



HOW I ADVISE MY CLIENTS': How should district proceed if private school student with disability reenrolls in public school?

If a student had an IEP in effect and moved to a new district in the same state, that district must provide comparable services to what the student received in the old district until it either adopts the IEP developed by the old district, or develops, adopts, and implements a new IEP. [34 CFR 300.323](#) (e). But what if a student with a disability who used a voucher or other means to attend a private school decides to return to public school? What would a district have to do to ensure he receives the services he needs?

Special Ed Connection® posed this question to experts in the field. Consider their responses, edited for length and clarity:

□ ***Julia V. Wilde, school attorney, Shipman and Goodwin LLP, Hartford, Conn.:***

Students with disabilities may attend private school for various reasons. Upon returning to public school, they won't have an IEP that a school district can seamlessly adopt. However, school districts are responsible for developing and implementing an IEP. To help smooth the transition, consider the three following tips:

1. Communicate with parents. Students enrolled in private school may return at any time to public school and may or may not give the public school much notice. Communication with parents is key. Is the return the result of a disciplinary event or a change in student circumstances? Whatever the reason, communicating with parents will help identify the student's areas of need. It's also good practice to proactively contact families of eligible students attending private school about the right to return and whom they should contact.

2. Obtain releases for the private school. Regardless of how long the student attended private school, any records or information the public school can obtain will assist in developing a program. Request copies of progress reporting, testing, assessments, or other evaluative data or reports. Some students may have an IDEA services plan. The more information a public school can get about what services, if any, the student received, the better. Identify strategies, embedded supports, or environmental factors that contributed to student success or challenges.

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3. Convene an IEP team meeting as soon as possible. When a previously identified student returns to public school, be mindful that programs offered in the past may no longer be appropriate. Generally, it is prudent to treat the return to public school as a new referral to special education. Consider prior evaluations and whether further evaluation is needed in all areas of suspected disability. Remember, student needs change over time, and the IDEA requires comprehensive evaluation.

□ **Taylor Montgomery, school attorney, Thompson and Horton LLP, Dallas, Texas:**

The analysis would be the same whether the student has returned from a private school he enrolled in through a voucher program or in another way. Here are some issues to consider:

- **No right of refusal.** As with any student presently residing within a district, a school system cannot refuse to allow a student who resides within the district to reenroll in the school system following parental placement in a private school. Therefore, the school district must always be prepared to develop an IEP and provide special education services to the student at any time upon the student's reenrollment in the district.
- **Communicate with private school.** When a parent reenrolls a student in a public school, the school district should make efforts to communicate with the private school the student previously attended. Specifically, the district should ask about the student's progress at the private school and the student's present level of functioning. It is important to obtain information regarding the student's academic strengths and weaknesses, as well as any behavioral concerns that the school district should be prepared to address. Likewise, the school district should consider whether the student received any proportionate share services while at the private school or otherwise received services that would constitute special education or related services in the public school setting. This discussion should take place as soon as possible following the student's reenrollment and, at the very least, prior to the student's IEP meeting following reenrollment.

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- **Address regression.** It is important to keep in mind that most state programs do not require school districts to provide special education services under the IDEA to students parentally placed in private schools or those attending private schools through a voucher system. Therefore, it is possible that a student with disabilities did not receive appropriate services to address her disability-related needs from the private school and may demonstrate significant regression upon her reenrollment. It is the school district's responsibility under the IDEA to address this regression and provide services to allow the student to continue making progress upon reenrollment in the district.
- **Recognize need for new evaluation.** Since districts are not obligated to develop and/or revise IEPs of students parentally placed in private schools, the student's IEP will likely be outdated. Upon the student's return, the school district must follow state law regarding the transfer process and ensure that the student is properly evaluated and identified, as needed, in a timely manner.

Editor's note: This feature is not intended as instructional material or to replace legal advice.

[Cara Nissman](#) covers autism, school psychology, and IEP team issues for LRP Publications.

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