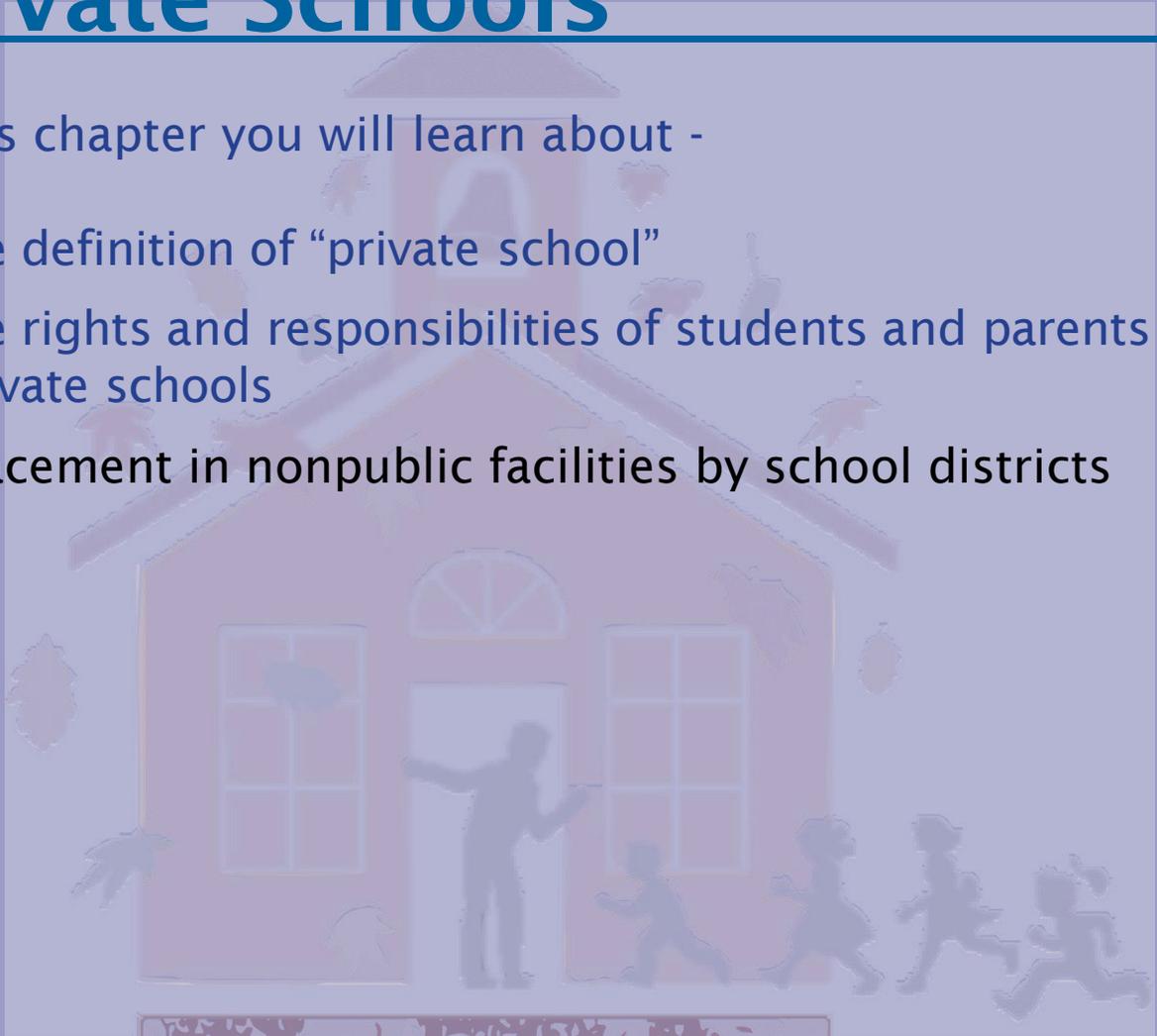


Chapter 12:

Private Schools

In this chapter you will learn about -

- the definition of “private school”
- the rights and responsibilities of students and parents in private schools
- placement in nonpublic facilities by school districts



Overview of Private School Placements

When thinking about private schools and special education, it is important to understand the different kinds of private school placements. In special education, there are two common scenarios addressing the needs of a student with disabilities in a private school:

1. Children who are placed in private schools (such as a religious school) by their parents
2. Children who are placed in private schools by public school districts.

Placement by a Parent on a Voluntary Basis

The first and most common situation involves students whose parents voluntarily enroll them in private programs, such as a religious school. Very often, such schools do not focus on students with disabilities and may only have limited support for students with disabilities. Still, parents of students with disabilities may have some options available to them to obtain additional support from the public school district.

Worth a Look

The requirements for public school districts to serve students in private schools are outlined at 34 CFR 300.130 through 300.144.

The Serving District

If a parent wishes to enroll a child in the public school, the parent would look to the school district where the parent lives to determine which school is responsible for educating the child. In the case of a private school student though, the parent must instead look to the district *in which the private school is located* to determine the district that will be responsible for providing special education services to children with disabilities in the private school.

Limited Services

One important point must be kept in mind in the case of a student placed in a private school by the parents: the services the student will receive in the private school

will often be less than the services the student would receive if the student was attending a public school with an IEP. This is due to the fact that under federal law, districts are only required to spend a portion of their federal special education funds on students with disabilities in private school. Called “proportionate share,” this sum is usually much smaller than the overall funding a district can spend on students with disabilities within the public schools. Also, when proportionate share funds run out during the school year, a district can choose to end services for the rest of the school year.

IEP versus ISP

Unlike students in public schools, students with disabilities in private schools are not entitled to an IEP. Instead, districts will often provide an Individual Service Plan (ISP) to students with disabilities who will be receiving services from the school district during the school year. An ISP is a much less detailed document that often will only describe the types of service being provided, the frequency of the services, and the location where those services will be provided. If appropriate, the district might also add a goal or short-term objective, but this is not required in all cases.

Important Reminder

If a student with a disability attends a private school and will be receiving services from the public school, the student’s services should be outlined by the district in an Individual Service Plan (ISP) rather than an IEP. An ISP is a far more limited document than an IEP and will likely contain fewer parts than would be found in an IEP.

Child Find and Evaluations

Unlike the issue of services, districts are obligated to conduct Child Find in the same manner for families of private school students as it would do with families of public school students. The district cannot refuse to undertake Child Find simply because the student attends a private school. For more information on Child Find, please review Chapter 1 (Child Find).

In addition, if a district determines that a student in a private school requires an evaluation to determine the student’s eligibility for special education, the district cannot refuse to perform the evaluation or any required re-evaluations later. The district will also be expected to conduct the eligibility conference to review the evaluation

and to determine if the student should be made eligible for special education. For more information on evaluations and eligibility, please review to Chapter 3 (Referral and Evaluation) and Chapter 4 (Eligibility Categories).

Learning About the Services Offered by the District

To find out what kinds of service a school district will be providing to private school students, a parent should contact the administrative offices of the district where the private school is located. District administration will be able to provide parents with an outline of the services, as well as information on how to contact the district about the Child Find and the evaluation process.

In addition, the district may periodically invite parents to attend a meeting called “Timely and Meaningful Consultation,” sometimes simply called TMC. Such a meeting is required to take place in every district in which a private school is located throughout Illinois. The meeting is typically held annually (although districts can conduct them more frequently or if circumstances might require an additional meeting). TMC meetings must, under federal rules, involve representatives of the private schools as well as “parent representatives” of private school students. These meetings will typically outline the amount of “proportionate share” funding the district has for the school year as well as the types of service the district plans on providing that year.

Important Reminder

Parents of private school students have limited rights to request a due process hearing or to file a state complaint. Make sure the issue can be heard or investigated before filing a complaint or due process hearing request.

In the area of due process, parents may only file a hearing request to determine the general issue of whether the student is or is not eligible for special education. Disputes over the *type* of disability (e.g., whether the student should be LD as opposed to ED) are not generally a basis for filing a hearing request when dealing with private school students.

Complaints and Due Process

Parents of private school students have limited grounds to file complaints with ISBE or to request a due process hearing. If a parent of a private school student wishes to file a complaint, federal rules state that the parent is limited to filing a complaint regarding the way the district conducted the TMC process described in the previous subsection and the district’s failure to meet other federal requirements described above. Federal rules also limit the grounds on

which parents can file for due process. Under these rules, parents may only file for due process to challenge a district's decision either to find (or not find) a student eligible for special education services of any kind (see "Important Reminder" for more information). For further information on filing a state complaint or a request for a due process hearing, please review Chapter 11 (Conflict Resolution).

Placement by a Public School District

As you may have read in Chapter 7 (Least Restrictive Environment), an IEP team may decide that a child should be placed in a special education nonpublic private facility. This means that the IEP team has determined that the public school the child was attending can no longer offer services that match the student's needs, either educationally or emotionally, and the child would benefit from being educated in a separate school setting.

In these situations, the private schools in question are schools with a specific expertise in working with students with disabilities. Some programs focus on only one disability, such as an emotional disability, while others will focus on multiple disabilities, including autism spectrum disorder, intellectual disability, and other health impairments.

The student's home district must ensure that the student's IEP can be implemented completely in the nonpublic program. The private school is, in a sense, an extension of the public school because the student's program in the private school is guided by what the IEP requires. The student's home district remains responsible for writing the student's IEP and ensuring the student reaches his or her IEP goals. The home district and nonpublic program together are responsible for making sure the student's special education needs are being met.

From the point of view of the parent, there isn't any real difference between the rights the parent has with regard to the IEP. The IEP must be reviewed at least annually and the parent has the full right to participate in all IEP meetings. In fact, there are few, if any, differences between the rights a parent has when dealing with a district placement in a private school and the rights the parent has when the placement is in a public program.

For the student, however, a special education nonpublic facility can offer unique supports and services that are often not found in the public school such as intensive behavioral supports, therapeutic settings, and smaller class sizes. These facilities provide opportunities for social and emotional growth and a parallel curriculum so students can be reintegrated back into their home school districts.

Nonpublic Facility Discipline Procedures

As explained in Chapter 10 (School Discipline), there are times when extreme behavioral situations occur in schools, public or nonpublic, during which a student may pose a threat to self or to others, and school staff must react swiftly and appropriately. In special education nonpublic facilities, discipline and behavior management techniques may differ from public school systems. Discipline guidelines in all schools, including special education nonpublic facilities, are required to follow specific laws related to the use of physical restraint and time out.

Each special education nonpublic facility must develop its own behavior policy that must be approved by ISBE before students can attend the school. Parents and/or guardians must be given a copy of the special education nonpublic private facility's behavior policy prior to their student's enrollment.

Tips for Parents

When physical restraint or time out is used, parents or guardians must be notified in writing within 24 hours.

Physical Restraint

Physical restraint is holding a student or restricting a student's movements. The application of physical restraint is permitted if the student poses a physical risk to himself, herself, or others; there is no possibility of a medical consequence to its use; and the staff applying the restraint has been trained in its safe application.

Tips for Parents

If a student experiences three instances of time out or physical restraint, a review of the effectiveness of these interventions will occur that will include the student's parents/guardians, the school district, and any staff from the special education nonpublic facility who serve the student.

Tips for Parents

Any adult who is supervising a student in timeout or using physical restraint must be trained in de-escalation, restorative practices, and behavior management.

Students should never be controlled by physical restraint as a disciplinary measure, a form of punishment, a response to the use of profanity, or for making a verbal threat, unless the student demonstrates the means or intent to carry out the threat. Physical restraint should be used as a last resort in the behavior management of a student and is not meant to inflict or cause pain to the student.

During a supine physical restraint incident, one staff member with required credentials must watch the student during the entire time of the supine restraint for signs of pain while the other credentialed staff member applies the physical restraint. The physical restraint must end as soon as the threat of serious harm ends, or for no longer than 30 minutes. If, after 30 minutes, there is still a risk of life-threatening behavior or if an additional event happens in the same day, a school administrator (in meeting with a psychologist, social worker, nurse, or behavior specialist) may allow the extension of the physical restraint or an additional supine restraint. Only a school administrator can give permission for an additional restraint. Please see 23 IAC 1.285 for more specific information.

The use of anything other than physical restraint (other than hands-on holds) is prohibited in Illinois. Medical, chemical, and mechanical restraints for the purposes of maintaining discipline or controlling behavior are strictly prohibited.

A student should be released immediately from physical restraint upon determination by the staff member administering the restraint that the student is no longer in imminent danger of causing physical harm to himself, herself, or others.

Important Reminder

The application of physical restraints is only permitted if the student poses a physical risk to himself, herself, or others; there is no possibility of a medical consequence to its use; and the staff applying the restraint has been trained in its safe application.

Time Out

Time out is a behavior management technique that involves the monitored separation of a student from classmates with a trained adult for part of the school day, usually for a brief time, in a non-locked setting. The area where the time out occurs is subject to specific building requirements, and it must be free of any objects that a student could use to harm self or others. A trained adult must always remain in the room with the student during the time out. If, however, the trained staff person perceives that he or she is in imminent danger from the student, the staff person may leave the room but must remain within two feet of the time out room during the time out. If the enclosure has a door, it must remain unlocked during the time out, and the door must never be blocked in any way.

A student must not be kept in time out for longer than therapeutically necessary. To prevent this, students must be evaluated **at least every 15 minutes** during a time out by a trained adult to determine whether the student has stopped the specific behaviors the time out was used for.

Important Reminder

A time out should never involve the placement of a student in seclusion. The student should not be left alone during a period of time out.

An isolated time out is permitted, however, only when there is a threat to the safety of the staff person with the student

Important Reminder

All Illinois schools are required to complete a form designated by ISBE any time they use a physical restraint or time out. Illinois schools have a 48-hour window to complete these forms and submit them to ISBE. The form can be located at

<https://www.isbe.net/Documents/11-01-Physical-Restraint-Time-Out-Form.pdf>