

MUSER-Parentally Placed Private School Child

- **See also:** [OSEP QA 22-01](#) – Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools
- **Parentally Placed Private School Child (page 8)** – Parentally placed private school child means a child who has been placed in a private school approved for purposes of compulsory attendance pursuant to 20-A MRSA 5001-A(3)(A)(1)(a), or recognized by the Department as providing equivalent instruction pursuant to 20-A MRSA 5001-A(3)(A)(1)(b) by his/her parent and whose education is paid for with private funds. A child who attends a private school pursuant to a contract with a school administrative unit does not operate public schools, or contract for school privileges, is not a parentally placed private school student for purposes of this rule, even in cases where the parent is allowed to select the school the child attends. In addition, children who are unilaterally placed in private schools by their parents when FAPE is at issue are not parentally placed private school students for purposes of this rule, so long as the parent has provided notice pursuant to IV.G(3)(d) of this rule. In cases when parents unilaterally placed their child in a private school when FAPE is at issue, the district of residence remains responsible for offering an IEP for the child and the district where the private school is located is obligated to offer an individual service plan.
- **MUSER IV.4.G-Responsibility for Children with Disabilities Enrolled by Their Parents in Private Schools (page 29-37)**
 - **Children enrolled in private schools by their parents.**
 - Child Find
 - SAU must locate, identify and evaluate all children enrolled in private placement within their district
 - SAU is responsible for keeping track of and reporting to the state the number of children with disabilities and number of children receiving services
 - Services
 - SAU must include private school representatives and parents of the student when developing special education programming **and** obtain written affirmation of participation.
 - SAU must initiate and conduct meetings to develop, review, and revise an IEP
 - Specific special education services and related services will be provided by the SAU
 - Services may be provided to the student at the private school
 - Services will be provided by employees of a public agency or through contract by the public agency with outside service providers
 - Special education and related services provided including materials and equipment, shall be secular, neutral, and non-ideological
 - If a parent does not provide consent for initial or reevaluation, the SAU may not use consent to override procedures (MSUER XV. Parental Consent) and the SAU is not required to consider the child eligible for services under 34 CFR 300.132 through 300.144.[34 CFR 300-300(d)(4)(i, ii)]
 - Funds
 - Funds used to provide special education and related services will be administered by the public agency
 - SAU is responsible to use Federal funds to pay for services provided; state and local funds may supplement and in no case will supplant Federal funds
 - **Children placed in, or referred to, private schools by public agencies.**
 - A child with a disability who is placed in or referred to a private school or facility by an SAU is provided special education and related services in accordance with their IEP, at no cost to their parents, and has all rights of a child with a disability who is served by a public agency
 - The SEA must monitor compliance through procedures such as written reports, onsite visits, and parent questionnaires

- SEA will provide an opportunity for those private schools and facilities to participate in the development and revision of state standards that apply to them
- **Payment for education of children enrolled in private schools without consent of or referral by the public agency.**
 - SAU does not have to pay for the cost of education, including special education and related services, of a child with a disability at a private school or facility if that agency made a free appropriate public education available to the child and the parents elected to place the child in such private school or facility
 - Disagreements between the parents and a public agency about FAPE, are subject to the due process procedures in 34 CFR 300.504-300.520. *[Section XVI]* [34 CFR 300.148(b)]
 - A court or hearing officer may require the agency to reimburse the parents for the cost of enrollment in a private preschool, elementary school or secondary school without the consent of or referral by the public agency, if they find that the agency had not made a free and appropriate public education available to the child
 - Reimbursement may be reduced or denied if:
 - parents did not inform the IEP Team that they were rejecting placement proposed
 - parents did not give written notice at least ten (10) business day prior to removal of the child
 - parents did not make the child available for evaluations recommended by the public agency, prior to the parents' removal of the child from the public school
 - Reimbursement may **NOT** be reduced or denied for failure to provide notice if:
 - The school prevented the parent from providing notice
 - Parents had not received notice, of the notice requirement *[Section XV Communication of Procedural Safeguards]*
 - Compliance would result in physical harm to the child
 - Court or hearing officer finds parent is illiterate or cannot write in English or compliance would likely result in serious emotional harm to the child