

**GUIDELINES FOR PROVIDING SERVICES TO CHILDREN WITH
DISABILITIES PARENTALLY PLACED IN OHIO CHARTERED
AND
NONCHARTERED NONPUBLIC SCHOOLS**

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I. Definitions

A. "Chartered Nonpublic School" means a school chartered by the State Board of Education pursuant to Section 3301.16 of the Revised Code and that meets the minimum standards for chartered nonpublic schools cited in Administrative Code Rule 3301-35-12 of the "dear Standards for Ohio's Elementary and Secondary Schools."

B. "Non-chartered Nonpublic School" means a school that is not chartered or seeking a charter from the State Board of Education because of truly held religious beliefs. Such schools shall annually certify in a report to the parents of its pupils that the school meets Ohio minimum standards for non-chartered, non-tax supported schools cited in paragraphs (A) to (H) of Administrative Code Rule 3301-35-08 of the "Operating Standards for Ohio's Elementary and Secondary Schools." Such schools shall file a copy of said report with the Ohio Department of Education on or before the 30th of September of each year.

C. "Nonpublic School" means any chartered nonpublic school or any non-chartered nonpublic school as defined above.

II. Location, Identification and Evaluation of Children Suspected of Having a Disability

The school district where the nonpublic school is located is responsible for locating, identifying and evaluating all children with disabilities under the Individuals with Disabilities Education Improvement Act of 2004 (IDEA), who are enrolled in any nonpublic, including religious, elementary schools and secondary schools located within that public school district.

To ensure timely and meaningful consultation, each public school district shall consult with nonpublic school representatives and representatives of parents of parentally placed nonpublic school children with disabilities during the design and development of special education and related serves for the children regarding:

- The child find process and how parentally placed nonpublic school children suspected of having a disability can participate equitably, including how parents, teachers and nonpublic school officials will be informed of the process;
- The consultation process among the school district, nonpublic school officials and representatives of parents of parentally placed nonpublic school children with disabilities, including how such process will operate throughout the school year to ensure that parentally placed nonpublic school children with disabilities 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 for parentally placed nonpublic school children with disabilities, including a discussion of types of services, including direct services and alternate service delivery mechanisms, how such services will be apportioned if funds are insufficient to serve all children and how and when these decisions will be made; and
- How, if the school district disagrees with the views of the nonpublic school officials on

the provision of services or the types of services, whether provided directly or through a contract, the school district shall provide to the nonpublic school officials a written explanation of the reasons why the school district chose not to provide services directly or through a contract.

After timely and meaningful consultation with representatives of nonpublic schools, the school district shall conduct a thorough and complete child find process to determine the number of parentally placed children with disabilities attending nonpublic schools located in the school district. Such child find activities shall be completed in a time period comparable to that for other children attending the public school district. The proportionate share of Part B funds set aside to serve children with disabilities in nonpublic schools cannot be used for child find activities, including individual evaluations.

When the public school district where the nonpublic school is located is conducting child find, evaluation and service activities, the public school district must be in compliance with all confidentiality requirements of IDEA and the Family Education Rights and Privacy Act (FERPA). This means that in most situations parental consent must be obtained prior to sharing any information from a child's educational record with either the child's district of residence or the child's nonpublic school. Refer to FERPA or IDEA to determine the confidentiality requirements that may apply to a particular situation.

Autism Scholarship Program (ASP)

If a child has been identified as a child with a disability by the DOR and enters a chartered nonpublic school as a child participating in the ASP, the reevaluations will be completed by the district where the nonpublic school is located. (Operating Standards for Ohio Educational Agencies serving Children with Disabilities 3301-51-08(R)(1)&(2).

If a child with autism is currently enrolled, by their parents, in a chartered nonpublic school that is located in a district that is not the child's district of residence, and the parents want to participate in the ASP, the child requires an evaluation team report (ETR) and IEP from their district of residence. The following options may be exercised by the resident district and parents:

- If the child is attending a chartered nonpublic school and the child is suspected of having a disability under the Individuals with Disabilities Education Improvement Act (IDEA), the parents of the child may request an initial evaluation from either their district of residence or the district where the chartered nonpublic school is located. If the parents are interested in having their child participate in the ASP, the DOR must complete the initial evaluation and an IEP.
- If the child has already received an initial evaluation and/or reevaluation from the district where the nonpublic school is located the child's district of residence (DOR) may accept the child's current evaluation as their own evaluation, convene an IEP team meeting, and create an IEP so that the child may participate in the ASP or the DOR may conduct their own evaluation and then complete the IEP process.

Students in the Autism Scholarship Program always require an IEP at their district of residence.

- Children who are participating in the ASP and attending either a chartered or non-chartered nonpublic school are eligible to participate in the Special Education Part-B IDEA and Early Childhood Special Education Flow-Thru benefits.

- The evaluation for this child must demonstrate a need for service beyond what is already identified in the current IEP. The District where the non-public school is located will generate a Services Plan (SP). The SP for these children must provide services above and beyond what is in the child's IEP. In other words the SP services would be services that are in addition to the services outlined on the child's IEP.

III. Children's Rights to Services

The school district of residence must make a free appropriate public education (FAPE) available to all children residing in the district who are three (3) through twenty-one (21) years of age, identified as having a disability and determined to be in need of special education and any related services. If the parents make clear their intention to keep their child enrolled in the nonpublic school, the district of residence need not develop an IEP for the child. If a parentally placed child with a disability who is in need of special education and related services enrolls or re-enrolls in the public school district of residence, the public school district must make FAPE available.

Part B of IDEA does not, however, require the school district of residence or the school district where the nonpublic school is located to pay for the cost of education, including special education and related services, of a child with a disability enrolled at a nonpublic school or facility if (1) the school district of residence made FAPE available to the child; and (2) the parents elected to place the child in the nonpublic school or facility.

Since the public school district where the nonpublic school is located will be conducting, either directly or through contract, all evaluations for children suspected of having a disability, except for those children participating in the ASP who will also be receiving Special Education Part-B IDEA and Early Childhood Special Education Flow-Thru benefits, it is recommended that the public school district where the nonpublic school is located provide the parents of children who are determined eligible for services under IDEA written documentation stating that the child's district of residence will provide the child FAPE if the child wishes to enroll in their public school district of residence. A copy of this documentation should be sent to the child's school district of residence, provided the district where the nonpublic school is located receives written parental consent for this information to be released to the child's district of residence.

IV. Funding Sources for Serving Children with Disabilities

A. Use of Federal Funds Provided Through the Individuals with Disabilities Education Improvement Act of 2004 (IDEA)

The amount of Special Education Part-B IDEA and Early Childhood Special Education Flow-Thru benefits that the public school district where the nonpublic school is located must allocate for eligible nonpublic school children is calculated as illustrated in the following example:

Proportionate Share Calculation for Parentally Placed Private School Children with Disabilities for Flintstone School District:

Number of eligible children with disabilities in public schools in Flintstone School District:	300
Number of parentally placed eligible children with disabilities in private elementary schools and secondary schools located in Flintstone School District:	20
Total number of eligible children:	320
Total allocation to Flintstone School District:	\$152,500

Calculating the Proportionate Share for Parentally Placed Children with Disabilities in Flintstone School District:

Total allocation to Flintstone School District: \$152,500
Divided by Total number of eligible children: 320
Equals Average allocation per eligible child: ($\$152,500/320$) \$476.5625
Multiplied by The number of parentally placed children with disabilities: 20
Equals Amount to be expended for parentally placed (20 x \$476.5625)..... \$9,531.25
children with disabilities:

The calculation of IDEA Part-B special education funds is based upon a number of factors including child count, public and nonpublic population counts and the number of children within the district living in poverty. Due to these factors, each school district's calculation will vary based on their individual data. Therefore it is impossible to determine a statewide per-child allocation.

According to IDEA, Part B-Special Education PL 108 – 446 20 USC 1412(a)(10) public school districts are required to offer equitable services to eligible non-chartered nonpublic school children residing in the district's geographical attendance area. The public school district must have consultation with the non-chartered nonpublic school officials to determine if any children are eligible for equitable participation services. Form C for Non-chartered nonpublic IDEA, Part B-Special Education participation must be completed and submitted. Using the formula above, the public school district will be able to determine the non-chartered nonpublic school service amount.

Under IDEA, public school districts are also required to offer equitable services to eligible chartered nonpublic school children residing in the district's geographical attendance area. The public school district must have consultation with the chartered nonpublic school officials to determine if any children are eligible for equitable participation services. Nonpublic School Service System (NS3) is a web-based system that is required for nonpublic participation and enrollment compliance. The NS3 system collects nonpublic participation and Title I qualifying student enrollment data for federal equitable services. Public and nonpublic districts have web portal access in order to input nonpublic participation student information.

Reporting Requirements. The following children with disabilities, who are enrolled by their parents in nonpublic schools, are counted and reported to the Ohio Department of Education (ODE), by the school district where the nonpublic school is located, beginning with the October EMIS reporting period:

- Children identified as eligible to receive special education services under IDEA, but who do not have a services plan;
- Children who are suspected of having a disability who are enrolled by their parents in nonpublic schools and who are evaluated and determined **not** eligible to receive special education and related services under IDEA. (Will be collected beginning in the '06-'07 school year).

The following children with disabilities shall be counted for the December 1 child count report by the school district where the nonpublic school is located to generate Part B special education funds:

- Children who are receiving special education services in accordance with a services plan funded through Part B of IDEA or auxiliary services funds.

Continued Determination of Eligibility. Children with disabilities enrolled by their parents in nonpublic schools and receiving special education and any related services must be re-evaluated by the district where the nonpublic school is located not more frequently than once a year, unless the parents and the district agree otherwise and at least once every three years, unless the parents and the district agree that a re-evaluation is unnecessary. For children participating in the ASP, please see The “Autism Scholarship Program (ASP)” section above to determine the district responsible for the child’s initial evaluation and reevaluation.

Determination of Services. A child with a disability attending a nonpublic school does not have an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school. If services are provided, however, they must be delivered by personnel meeting the same standards as personnel providing services in the public school district. Services may be provided by employees of a public agency contracting with the public school district where the nonpublic school is located or through contract by the public agency with an individual, association, agency, organization or other entity.

The public school district where the nonpublic school is located shall consult in a timely and meaningful manner with nonpublic school representatives and representatives of parents of parentally placed nonpublic school children with disabilities during the design and development of special education and related services. Consultations shall take place regarding:

- The determination of the proportionate amount of federal funds available to serve parentally placed nonpublic school children with disabilities including the determination of how the amount was calculated. Consultations shall take into consideration the number of these children and their needs and location;
- Which children will receive special education and related services;
- What special education and related services will be provided;
- How, where and by whom the special education and related services will be provided including a discussion of types of services, including direct services and alternate service delivery mechanisms;
- How such services will be apportioned if funds are insufficient to serve all children and how and when these decisions will be made; and
- How, if the public school district disagrees with the views of the nonpublic school officials on the provision of services or the types of services, whether provided directly or through a contract, the public school district will provide to the nonpublic school officials a written explanation of the reasons why the public school district chose not to provide services directly or through a contract.

Each public school district where the nonpublic school is located shall give appropriate representatives of nonpublic schools a genuine opportunity to express their views regarding each matter that is subject to the consultation requirements bulleted above. However, the public school district where the nonpublic school is located is responsible for making the final determination of services to be provided, through a services plan, to eligible nonpublic school children.

Documentation of Consultation and Participation

Chartered Nonpublic Schools Verification of Participation

Chartered nonpublic schools confirm verification of their participation by filing their participation form electronically in the Nonpublic School Service System (NS3) or by completing Form A (provided in the Nonpublic School Service Area of the CCIP doc library) as part of the public school district's Comprehensive Continuous Improvement Plan (CCIP) application.

Form A provides a deadline date (provided by the public school district personnel) for the chartered nonpublic personnel to respond without waiving their participation rights to all federal programs available to them. This written documentation (Form A) must be submitted to the Ohio Department of Education, Office of Federal Programs, unsigned or signed to finalize the chartered nonpublic building's participation intent.

Non-chartered Nonpublic Schools Verification of Participation

Non-chartered nonpublic schools will confirm their participation by completing the Non-chartered Nonpublic School – Form C (provided in the Nonpublic School Service CCIP doc library) and mailing it in to the Ohio Department of Education, Office of Federal Programs, 25 S. Front Street, MS 404, Columbus, Ohio 43215-4183. A copy of Form C should be kept in the public school district's audit file. Public school districts must check the list of non-chartered nonpublic schools located in their attendance area by going to the CCIP doc library/CCIP/Nonpublic School Service area list.

Form C provides a deadline date (provided by the public school district personnel) for non-chartered nonpublic personnel to respond without waiving their participation rights to all federal programs available to them. This written documentation (Form C) must be submitted to the Ohio Department of Education, Office of Federal Programs, unsigned or signed to finalize the non-chartered nonpublic building's participation intent.

Verification of Consultation

When timely and meaningful consultation has occurred with the nonpublic school, the public school district where the nonpublic school is located must obtain written affirmation signed by the representative of the participating nonpublic school that timely and meaningful consultation has occurred. If such representative does not provide such affirmation within a reasonable period of time, the public school district shall forward documentation of the consultation process to the Ohio Department of Education.

If a nonpublic fails to provide the public school district with an electronic or written participation Form A (In-district chartered nonpublic building) or C (Nonchartered nonpublic building), the school district must document their consultation attempts for audit purposes and provide the Ohio Department of Education, Office of Federal Programs' consultant a note in the CCIP history/comments log plus any letters sent that were not completed by the nonpublic building personnel.

If the nonpublic school submits a form that states the public school district where the nonpublic school is located did not consult in a timely and meaningful manner, consultants from the Office of Federal Programs will contact the public school district.

If the nonpublic school disagrees with the public school district where the nonpublic school is located on the provision of services or the types of services to be provided, the public school

district where the nonpublic school is located will provide to the nonpublic school a written explanation as to the reasons why the public school district chose not to provide services directly or through a contract.

If a nonpublic school does not choose to participate and will not engage in consultation with the public school district where the nonpublic school is located, the public school district where the nonpublic school is located must document their consultation attempts as stated in the above paragraph, in order to finalize the nonpublic school's participation.

If the parents of a child who is attending a nonparticipating nonpublic school want their child to be considered for special education and related services under the proportionate share provisions of IDEA, the parents will contact the public school where the nonpublic school is located, preferably in writing, to inform them that they want their child considered for special education and related services.

If the public school where the nonpublic school is located receives such a request, they will add the child's name to the list of children who will be considered for services through a services plan. If, after consultation with participating nonpublic schools, the child is selected to receive services, the public school where the nonpublic school is located will provide the child special education and related services as outlined on the child's services plan.

Location of services. Services may be provided to children with disabilities on or off the premises of nonpublic schools, including religious schools. The public school district where the nonpublic school is located, in consultation with the nonpublic school, will determine where services will be provided. Services may be provided at the nonpublic school with the permission of the nonpublic school.

Transportation. A child with a disability who is parentally placed in a chartered nonpublic school shall be entitled to transportation to the same degree as any child without disabilities who is attending a chartered nonpublic school. This means that a child with a disability parentally placed in a chartered nonpublic school in grades kindergarten through eight who lives more than two miles from the chartered nonpublic school will be transported by the district of residence unless one of the following applies:

- The direct travel time, as measured by riding in a school bus, exceeds 30 minutes from the public school building to which the child with a disability would be assigned if attending the public school to the chartered nonpublic school the child is attending; or
- Where it is impractical to transport a pupil by school conveyance, a board of education may offer payment in lieu of providing such transportation in accordance with Section 3327.02 of the Ohio Revised Code.

Children with disabilities who are parentally placed in a chartered nonpublic school and are in grades nine through 12 may be offered transportation by their district of residence in accordance with the above rules, but are not entitled to transportation.

If a child with a disability parentally placed in a nonpublic school is receiving special education and/or related services under IDEA and those services are being delivered at a location other than the nonpublic school the child with a disability is attending, then the public school district where the nonpublic school is located must provide transportation to those services:

- From the child's nonpublic school or the child's home to the site other than the nonpublic school; and

- From the service site to the nonpublic school or to the child's home depending on the timing of the service or services (Ohio Revised Code Section 3327.01).

The cost of transportation to special education and related services that are being delivered at a location other than the nonpublic school the child with a disability is attending may be included in calculating whether the school district where the nonpublic school is located has met the requirement of spending a proportionate amount of federal funds that the district receives to serve children with disabilities.

No transportation of any pupils shall be provided by any board of education to or from any school which in the selection of pupils, faculty members or employees, practices discrimination against any person on the grounds of race, color, religion or national origin.

Use of Federal Funds. Special education and related services provided to children with disabilities parentally placed in nonpublic schools, including materials and equipment, shall be secular, neutral and nonideological.

The control of funds used to provide special education and related services including materials, equipment and property purchased with those funds, shall be in a public school district for the uses and purposes provided for in IDEA, and a public school district shall administer the funds and property.

B. Use of State Funds, Provision of Auxiliary Services & Participation in the Autism Scholarship Program (ASP)

Opportunity for participation. Auxiliary services funds are generated for each public school district based upon the number of students attending chartered nonpublic elementary or secondary schools within the district (Ohio Revised Code Section 3317.06). Auxiliary services funds may be used to provide services to children with disabilities who are attending chartered nonpublic schools within the boundaries of a given public school district.

Approval of services to be provided. The public school district within whose boundaries the chartered nonpublic school is located has the responsibility for approving the chartered nonpublic school's request for services prior to the provision of such services.

Location of services. Personnel funded with auxiliary services funds may provide services either on or off the premises of the chartered nonpublic school to children enrolled in a religiously affiliated or nonsectarian school. If services are provided in the public school or in public centers, transportation to and from such facilities shall be provided by the public school district in which the chartered nonpublic school is located (Ohio Revised Code Section 3317.06 (l)).

Autism Scholarship Program (ASP). Children who are attending a chartered nonpublic school and are receiving services under the ASP may also receive special education and related services through auxiliary services funds provided the services paid by auxiliary services funds are not the same services that are being paid for with scholarship funds. The auxiliary services fund must be providing special education and related services that are in addition to the services being paid for by the ASP.

V. Services Plans for Children Parentally Placed in Nonpublic Schools

A. Public School Development of the Child's Services Plan

Special education services to be provided through IDEA and delivered by public school employees must be implemented in accordance with a services plan. Services plans must be individually developed for each participating child using the services plan form included in the school district's approved forms. The services plan must describe the specific special education and any related services that the school district agrees to provide to each child. The public school district where the nonpublic school is located, whether or not it is the child's district of residence, convenes the services plan meeting, conference call or video-conference for each eligible child who will receive special education and any related services. The parent and representative of the nonpublic school must be invited to participate in the services plan meeting, conference call or video-conference. A nonpublic school representative must participate in the development or revision of the services plan. Services plans must, to the extent possible, be developed to meet Individualized Education Program (IEP) requirements.

The public school district where the nonpublic school is located is required to and is responsible for conducting a meeting, conference call or video conference at least annually to review and revise, if appropriate, each child's services plan. The public school district where the nonpublic school is located, after timely and meaningful consultation with the nonpublic school, makes the final determination of services to be provided to eligible nonpublic school children. Neither IDEA or state law makes provisions for nonpublic schools to develop student services plans. Any written plan developed by a nonpublic school will not be recognized as a services plan under federal or state laws.

If a child is unilaterally placed by their parents in a chartered nonpublic school and the child will be receiving special education and related services using both Part B funds and auxiliary funds or using auxiliary funds only, the services provided by auxiliary funds may be recorded on the child's services plan. The services provided with auxiliary funds should be clearly marked as auxiliary services on the child's services plan. These services are not subject to complaint or due process procedures under IDEA.

B. State Assessment Considerations

Children with disabilities who are parentally placed in chartered nonpublic schools are required to take and pass the tenth-grade Ohio Graduation Test (OGT) in order to receive an Ohio high school diploma unless the child is excused from the consequences of the testing requirement as set forth below. It is expected that most children with disabilities will take and pass state assessments including the OGT.

If a child has a significant cognitive impairment and requires a functional curriculum, the child may be excused from taking one or more of the state assessments. IDEA requirements for alternate assessment do not apply to children with disabilities enrolled in chartered nonpublic schools.

A child, parentally placed in a chartered nonpublic school, may receive allowable accommodations when taking state assessments or may be excused from the consequences of state assessments if one of the following conditions apply:

- A current services plan, documenting that the child is excused from the consequences of the state assessment, is in place. This plan has been developed by the services plan

team, including the parents, and special education services are being provided by federally funded personnel or auxiliary personnel or a combination of both federally funded and auxiliary funded personnel;

- A current services plan, documenting that the child will receive allowable accommodations on the state assessment, is in place. This plan has been developed by the services plan team, including the parents, and special education services are being provided by federally funded personnel or auxiliary personnel or a combination of both federally funded and auxiliary funded personnel;
- The chartered nonpublic school has developed a written plan, documenting that the child is excused from the consequences of the state assessment. The written plan must meet all of the requirements of Administrative Code Rule 3301-13-10.
- The chartered nonpublic school has developed a written plan, documenting that the child will receive allowable accommodations on the state assessment. The written plan must meet all of the requirements of Administrative Code Rule 3301-13-10.

Chartered nonpublic school personnel cannot prohibit children with disabilities from taking any state assessment that children without disabilities of the same age and grade level are required to take. Chartered nonpublic school personnel cannot force a child who would otherwise take an alternate assessment to take any state assessment that children without disabilities of the same age and grade level are required to take. Chartered nonpublic school personnel cannot deny a diploma to a child with a disability who has been excused from the consequences of the state assessment or who would otherwise take an alternate assessment if all other requirements for graduation have been met.

VI. Due Process Rights

Due process rights do not apply to the provision of special education and related services the public school district has agreed to provide through a services plan. However, a parent of a child with a suspected disability, or a child identified as having a disability, who is enrolled in a nonpublic school may initiate a due process hearing regarding child find for parentally placed nonpublic school children with disabilities, including location, identification, evaluation and reevaluation of the child.

If the parents of a child with a disability, who previously received special education and related services under the authority of a public agency, enroll the child in a nonpublic school without the consent of or referral by the public agency, a court or a hearing officer may require the agency to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that the agency had not made a free appropriate public education available to the child in a timely manner prior to that enrollment.

VII. Complaint Rights

A. Nonpublic School Officials

A nonpublic school official shall have the right to submit a complaint to the Ohio Department of Education (ODE), Office for Exceptional Children (OEC) alleging that the school district where the nonpublic school is located did not engage in consultation that was meaningful and timely or did not give due consideration to the views of the nonpublic school official.

If the nonpublic school official wishes to submit a complaint, the official shall provide the basis of the noncompliance with the applicable provisions of the preceding paragraph by the district where the nonpublic school is located, and the school district where the nonpublic school is

located shall forward the appropriate documentation to ODE/OEC. If the nonpublic school official is dissatisfied with the decision of ODE/OEC, such official may submit a complaint to the Secretary of the U. S. Department of Education by providing the basis of the noncompliance with the applicable provisions of the preceding paragraph by the district where the nonpublic school is located to the Secretary of the U. S. Department of Education, and ODE/OEC shall forward the appropriate documentation to the Secretary of the U. S. Department of Education.

Resources for Filing a Complaint

The address, form and procedures for filing a complaint with the Ohio Department of Education may be found at www.education.ohio.gov.

The address for the U. S. Department of Education is:

U. S. Department of Education
400 Maryland Avenue, S. W., Room 4036
Washington, D. C. 20202-2640

C. Parents of Children with Disabilities Placed in Nonpublic Schools

The parents of a child with a disability, who has been unilaterally placed by their parent in a nonpublic school, have the right to file a formal written complaint under IDEA of 2004 with ODE/OEC. In accordance with applicable law and regulations complaints may be filed regarding:

- The provision of services, including services plans and record keeping, for parentally placed children with disabilities enrolled in nonpublic schools;
- The amount of funds, including the calculation of the proportionate share, child count and non-supplanting provisions, for parentally placed children with disabilities enrolled in nonpublic schools;
- The required consultation for parentally placed children with disabilities enrolled in nonpublic schools. Please see Section II and Section IV, A, "Determination of Services;"
- Written affirmation signed by the representatives of participating nonpublic schools;
- Determination of equitable services for parentally placed children with disabilities enrolled in nonpublic schools;
- Provision of equitable services for parentally placed children with disabilities enrolled in nonpublic schools;
- Location of services and transportation for parentally placed children with disabilities enrolled in nonpublic schools;
- Requirement that federal funds not benefit a nonpublic school;
- Use of personnel, including use of public school personnel and nonpublic school personnel for parentally placed children with disabilities enrolled in nonpublic schools;
- Prohibition of separate classes on the basis of school enrollment or religion if the classes are at the same site and the classes include students enrolled in public schools and students enrolled in nonpublic schools;
- The use of property, equipment and supplies purchased with IDEA Part B funds for the benefit of parentally placed nonpublic school children with disabilities enrolled in nonpublic schools.

Resources for Filing a Complaint

The address, form and procedures for filing a complaint with the Ohio Department of Education may be found at www.education.ohio.gov.

The address for the U. S. Department of Education is:

U. S. Department of Education
400 Maryland Avenue, S. W., Room 4036
Washington, D. C. 20202-2640

VIII. Placement of Children by Parents

Cost of nonpublic school education. IDEA 2004 does not require a public school district to pay for the cost of education, including special education and related services, of a child with a disability at a nonpublic school or facility if (1) the public school district made a free appropriate public education available to the child; and (2) the parents elected to place the child in the nonpublic school or facility.

Disagreements about FAPE. Disagreements between parents and a public school district regarding the availability of a program appropriate for the child in the public school district, and the question of financial responsibility, may be subject to a due process hearing.

Reimbursement for nonpublic school placement. If the parents of a child with a disability, who previously received special education and related services under the authority of a public school district, enroll the child in a nonpublic school without the consent of or referral by the public school district, a court or a hearing officer may require the public school district to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that the public school district had not made FAPE available to the child in a timely manner.

Limitation on reimbursement. Reimbursement costs may be reduced or denied by the court or the hearing officer if:

- At the most recent IEP meeting that the parents attended prior to removal of the child from the public school district, the parents did not inform the IEP team that they were rejecting the placement proposed by the public school district to provide FAPE to their child, including stating their concerns and their intent to enroll their child in a nonpublic school at public expense; or
- Ten business days (including any holidays that occur on a business day) prior to the removal of the child from the public school district, the parents did not file written notice to the public school district of the information described above.

Reimbursement costs may, also, be reduced or denied by the court or the hearing officer if:

- Prior to the parents' removal of the child from the public school district, the public school district informed the parents, through the notice requirements, of its intent to evaluate the child (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parents did not make the child available for such evaluation; or
- There is a judicial finding of unreasonableness with respect to actions taken by the parents.

The cost of reimbursement for a nonpublic school placement shall not be reduced or denied for failure to provide such notice if:

- The public school district prevented the parents from providing such notice;
- The parents had not received the procedural safeguards notice (i.e., *Whose IDEA Is This? A Resource Guide for Parents*).
- The parent is illiterate and cannot write in English;
- Compliance with the parent notification requirement would likely result in physical or serious emotional harm to the child.

For additional information please refer to:

- Section 612 (a)(10) of Public Law 108-446, "The Individuals with Disabilities Education Improvement Act of 2004" (December 3, 2004); 20 U.S.C. 1412 (a)(10).;
- Federal Regulations 34 C.F.R. Parts 300 and 303;
- Parent Notice of Procedural Safeguards, "*Whose IDEA Is This?*"
- Family Educational Rights and Privacy Act, 20 U.S.C. 1232g and 34 C.F.R. Part 99.