

## H.R.1350

### Individuals with Disabilities Education Improvement Act of 2004 Summary of Section 612(a)(10) – Children in Private Schools

<b>Section 612(a)(10) Children in Private Schools</b>	<p><u>Summary:</u> Generally adopts the procedures for serving eligible children in private schools found in ESEA. Imposes multiple new procedural requirements and requires additional documentation of interactions with private school officials and parent representatives in the decision making process for determining the proportion and nature of the services provided to eligible private school children. All significant changes in the reauthorization are found in the section dealing with children enrolled in private schools by their parents without public agency referral.</p> <p>Provisions dealing with children referred to private schools by public agencies remain virtually unchanged, as do the provisions precluding or limiting payment for private placement of children without public agency consent.</p>
612(a)(10)(A)(i) Children Enrolled in Private Schools by their Parents	<p><u>Current Law with Minor Editing:</u> Consistent with the number and location of children with disabilities who are enrolled by their parents in private schools, provision is made for participation of those children in the program assisted or carried out under IDEA by providing special education and related services as required under this paragraph.</p>
612(a)(10)(A)(i)(I) Equal Proportion of Federal Funds	<p><u>Minor Revision:</u> IDEA funds expended for the provision of services (including direct services-new language) must be proportionately equal.</p>
612(a)(10)(A)(i)(II) Calculating Proportionate Amount After Thorough Child Find Process	<p><u>New Provision:</u> Calculation of the proportionate amount of funds must follow a meaningful consultation process with representatives of private schools and a thorough and complete child find process conducted by the LEA to determine the number of parentally placed children with disabilities attending private schools located in the LEA.</p>

612(a)(10)(A)(i)(III) Services on Private School Premise	<u>Current Law with Minor Editing:</u> Services may be provided on the premise of the private, including religious, schools.
612(a)(10)(A)(i)(IV) Supplement Not Supplant Federal Funds	<u>New Provision:</u> State and local funds may supplement and shall not supplant the proportionate amount of Federal funds required.
612(a)(10)(A)(i)(V) LEA Documentation	<u>New Provision:</u> The LEA must maintain in its records and provide to the SEA: 1) the number of children evaluated; 2) the number of children determined to be children with disabilities; and 3) the number of children served under this paragraph.
612(a)(10)(A)(ii) Child Find Requirements	<p><u>Significantly Revised Provision:</u> Child find requirements, as in current law, apply to children in private schools as well.</p> <p>The child find process must be designed to ensure equitable participation of parentally place private school children and an accurate count.</p> <p>The LEA or the SEA where applicable must undertake similar child find activities in private schools as in public schools. Child find must be completed in a time period comparable to the public schools.</p> <p>The cost of child find, including evaluations, is not considered in meeting the LEA obligations (proportionate amount of funds) as required under current regulations.</p>
612(a)(10)(A)(iii) Consultation	<p><u>New Provision:</u> To ensure timely and meaningful consultation, a LEA must consult with private school representatives and representatives of parents of parentally placed private school children with disabilities during the design and development of special education and related services including:</p> <p>- Child find and how those children can participate equitably and how parents, teachers and private school officials will be informed of the process.</p>

	<ul style="list-style-type: none"> <li>- The determination of the proportionate amount of funds available to serve those children, including how the amount was calculated.</li>   <li>- The consultation process among the LEA, private school officials, and representatives of parents, including how the process will operate throughout the school year to ensure that children identified through child find can meaningfully participate in special education and related services.</li>   <li>- How, where, and by whom services will be provided, including a discussion of types of services, including direct services and alternate service delivery mechanisms, and how services will be apportioned if funds are insufficient to serve all children, as well as how and when these decisions will be made.</li>   <li>- How, if the LEA disagrees with the views of private school officials on the provision of services or types of services, whether direct or by contract, the LEA shall provide a written explanation of the reasons why the LEA chose not to provide services directly or through a contract to the private school officials.</li> </ul>
612(a)(10)(A)(iv) Written Affirmation	<p><u>New Provision:</u> When timely and meaningful consultation has occurred, the LEA shall obtain a written affirmation signed by the representatives of participating private schools, and if the private school representatives do not provide the written affirmation within a reasonable time the LEA shall forward the documentation of the consultation process to the SEA.</p>
612(a)(10)(A)(v) Compliance	<p><u>New Provision:</u> A private school official has the right to submit a complaint to the SEA that consultation was not meaningful and timely or that due consideration of their views was not provided. The official must provide the basis of the noncompliance with this subparagraph and the LEA shall forward appropriate documentation to the SEA. A dissatisfied private school official may then submit the</p>

	complaint to the Secretary with the basis of noncompliance and the SEA shall forward appropriate documentation to the Secretary.
612(a)(10)(A)(vi) Provision of Equitable Services	<u>New Provision</u> : The provision of services shall be by employees of a public agency or through contract by the public agency with an individual, association, agency, organization, or other entity. Services, including materials and equipment, must be secular, neutral, and nonideological.
612(a)(10)(A)(vii) Public Control of Funds	<u>New Provision</u> : Control and administration of funds and title to materials, equipment and property must be maintained by the public agency.
612(a)(10)(B) Children Place In, or Referred To Private Schools by Public Agencies	<u>Current Law with Technical Edits</u>
612(a)(10)(C) Payment for Education of Children Enrolled in Private Schools Without Consent Of or Referral By The Public Agency	<u>Current Law with Technical Edits</u>