

8 VAC 20-80-66 Private School Placements
[See IDEA '04 § 1412(a)(10).]

To the extent consistent with the number and location of the students with disabilities who are who are enrolled by their parents in private elementary and secondary schools, which are located within the LEA, the LEA must provide for the student's participation in special education and related services in accordance with the requirements outlined below:

- The LEA must conduct a “thorough and complete child find process” to determine the exact number of parentally placed private school children, who are attending private schools located within the LEA. This process must ensure “equitable participation” by each of these students, provide an accurate count of such students, and include activities, which are completed in a comparable time period as, and which are similar to, those undertaken on behalf of public school students. However, the money spent on the child find process, including individual evaluations may not be considered when determining whether or not the LEA has expended the proportionate amount, as required by IDEA '04.
- Prior to the child find process, and during the design and development of special education and related services for parentally placed private school students, the LEA must complete “timely and meaningful consultation” with representatives of both the private schools, and of the parents of parentally-placed private school students regarding the following:
 - The child find process, including how these students can participate equitably in the process, and how parents, teachers, and private school officials will be informed of the process;
 - The determination of the proportionate amount of federal funds available to serve these students, including the determination of how the amount was calculated;
 - The consultation process, including how the process will operate throughout the school year to ensure that parentally placed private school children with disabilities, who are identified through the child find process, can “meaningfully participate” in special education and related services;
 - How, where, and by whom special education and related services will be provided to these students, including the types of services (ie. direct or alternative service delivery mechanisms), and how such services will be apportioned if funds are insufficient to serve all children, including how and when these decisions will be made; and
 - If a disagreement arises between the LEA and the private school representatives regarding the provision of services, or the types of services provided, the LEA will provide the private school representatives with a

written explanation of the reasons the LEA opted not to provide services either directly or through a contract.

- Once “timely and meaningful consultation” has occurred, the LEA must obtain a written affirmation of the process, which has been signed by the participating private school representatives. If the representatives do not provide the affirmation within a reasonable period of time, the LEA must forward documentation of the consultation to VDOE.
- If the LEA does not engage in timely and meaningful consultation, or if the LEA fails to give “due consideration” to the views of the private school representatives, a private school representative may file a State complaint with VDOE. If the private school representative is dissatisfied with the outcome of the state complaint process, the complaint may be submitted to the Secretary of Education at USDOE for review.
- The services provided by a LEA to parentally-placed private school students may be provided by either the LEA’s employees or through contracted provider, and such service, including materials and equipment must be secular, neutral, and nonideological. These services may be provided to the children on the premises of private, including religious, schools to the extent consistent with law.
- Montgomery County Public Schools must maintain for its records, and submit to VDOE the following: the number of parentally placed private school students evaluated, the number of students determined eligible for special education and related services, and the number of students actually served.