child);
- Identification and evaluation;
- Carrying out of services the school district has agreed to provide;
- The amount of funds the school district must spend;
- Location of services;
- Transportation;
- Separation of classes;
- Requirements that funds not benefit a nonpublic school;
- Use of public school staff;
- Use of nonpublic school personnel; and

- Requirements concerning property, equipment and supplies.

See the “Complaint” section of this document for information about how to file a written complaint.

When is the public school district required to pay all or part of my child’s nonpublic education?

If your child has received special education and related services from your school district and you enroll your child in a nonpublic school without the consent of or referral by the school district, a due process hearing officer or court may require the school district to pay you back for the cost of the nonpublic school placement if:

- The school district of residence has not made a free appropriate public education available to your child in a reasonable time before the nonpublic school enrollment; and
- Placing your child in nonpublic school is appropriate.

A hearing officer or court may find that a parental placement (which is your decision to place your child in a nonpublic school) is appropriate even if it does not meet the standards that apply to education provided by the state and the school districts.

Reimbursement costs (the amount the school district must pay you back) for nonpublic education may be reduced or denied by the hearing officer or court if:

- At the most recent IEP meeting you attended before removing your child from the public school, you did not inform the IEP team that you were rejecting the proposed placement (meaning the district’s arrangements for educating your child) and you did not state your concerns and your intent to enroll your child in a nonpublic school at public (your school district’s) expense;
- You did not give written notice to the school district at least ten business days in advance (including any holidays that occur on a business day) before removing your child from the public school that you were rejecting the district’s proposed arrangement for

providing a free appropriate public education to your child. This written notice should include a statement of your concerns and your intent to enroll your child in a nonpublic school at public expense;

- Before you removed your child from the public school, the school informed you of its intent to evaluate your child and you did not bring your child for the evaluation; OR
- There is a legal decision that actions taken by you were unreasonable.

The cost of reimbursement (again, the amount you will be paid back) for nonpublic school placement may not be reduced or denied if you did not provide written notice for one of these reasons:

- You cannot read or write in English;
- Providing the written notice would be likely to result in physical or serious emotional harm to your child;
- The school prevented you from providing such notice; or
- You did not receive your procedural safeguards rights notice (a copy of this document, *Whose IDEA Is This?*), and were not told that you had to provide written notice.

May my child receive services in the nonpublic school building?

If the public school district chooses and the nonpublic school agrees, your child may receive services in the nonpublic school building.

Is transportation provided for my child?

If your child is attending a chartered nonpublic school, your child is assured transportation to the same degree as any child without disabilities who is attending a chartered nonpublic school.

If your child is attending a nonchartered nonpublic school, your child is not assured transportation unless transportation is listed as a related service on your child's services plan.

If your child is attending either a chartered or nonchartered nonpublic school and your child's service plan calls for services that are provided at another location, then transportation to and from that location must be provided.

Transportation must be provided to and from your child's nonpublic school or home to the location of the services, depending upon the time of services.