



**Presents**

# **KY-SPIN's Lunch & Learn Parentally Placed in Private School**

# Disclosure:

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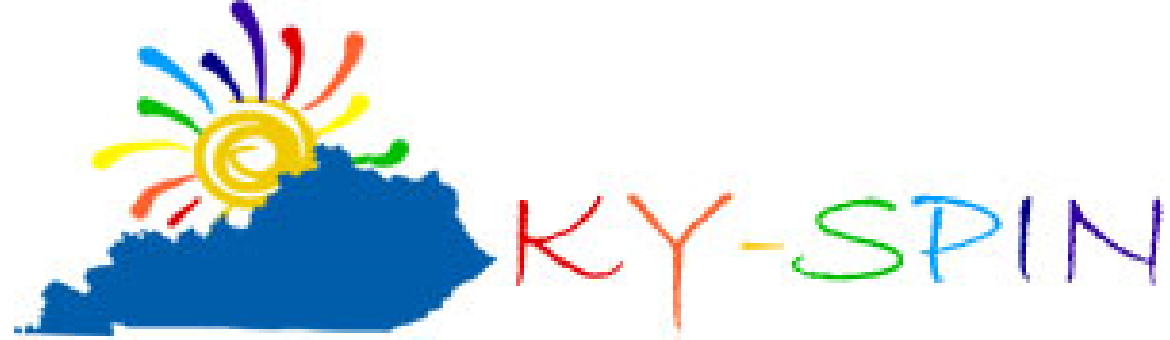
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# Kentucky Special Parent Involvement Network (**KY-SPIN** ) **Parent Training & Information (PTI) Center**

Funded by the U.S. Dept. of Education under IDEA since 1988 when Kentucky first received a PTI. KY-SPIN Parent Center provides training, information and support for children and youth with all types of disabilities (birth through 26 years old), their parents, families and professionals.



We do NOT:  
Act as Attorneys

We DO:



- ♥ Empower Families to Effectively Advocate for their Children
- ♥ Provide “peer to peer” support to help families access needed information and resources

# Today's Agenda

- Difference between Home/Hospital Instruction (sometimes called homebound or NTI) and parentally placed in private school/homeschool
- What you need to do to homeschool or send student to private school
- Disability Laws and how they may apply for Private/Homeschool Students
  - Americans with Disabilities Act (ADA) Title III
  - Section 504 of the Rehabilitation Act of 1973 as amended
  - Individuals with Disabilities Education Act (IDEA) Part B

## Difference between Home/Hospital Instruction (sometimes called homebound or NTI) and parentally placed in private school/homeschool

This training is not covering students enrolled in public school or students placed in private school by the public school district.

Is student is enrolled in the public school district?

**YES** If the student is receiving Home/Hospital Instruction (homebound) or on NTI If this is the case, the student is **receiving education through the school district in a different location** versus the classroom. Processes exist and KY-SPIN can help navigate those.

If the student is **not** enrolled in the public school district, and has been **parentally placed** in private school, or you are homeschooling then this training will be helpful.

Throughout this training we will be discussing policies, regulations, and procedures for students that have been parentally placed in private school/homeschooled in Kentucky.

Kentucky recognizes home schools as private elementary schools and secondary schools, children with disabilities in those home schools must be treated in the same way as other parentally-placed private school children with disabilities.

# What you need to do to homeschool or send student to private school

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## Applicable Statutes

STATUTES	DESCRIPTION
<a href="#">KRS 159.030</a>	Requires compulsory school attendance children ages 6-18
<a href="#">KRS Ann. 159.030(1)(b)</a>	Reporting names of private school students to local school board
<a href="#">KRS 159.040</a>	Records kept by private schools
<a href="#">KRS 158.070</a>	Courses to be taught
<a href="#">KRS 158.080</a>	Required length of school term
<a href="#">KRS Ann. 156.160(3)</a>	Certification of non-public schools

A homeschool student is one whom the family has withdrawn from public school pursuant to [KRS 159.030](#) and chosen to educate through a private or home setting. Section 5 of the Kentucky Constitution establishes that parents may choose the formal education for their child. Over thirty years ago, the Supreme Court of Kentucky determined that the Kentucky Department of Education (KDE) may not prescribe standards for homeschooling. Kentucky classifies homeschools as non-public schools; therefore, the laws relating to non-public schools also apply to homeschools.

[KDE: Non-Public or Private School Information](#)



# Homeschool Requirements

Parents of children who are homeschooled are required to do the following:

- ✓ Notify the superintendent of the local school board in writing within ten days of the beginning of the school year of their intent to homeschool their child(ren) each year they homeschool. See [KRS 159.160](#).
- ✓ Establish a bonafide school for the children to attend. When informing the district superintendent of your desire to homeschool, create a 'school' name. This will be used for future records and diplomas.
- ✓ In Kentucky, under state law, all children must be enrolled in school between the ages of six (6) and 18. If a child is six (6) by August 1, he or she MUST be enrolled in primary school. Children can begin primary school at age five, but only if their 5th birthday is on or before August 1 of the current school year. A four-year-old who will turn five by August 1 can enroll in primary school. See [KRS 159.010](#) for further explanation.
- ✓ Record and maintain scholarship reports of each student's progress in all subjects taught at the same intervals as the local public schools. See [KRS 159.040](#). KDE suggests that the person responsible for instruction keep a portfolio that contains samples of the best work done by each child in several areas of study and maintain the portfolio each year the student is homeschooled. This may be of assistance in documenting the existence of the homeschool or the transfer of the child to another educational setting. A record of courses taken, and grades received is also necessary.
- ✓ Keep accurate attendance records of pupil attendance. The attendance records can be kept in a notebook, on a computer, or in another manner, but must be readily available in case of an inquiry. See [KRS 159.040](#). The minimum school term is 1062 instructional hours. The term of the school shall not be for a shorter period in each year than the term of the public school in the district in which the child attending the school resides. In those school districts which are operating a year-round school program, the minimum term of private and parochial schools shall be one hundred eighty-five (185) days.
- ✓ Subjects taught should include reading, writing, spelling, grammar, history, mathematics, science, and civics. It is the parents' right to offer other subjects, as well. See [KRS 158.080](#), [KRS 156.160](#), and [KRS. 156.445](#)
- ✓ It is required that all core instruction be offered in the English language.

ADA / Section 504 /  
Individuals with Disabilities  
Education Act (IDEA)



Federal  
Law



Kentucky Administrative  
Regulations (KAR)



State  
Law



Local Policies and  
Procedures



Private School/  
Public School  
District

# Americans with Disabilities Act (ADA)

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The ADA is a comprehensive civil rights law.

It prohibits discrimination on the basis of disability in employment, state and local government programs, **public accommodations**, commercial facilities, transportation, and telecommunications.

No funding is provided under ADA to entities

How an entity is funded does not determine if ADA applies

The ADA defines a person with a disability as a person who has a physical or mental impairment that substantially limits one or more major life activity. This includes people who have a record of such an impairment, even if they do not currently have a disability. It also includes individuals who do not have a disability but are regarded as having a disability. The ADA also makes it unlawful to discriminate against a person based on that person's association with a person with a disability.

### **Major Life Activities:**

[Major life activities includes,  
but is not limited to, the activities listed below]

- Caring for oneself
- Communicating
- Concentrating
- Bending
- Breathing
- Eating
- Hearing
- Learning
- Lifting
- Reading
- Seeing
- Sleeping
- Performing manual tasks
- Speaking
- Standing
- Thinking
- Walking
- Working

# Title III Public Accommodations and the ADA

Public accommodations are private businesses, both for-profit and not-for-profit. A place of public accommodation is a facility whose operations affect commerce and falls into at least one of these categories:

- Places of lodging (inns, hotels, or motels);
- Places that serve food or drink (restaurants and bars);
- Places of exhibition or entertainment (theaters, stadiums, arenas);
- Places of public gathering (auditoriums, convention centers);
- Sales or rental establishments (stores, shopping centers);
- Service establishments (banks, beauty shops, repair shops, funeral homes, gas stations, professional offices, pharmacies, hospitals);
- Public transportation terminals, depots or stations;
- Places of public display or collection (museums, libraries, galleries);
- Places of recreation (parks, zoos, amusement parks, gyms, pools);
- **Places of education** (nursery schools, elementary, secondary, undergraduate, or postgraduate schools, trade or technical schools);
- Social service center establishments (day care centers, senior citizen centers, homeless shelters, food banks, adoption agencies); or
- Places of exercise or recreation (gyms, spas, golf courses).

# Title III of the ADA

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**What does Title III of the ADA require from these places of public accommodation?**

Places of public accommodation may not discriminate against people with disabilities and may not deny full and equal enjoyment of the goods and services they offer.

**What about churches, synagogues, mosques, and religious entities? Are they exempt?**

**Yes.** There is a specific exemption for religious entities in the ADA. There are a lot of misunderstandings about this exemption. It covers all of the programs and activities of a religious entity, even if they aren't religious programs or activities.

# Title III of the ADA

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## **What funding assistance is available for removing barriers and accommodating customers with disabilities?**

Businesses doing alterations to improve accessibility are eligible for two federal tax incentives. The Disabled Access Credit (Internal Revenue Code, Section 44) is available to help small businesses cover ADA-related eligible access expenditures. A business of any size can take a tax deduction under Internal Revenue Code - Section 190 for the costs of removing architectural or transportation barriers.

## **How is Title III of the ADA enforced?**

Individuals can bring private lawsuits against public accommodation to get court orders to stop discrimination. People can also file complaints with the Department of Justice (DOJ), which has the authority to file suit in cases of public importance or where there is a pattern or practice of discrimination. In these cases, the DOJ may seek monetary damages and civil penalties.

# Reasonable Modifications/Accommodations

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Businesses must make “reasonable modifications” in their policies, practices, and procedures to accommodate a person with a disability. Here are some examples of specific scenarios involving a person with a disability that could be resolved with a reasonable modification:

Examples:

Scenario	Modification
A person with a service dog tries to enter a buffet restaurant that has a “no pets” policy.	The restaurant allows the person to enter the restaurant with their service dog. Learn more about <a href="#">service animals</a> .
A person who is deaf wants to order dinner at a restaurant.	The waiter writes back and forth with the deaf customer to take their order.
A person with dyslexia requests additional time to take an admissions exam for a private graduate school program.	The testing body grants the applicant extended time to take the admissions exam. Learn more about providing <a href="#">testing accommodations</a> .
A person who uses a wheelchair has difficulty accessing items at a local grocery store because it hasn’t been updated since before the ADA was passed.	The store rearranges tables and displays that block access to shopping aisles and provides a clerk to assist the customer with getting items that are out of reach. Learn more about <a href="#">readily achievable barrier removal</a> .



# **Section 504 of the Rehabilitation Act of 1973**

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## **Civil Rights Law:**

### **Section 504 prohibits discrimination on the basis of disability**

- Applies to any agency receiving federal funds
- No additional source of federal funding
- Provides procedural safeguards

Section 504 protects qualified individuals with disabilities. Under this law, individuals with disabilities are defined as persons with a physical or mental impairment which substantially limits one or more major life activities. People who have a history of, or who are regarded as having a physical or mental impairment that substantially limits one or more major life activities, are also covered.

### **Major Life Activities:**

[The list of major life activities under Section 504 includes, but is not limited to, the activities listed below]

- Caring for oneself
- Communicating
- Concentrating
- Bending
- Breathing
- Eating
- Hearing

- Learning
- Lifting
- Reading
- Seeing
- Sleeping
- Performing manual tasks
- Speaking

- Standing
- Thinking
- Walking
- Working

# Section 504 & Private School

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Section 504 forbids organizations and employers from excluding or denying individuals with disabilities an equal opportunity to receive program benefits and services. It defines the rights of individuals with disabilities to participate in, and have access to, program benefits and services.

## **Subpart A -- General Provisions**

### **104.1 Purpose.**

The purpose of this part is to effectuate section 504 of the Rehabilitation Act of 1973, which is designed to eliminate discrimination on the basis of handicap in any program or activity receiving Federal financial assistance.....

### **104.39 Private education.**

- (a) A recipient that provides private elementary or secondary education may not, on the basis of handicap, exclude a qualified handicapped person if the person can, with minor adjustments, be provided an appropriate education, as defined in 104.33(b)(1), within that recipients program or activity.
- (b) A recipient to which this section applies may not charge more for the provision of an appropriate education to handicapped persons than to nonhandicapped persons except to the extent that any additional charge is justified by a substantial increase in cost to the recipient.
- (c) A recipient to which this section applies that provides special education shall do so in accordance with the provisions of 104.35 and 104.36. Each recipient to which this section applies is subject to the provisions of 104.34, 104.37, and 104.38.

# 504 Plan

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Be specific.

Who, What, Where and How plan will be carried out

- What are the areas of need
- What accommodations and/or services will be provided
- Who is responsible for providing them
- How often will they be provided
- Where will it be provided
- How will it be monitored

Make sure the 504 meeting/conference summary gives an accurate picture of what took place at the meeting. Request are documented even if not in agreement.

# Example 504 Plan Content

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## Teacher education and support

Teachers who work with Kevin will be provided consultation time with the school behavior specialist, Ms. Zicotti. She will help them implement accommodations and behavior management strategies in the classroom. Any teacher who works with Kevin, and who isn't trained as a special educator or behavior specialist, must watch this 3-minute video, *What Is ADHD?*, available at [u.org/whatisADHD](http://u.org/whatisADHD). Teachers who work with Kevin must also review the attached articles on (1) signs of ADHD they may see in the classroom and (2) self-advocacy phrases for middle school students.

# Additional 504 Plan Content Example

Accommodations and/or services			
Area of educational need	Accommodation or service	Person(s) responsible for implementing	Frequency of accommodation or service
Organization	Write homework assignments in planner and have teachers initial it.	Student, all teachers	Daily: At the end of each class
Organization	Provide an extra set of books to keep at home.	All teachers	Annually
Distractibility	Provide student with a quiet area for test-taking & in-class individual work.	All teachers	As needed, including during state standardized assessments
Impulsivity	Give agreed-on signals reminding student to raise hand before answering.	All teachers	As needed

# The OCR office for Kentucky is located at:

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Philadelphia Office  
Office for Civil Rights  
U.S. Department of Education  
The Wanamaker Building  
100 Penn Square East, Suite 515  
Philadelphia, PA 19107-3323

Telephone: 215-656-8541  
FAX: 215-656-8605; TDD: 800-877-8339  
Email: [OCR.Philadelphia@ed.gov](mailto:OCR.Philadelphia@ed.gov)

Contact the enforcement offices if you wish to file a complaint (or use our [online complaint form](#)) or if you need technical assistance on a problem or assistance to prevent civil rights problems. Contact the OCR headquarters office if you have a question on national policy, to make a Freedom of Information request for information that is national in scope, or to request publications or other assistance that is not available online.

# Individuals with Disabilities Education Act (IDEA)

- The Individuals with Disabilities Education Act (IDEA) is a federal law that requires each state to ensure that a Free Appropriate Public Education (FAPE) is available to all eligible children with disabilities residing in that state.
- Funded in part with federal dollars
- Part C – Early Intervention / Birth-3  
[Kentucky Early Intervention System](#) (formerly known as First Steps)
- **Part B – Public school / 3-21**

In Kentucky the State Educational Agency (SEA) is the Kentucky Department of Education (KDE). The LEA is the Local Educational Agency which is your local public school district.

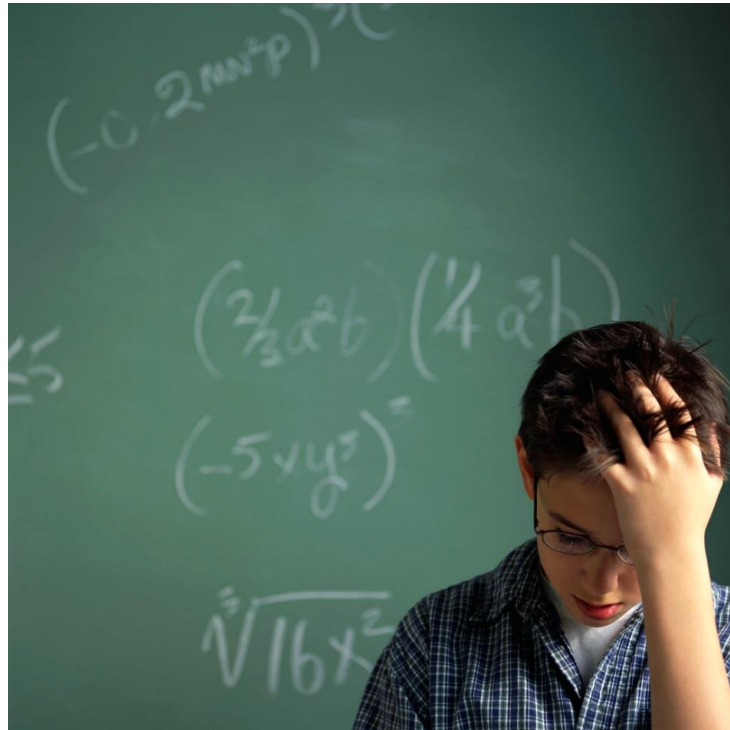


# IDEA Definition of Disability

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- The child's disability must show an "adverse effect" that impedes progress where educational performance is significantly and consistently below the level of children of similar age.
- Must meet criteria of one or more disability categories
  - Must need specially designed instruction & related services

# Eligibility Disability Categories



Federal IDEA	KAR Categories
Autism Spectrum Disorder (ASD)	Autism
Deaf-Blindness	Deaf-Blindness
Development Delay (Ages 3 through 9)	Developmental Delay (Student is three (3) through eight (8) years of age. <i>(Note: Eligibility for DD ends on the child's 9<sup>th</sup> birthday.)</i> )
Emotional Disturbance	Emotional-Behavioral Disability
Hearing Impairment (including deafness)	Hearing Impairment
Intellectual Disability	Mental Disability: Mild Mental Disability (MMD) or Functional Mental Disability (FMD)
Multiple Disabilities	Multiple Disabilities
Orthopedic Impairment	Orthopedic Impairment
Other health Impairment	Other Health Impairment
Specific Learning Disability	Specific Learning Disability
Speech or Language Impairment	Speech Language Impairment
Traumatic Brain Injury	Traumatic Brian Injury
Visual Impairment including Blindness	Visual Impairment

## **707 KAR 1:370. Children with disabilities enrolled in private schools.**

This administrative regulation establishes standards for school districts to make appropriate educational services available to children with disabilities who have been enrolled in private schools by their parents.

- A private school child with a disability does not have the individual right to receive all of the special education and related services that he/she would receive if enrolled in a public school.
- A private school child with a disability may receive a different amount of services than children with disabilities enrolled in public schools. These services are specified on a Services Plan, not an IEP.
- When a parent decides to place his child with a disability in a private school after the District offered a free and appropriate public education the District is not required to pay for the cost of the private education.
- Parents may file a state-level complaint if the District failed in its responsibilities to evaluate and determine eligibility for private school children with disabilities. Parents may not file state-level complaints on other IDEA issues, such as failure to provide services contained in a Services Plan.
- Services provided to a private school child with a disability may be provided at a site determined by the District.

# Child Find

## **IDEA 300.131 Child find for parentally-placed private school children with disabilities.**

**(a) General.** Each LEA **must locate, identify, and evaluate all children with disabilities who are enrolled by their parents in private**, including religious, elementary schools and secondary schools located in the school district served by the LEA, in accordance with paragraphs (b) through (e) of this section, and §§300.111 and 300.201.

**(b) Child find design.** The child find process must be designed to ensure—

**(1)** The equitable participation of parentally-placed private school children; and

**(2)** An accurate count of those children.

**(c) Activities.** In carrying out the requirements of this section, the LEA, or, if applicable, the SEA, must **undertake activities similar to the activities undertaken for the agency's public school children....**

## **707 KAR 1:370. Children with disabilities enrolled in private schools.**

Section 2. Child Find for Children with Disabilities Enrolled by Their Parents in Private School.

**(1)** An LEA shall **locate, identify, and evaluate all private school children with disabilities**, including school children attending private, religious schools within the boundaries of the LEA. **These activities shall be comparable to the activities to locate, identify, and evaluate children with disabilities in the public schools.....**

# Referral

Anyone who has knowledge of the child and suspects that the child may have a disability may make a referral. The evaluation takes place once parental consent has been signed. The school has 60 school days from the date parental consent is signed to complete the evaluation.

707 KAR 1:320 Section 2. (3)

**Model Letter**

Today's Date (include month, day, and year)

Your Name  
Street Address  
City, State, Zip Code  
Daytime telephone number

Name of person to whom you're writing  
Title  
Street Address  
City, State, Zip Code

Dear *(Person's name)*,

I am writing to request that my son/daughter, *(child's name)*, be evaluated for special education services. I am worried that *(child's name)* is not doing well in school and believe he/she may need special services in order to learn. *(Child's name)* is in the ( \_ ) grade at *(name of school)*. *(Teacher's name)* is his/her teacher.

Specifically, I am worried, because *(child's name)* does/does not *(give a few direct examples of your child's problems at school)*.

We have tried the following to help *(child's name)*: *(If you or the school have done anything extra to help your child, briefly state it here)*.

I understand that I have to give written permission in order for *(child's name)* to be evaluated. Before the evaluation begins, I have some questions about the process that I need to have answered *(list any questions you may have)*.

I would be happy to talk with you about *(child's name)*. You can send me information or call me during the day at *(daytime telephone number)*. Thank you for your prompt attention to my request.

Sincerely,  
*(Your name)*

cc: the principal, supervisor, or special education administrator  
other members of the meeting

\*Note: The "cc:" at the bottom of the letter means you are sending a copy of your letter to the people listed after the cc.

In writing!!

Sample Letter

[Kentucky Department of Education's District and School Directory](#)

[Consent to Evaluate/Reevaluate Form](#)

# What Types of Evaluations are Used?

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Varies depending on the disability category being evaluated

[KDE Special Education Forms – Eligibility Determination](#)

# Evaluation

If you do not agree with evaluation results you have the right to request an Independent Education Evaluation (IEE) at no cost to the family.

# What happens next if they are eligible?

## Options:

- You can enroll them in Public School as a student, then they would receive an Individualized Education Program (IEP)
- You can keep them as a private/homeschool student, then they would receive a Private School Plan from the public school system
- You can decide not to give consent to receive services



# Basic Requirements

## **IDEA 300.132 Provision of services for parentally-placed private school children with disabilities—basic requirement.**

(a) General. To the extent consistent with the number and location of children with disabilities who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district served by the LEA, provision is made for the participation of those children in the program assisted or carried out under Part B of the Act by providing them with special education and related services, including direct services determined in accordance with §300.137, unless the Secretary has arranged for services to those children under the by-pass provisions in §§300.190 through 300.198.

(b) Services plan for parentally-placed private school children with disabilities. In accordance with paragraph (a) of this section and §§300.137 through 300.139, a services plan must be developed and implemented for each private school child with a disability who has been designated by the LEA in which the private school is located to receive special education and related services under this part.

(c) Record keeping. Each LEA must maintain in its records, and provide to the SEA, the following information related to parentally-placed private school children covered under §§300.130 through 300.144:

- (1) The number of children evaluated;
- (2) The number of children determined to be children with disabilities; and
- (3) The number of children served.

## **707 KAR 1:370. Section 4. Basic Requirements.**

(1) A LEA shall provide special education and related services to parentally placed private school children with disabilities in accordance with the procedure found in Section 5 of this administrative regulation, to the extent consistent with the number and location of these children enrolled in private schools located within the school district boundaries.

(2) A service plan shall be developed and implemented for each private school child with a disability who has been designated by the LEA to receive special education and related services under Section 5 of this administrative regulation.

(3) To meet this requirement, a LEA shall spend a proportionate amount of the federal money it receives under the IDEA pursuant to 34 C.F.R. 300.133. This amount shall be determined after the LEA has completed its child find activities and submitted a child count figure to KDE. This child count shall be conducted on December 1 of each year.

## **IDEA 300.134 Consultation.**

To ensure timely and meaningful consultation, an LEA, or, if appropriate, an SEA, must consult with private school representatives and representatives of parents of parentally-placed private school children with disabilities during the design and development of special education and related services for the children regarding the following:

(a) Child find. The child find process, including—

(1) How parentally-placed private school children suspected of having a disability can participate equitably; and

(2) How parents, teachers, and private school officials will be informed of the process.

(b) Proportionate share of funds. The determination of the proportionate share of Federal funds available to serve parentally-placed private school children with disabilities under §300.133(b), including the determination of how the proportionate share of those funds was calculated.

(c) Consultation process. The consultation process among the LEA, private school officials, and representatives of parents of parentally-placed private school children with disabilities, including how the process will operate throughout the school year to ensure that parentally-placed children with disabilities identified through the child find process can meaningfully participate in special education and related services.

(d) Provision of special education and related services. How, where, and by whom special education and related services will be provided for parentally-placed private school children with disabilities, including a discussion of—

(1) The types of services, including direct services and alternate service delivery mechanisms; and

(2) How special education and related services will be apportioned if funds are insufficient to serve all parentally-placed private school children; and

(3) How and when those decisions will be made;

(e) Written explanation by LEA regarding services. How, if the LEA disagrees with the views of the private school officials on the provision of services or the types of services (whether provided directly or through a contract), the LEA will provide to the private school officials a written explanation of the reasons why the LEA chose not to provide services directly or through a contract.

## **707 KAR 1:370. Section 5. Consultation**

(1) A LEA shall consult in a meaningful and timely fashion with private school representatives, and parents or representatives of parents of parentally-placed school children with disabilities during the design and development of special education and related services regarding the following:

- (a) The child find process, including how children suspected of having a disability can participate equitably and how parents, teachers, and private school officials will be informed of the process;
- (b) The determination of the proportionate share of federal funds, including how calculated;
- (c) How the consultation process will operate throughout the school year to ensure that parentally-placed children with disabilities identified through the child find process can meaningfully participate in special education and related services;
- (d) How, where, and by whom special education and related services will be provided including:
  - 1. A discussion of the types of services, including direct services and alternate service delivery methods;
  - 2. How special education and related services will be apportioned if funds are not sufficient to serve all parentally placed private school students with disabilities; and
  - 3. How and when those decisions will be made; and
- (e) How the LEA will provide a written explanation to the private schools of the reasons why the LEA chose not to provide services directly or through a contract, if the LEA disagrees with the views of the private school representatives.

(2) When timely and meaningful consultation has occurred, the LEA shall obtain a written affirmation signed by the representatives of the private schools. If a private school does not provide the affirmation within a reasonable period of time, the LEA shall forward the documentation of the consultation process to the KDE.

## **IDEA 300.138 Equitable services provided.**

### **(a) General.**

**(1)** The services provided to parentally-placed private school children with disabilities must be provided by personnel meeting the same standards as personnel providing services in the public schools, except that private elementary school and secondary school teachers who are providing equitable services to parentally-placed private school children with disabilities do not have to meet the special education teacher qualification requirements in §300.156(c).

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

### **(b) Services provided in accordance with a services plan.**

**(1)** Each parentally-placed private school child with a disability who has been designated to receive services under §300.132 must have a services plan that describes the specific special education and related services that the LEA will provide to the child in light of the services that the LEA has determined, through the process described in §§300.134 and 300.137, it will make available to parentally-placed private school children with disabilities.

**(2)** The services plan must, to the extent appropriate—

**(i)** Meet the requirements of §300.320, or for a child ages three through five, meet the requirements of §300.323(b) with respect to the services provided; and

**(ii)** Be developed, reviewed, and revised consistent with §§300.321 through 300.324.

### **(c) Provision of equitable services.**

**(1)** The provision of services pursuant to this section and §§300.139 through 300.143 must be provided:

**(i)** By employees of a public agency; or

**(ii)** Through contract by the public agency with an individual, association, agency, organization, or other entity.

**(2)** Special education and related services provided to parentally-placed private school children with disabilities, including materials and equipment, must be secular, neutral, and nonideological.

## **707 KAR 1:370. Section 6. Services Provided.**

(1) An LEA shall ensure that services provided under a services plan shall be provided by personnel meeting the same standards as personnel providing services in the public school, except private school teachers that provide services under a service plan shall not have to meet the highly-qualified special education teacher requirements of 20 U.S.C. 1401(10).

(2) Private school children with disabilities may receive a different amount of services than children with disabilities in public schools. There shall be no individual right to special education and related services, but the student shall receive the services provided in the service plan in light of the services the LEA has determined to provide.

(3) A private school child with a disability who has been designated to receive services shall have a services plan that describes the specific special education or related services that the LEA will provide in light of the services the LEA has determined to provide private school children with disabilities through the process in Section 5 of this administrative regulation.

(4) The services plan shall, to the extent appropriate:

- (a) Meet the requirements of an IEP under 707 KAR 1:320 with respect to the services provided; and
- (b) Be developed, reviewed, and revised consistent with the requirements to develop, review, and revise IEPs.

(5) Services delivered through a service plan shall be provided by:

- (a) Employees of the LEA; or
- (b) Through a contract with the LEA.

(6) Special education and related services provided through a service plan shall be secular, neutral, and nonideological.

## **IDEA 300.139 Location of services and transportation.**

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(a) Services on private school premises. Services to parentally-placed private school children with disabilities may be provided on the premises of private, including religious, schools, to the extent consistent with law.

(b) Transportation—

(1) General.

(i) If necessary for the child to benefit from or participate in the services provided under this part, a parentally-placed private school child with a disability must be provided transportation—

(A) From the child's school or the child's home to a site other than the private school; and

(B) From the service site to the private school, or to the child's home, depending on the timing of the services.

(ii) LEAs are not required to provide transportation from the child's home to the private school.

(2) Cost of transportation. The cost of the transportation described in paragraph (b)(1)(i) of this section may be included in calculating whether the LEA has met the requirement of §300.133.

## **707 KAR 1:370. Section 7. Location of Services.**

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(1) A service to a private school child with a disability may be provided at a site determined by the LEA. If necessary for the child to benefit from or participate in the services provided under a services plan, the private school child with a disability shall be provided transportation:

- (a) From the child's school or the child's home to a site other than the private school; and
- (b) From the service site to the private school, or to the child's home, depending on the timing of the services.

(2) An LEA shall not be required to provide transportation from the child's home to the private school.

(3) The cost of transportation may be included in calculating the amount to be expended on private school children with disabilities.

## **IDEA 300.140 Due process complaints and State complaints.**

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(a) Due process not applicable, except for child find.

(1) Except as provided in paragraph (b) of this section, the procedures in §§300.504 through 300.519 do not apply to complaints that an LEA has failed to meet the requirements of §§300.132 through 300.139, including the provision of services indicated on the child's services plan.

(b) Child find complaints—to be filed with the LEA in which the private school is located.

(1) The procedures in §§300.504 through 300.519 apply to complaints that an LEA has failed to meet the child find requirements in §300.131, including the requirements in §§300.300 through 300.311.

(2) Any due process complaint regarding the child find requirements (as described in paragraph (b)(1) of this section) must be filed with the LEA in which the private school is located and a copy must be forwarded to the SEA.

(c) State complaints.

(1) Any complaint that an SEA or LEA has failed to meet the requirements in §§300.132 through 300.135 and 300.137 through 300.144 must be filed in accordance with the procedures described in §§300.151 through 300.153.

(2) A complaint filed by a private school official under §300.136(a) must be filed with the SEA in accordance with the procedures in §300.136(b).



## **707 KAR 1:370. Section 8. Due Process Procedures.**

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(1) The due process procedures afforded to parents and children with disabilities described in 707 KAR 1:340, Sections 4, 6, 8, 9, 10, 11, 12 shall not apply to complaints that an LEA failed to meet the requirements of this administrative regulation, including the provision of services indicated on a services plan. However, these requirements may be the basis for a written formal complaint under 707 KAR 1:340, Section 7. The due process procedures described in 707 KAR 1:340 shall apply to complaints that an LEA failed to complete its responsibilities under child find for private school children with disabilities and its responsibilities to evaluate and determine eligibility for private school children with disabilities.

(2) A private school official has the right to submit a state written complaint to the LEA and the Kentucky Department of Education as outlined in 707 KAR 1:340, Section 7, for allegations that the LEA:

(a) Did not engage in timely and meaningful consultation; or

(b) Did not give due consideration to the views of the private school official.

(3) If the private school official submits a state written complaint, the official shall provide the basis of the alleged noncompliance by the LEA.

(4) If the private school official is dissatisfied with the final decision of the Kentucky Department of Education, the official may submit a complaint to the Secretary of the United States Department of Education. If such a complaint is filed with the secretary, the Kentucky Department of Education shall forward the appropriate documentation to the Secretary.

# IDEA

## **300.141 Requirement that funds not benefit a private school.**

- (a) An LEA may not use funds provided under section 611 or 619 of the Act to finance the existing level of instruction in a private school or to otherwise benefit the private school.
- (b) The LEA must use funds provided under Part B of the Act to meet the special education and related services needs of parentally-placed private school children with disabilities, but not for meeting—
- (1) The needs of a private school; or
  - (2) The general needs of the students enrolled in the private school.

## **300.143 Separate classes prohibited.**

An LEA may not use funds available under section 611 or 619 of the Act for classes that are organized separately on the basis of school enrollment or religion of the children if—

- (a) The classes are at the same site; and
- (b) The classes include children enrolled in public schools and children enrolled in private schools.

## **300.144 Property, equipment, and supplies.**

- (a) A public agency must control and administer the funds used to provide special education and related services under §§300.137 through 300.139, and hold title to and administer materials, equipment, and property purchased with those funds for the uses and purposes provided in the Act.
- (b) The public agency may place equipment and supplies in a private school for the period of time needed for the Part B program.
- (c) The public agency must ensure that the equipment and supplies placed in a private school—
- (1) Are used only for Part B purposes; and
  - (2) Can be removed from the private school without remodeling the private school facility.
- (d) The public agency must remove equipment and supplies from a private school if—
- (1) The equipment and supplies are no longer needed for Part B purposes; or
  - (2) Removal is necessary to avoid unauthorized use of the equipment and supplies for other than Part B purposes.
- (e) No funds under Part B of the Act may be used for repairs, minor remodeling, or construction of private school facilities.

## **707 KAR 1:370. Section 9. Restrictions on Serving Nonpublic Students.**

- (1) An LEA shall not use funds under Part B of IDEA to finance the existing level of instruction in a private school or to otherwise benefit the private school. The LEA shall use the funds provided under IDEA to meet the special education and related services needs of private school children with disabilities but not for:
  - (a) The needs of a private school; or
  - (b) The general needs of the students enrolled in the private school.
- (2) An LEA may use funds under Part B of IDEA to make public school personnel available in private schools to the extent necessary to provide services under a services plan and if those services are not normally provided by the private school.
- (3) An LEA may use funds under Part B of IDEA to pay for the services of private school personnel to provide services under a services plan if the employee performs the services outside his regular hours of duty and the employee performs the services under the supervision and control of the LEA.
- (4) The LEA shall keep title to and exercise continuing administrative control of all property, equipment, and supplies that the LEA acquires with funds under Part B of IDEA and uses for the benefit of private school children with disabilities. An LEA may place equipment and supplies in a private school for the period of time needed to provide the services.
- (5) The LEA shall ensure that the equipment, and supplies placed in a private school are used only for Part B purposes and can be removed from the private school without remodeling the private school facility.
- (6) The LEA shall remove equipment and supplies from the private school if the equipment and supplies are no longer needed for Part B purposes, or if removal is necessary to avoid unauthorized use of the equipment and supplies.
- (7) The LEA shall not use any funds under Part B of IDEA for repairs, minor remodeling, or construction of private school facilities.

**Enter District Name Here**  
**Services Plan for Private School Students with Disabilities**

School Year

Meeting Date:	Start Date:	End Date:
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Student's Full Name:	SSID:
Date of Birth:	Grade:
Gender:	Race/Ethnicity:
Age:	Disability:

**Student Representative Information**

Parent/Guardian:			
Home Address:	Street:		
	City:	State:	Zip:
Home Phone:		Work Phone:	

**Kentucky Administrative Regulations: 707 KAR 1:370**

- A private school child with a disability does not have the individual right to receive all of the special education and related services that he/she would receive if enrolled in a public school.
- A private school child with a disability may receive a different amount of services than children with disabilities enrolled in public schools. These services are specified on a Services Plan, not an IEP.
- When a parent decides to place his child with a disability in a private school after the District offered a free and appropriate public education the District is not required to pay for the cost of the private education.
- Parents may file a state-level complaint if the District failed in its responsibilities to evaluate and determine eligibility for private school children with disabilities. Parents may not file state-level complaints on other IDEA issues, such as failure to provide services contained in a Services Plan.
- Services provided to a private school child with a disability may be provided at a site determined by the District.

District of Residence:	
District of Placement:	
Private School Placement:	

# KY Private School Services Plan

Student's Full Name:	SSID:
Date of Birth:	Meeting Date:

**Proposed Action:**     Develop New Services Plan     Continue Services Plan     Discontinue Services Plan

**Services Plan**

1. The Admissions and Release Committee (ARC) met on \_\_\_\_\_ and offered the parents of this child an Individual Education Program (IEP) that includes specially designed instruction and related services determined to be required by the child to advance appropriately toward attaining annual goals and to be involved and progress in the general curriculum.
2. The parents elected to reject the IEP and a free and appropriate public education (FAPE) and enroll, or seek to enroll this child in a private school at their expense.
3. Therefore, the child is not entitled to the full range of services that he/she may require if attending public school. Rather, in accordance with federal and state regulations, the ARC has determined that this child shall receive the following services.

**Annual Goal**

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**Benchmarks/Short-Term Objectives**

1.	
2.	
3.	

Student's Full Name:		SSID:	
Date of Birth:		Meeting Date:	

Special Education	Anticipated Frequency and Duration Of Service						Service Provider (by Position)	Location (e.g., Regular Classroom, Resource Room, Separate Class)
	Service Minutes (Per Service Frequency)	Service Frequency (Number of times provided per Service Period)	Service Period (Daily, Weekly, Monthly, Annually)	Start Date	End Date			
		Minutes	Times Per					
		Minutes	Times Per					
		Minutes	Times Per					

Signatures signify participation in the conference to develop or revise the Services Plan:

Person Attending	Typed Name	Signature
District Representative		
Private School Representative		
Child's Teacher		
Special Education Teacher/Consultant		
Other, Specify:		
Other, Specify:		
Other, Specify:		

Student's Full Name:		SSID:	
Date of Birth:		Meeting Date:	

As the <b>parent</b> or <b>guardian</b> of this child, I have met with the Admissions and Release committee:		
<ul style="list-style-type: none"> <li>I have been offered an Individual Education Program for my child but I choose to voluntarily enroll my child in a private school educational placement at my expense.</li> </ul>		
<ul style="list-style-type: none"> <li>I understand that by rejecting the IEP and enrolling my child in a private school doing so, I do not have the right to the full range of services available to my child that would be available if the child was enrolled in a public school program.</li> </ul>		
<ul style="list-style-type: none"> <li>I understand that the rights afforded to children with disabilities and their parents under the Individuals with Disabilities Education Act (IDEA) apply only to complaints that the District failed to meet its responsibilities under <i>Child Find</i> to evaluate and determine eligibility. Other IDEA rights guaranteed to public school children and their parents do not apply to private school children and their parents.</li> </ul>		
Parent(s) or Guardian(s):	<b>Typed Name(s)</b>	<b>Signature</b>

# Resources

- [The Individuals with Disabilities Education Act: Provisions Related to Children With Disabilities Enrolled by Their Parents in Private Schools](#)
- [Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools \(rev. Feb 2022\) pdf](#)
- D-17 Handout CPIR
- [ADA.gov](#) Department of Justice (DOJ)
- [ADA National Network](#)
- [KDE: Non-Public or Private School Information](#)
- [Kentucky Homeschool Information Packet](#)
- [KY Private School Services Plan Consent to Evaluate/Reevaluate](#)
- [707 KAR 1:370](#). Children with disabilities enrolled in private schools.
- Home school resource: HSLDA <https://hsllda.org/>
- Students enrolled in KY public school system:
  - [Non-Traditional Instruction \(NTI\) Program Overview](#)
  - [702 KAR 7:150.Home or hospital instruction](#) [KRS 158.033 Instruction in student's home or hospital](#) [Application for Home Hospital Instruction](#)
  - [KRS 159.030 Exemptions from compulsory attendance](#) If the condition is mental health related then the signed statement must be completed by a licensed physician, psychiatrist, psychologist, or a physician's assistant with the mental health credentials described in [KRS 202A.011](#) or an advanced practice registered nurse certified in psychiatric-mental health nursing.



YouTube



# If you still have questions...

(800) 525-7746

(502) 937-6894

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Please complete our evaluation



<https://forms.gle/2s3JjAhh1AKrWqrV6>

Sources: OSEP, ADA, OCR, IDEA,  
KAR, KDE, DOJ, ADA National  
Network