



Appendix A

Key Considerations for Parents of Children with Disabilities: Legal Protections and Access to Services in Public and Private School Settings—Things to Know to Make Informed Decisions

Programs providing state financial support (vouchers, scholarships, or other subsidies) for families that enroll in private schools have been growing since 1990. By 2026, approximately 33 states have some form of [educational voucher or scholarship programs](https://bit.ly/4r730do) to underwrite some of the cost of private school tuition. <https://bit.ly/4r730do> Of these, 12 states offer universal eligibility regardless of income, which means that all students can qualify for the subsidies, even those who are wealthy. These school choice programs have become increasingly popular for a variety of reasons, including some families' dissatisfaction with public schools, a desire for religious education, and a desire for greater parental control over their children's education. Until now, there has been no federal support for these school-choice and voucher programs.

On July 4, 2025, the new federal **Educational Choice for Children Act** was signed by President Trump. This new law allows individuals who donate funds to not-for-profit Scholarship Granting Organizations (SGOs) to receive a dollar-for-dollar tax credit up to \$1,700 for those donations. The money donated to the SGOs can be used to help subsidize tuition for students to attend private elementary and high schools, as well as for tutoring, education-related technology, and similar educational expenses. Students are eligible to receive scholarships if their family's income is less than 300% of the median family income in their area. Depending on where a family lives, a family with an annual income of \$250,000 or more could qualify for a scholarship.

Depending on program design and state implementation, scholarship funds may be used for tuition and in some cases for certain supplemental educational services such as tutoring or educational therapies. However, whether these supports can be accessed alongside public school enrollment varies by program and state policy.

Each state must decide to "opt in" for its residents to participate and be eligible to receive the scholarships. The program will become operational January 1, 2027. Thus far,

approximately twenty-seven states have opted in to the new federal Educational Choice program or plan to do so, according to a January 28, 2026, [report in Education Week](https://bit.ly/4boq6Xp). (<https://bit.ly/4boq6Xp>). It is expected that a number of other states, both those with and without such programs currently, will choose to opt in before the January 1, 2027, deadline.

Although structured as a tax credit program rather than a traditional voucher, the ECCA encourages third-party funding to support private educational expenses. As a result, it may function similarly to voucher programs in expanding access to private education options. For this reason, this appendix references both ECCA and broader voucher-type programs where relevant.

Voucher programs were already very popular in some states, depending in part on the amount of funding available and whether the programs were universally available regardless of income.

Given the recent growth of voucher and school-choice programs and the creation of the new federal subsidy system, families—especially those whose children have ADHD or other disabilities—should understand both the risks and the opportunities associated with these programs. This information can help parents make informed decisions about where to enroll their children.

Consistent with CHADD’s position that it neither endorses nor opposes voucher or scholarship programs as a matter of education policy, this appendix identifies differences in legal protections and service access that families should consider when evaluating educational settings. CHADD is especially concerned that students with disabilities, including ADHD, should be protected from discrimination in admission, services, and accommodations if parents choose to enroll their children in private schools.

To understand the potential risks and benefits of enrolling children with disabilities in private schools, it is useful to understand the protections that are in place for these students in public school. Several federal laws provide children with disabilities in public schools with civil rights protections and rights to services and accommodations, but the application of these laws varies depending on the nature and legal status of the private school.

The most extensive of these is the [Individuals with Disabilities Education Act](#). The law requires public schools to identify students residing in the district who are between the ages of 3 and 21 and are suspected of having a disability and to evaluate them to determine whether they are eligible for special education. If eligible, those students are entitled to receive a free appropriate public education (FAPE) in the least restrictive environment, including the right to special education and related services, such as therapy, designed to

meet their individual needs. The law also gives parents the right to participate in the process, including the right to be informed of any plans to change services and to request a due process hearing to challenge the school's actions if the parents and school are unable to resolve the dispute through the IEP process. The IDEA also requires that special education programs use trained personnel and that parents be advised of their rights. The IDEA also includes funding that underwrites part of the cost of special education services and requires states and school districts to provide the additional funds needed to ensure that students entitled to special education receive the services to which they are entitled. The IDEA also provides limited "proportionate share" funding for certain services, such as speech therapy, for students with disabilities enrolled in private schools located within the district. However, this funding does not confer broad rights for the students attending the private schools. More broadly, the IDEA does not, under most circumstances, provide a right to a free appropriate public education (FAPE) to students with disabilities attending private schools based on the unilateral choice of their parents.

Section 504 of the Rehabilitation Act of 1973 and its regulations also provide important protections for students with disabilities in the public schools and in any private school that is receiving federal financial assistance. Section 504 prohibits discrimination on the basis of disability and requires that students with disabilities be provided reasonable accommodations that are necessary for them to receive equal access to educational opportunities. Section 504 services may include accommodations such as preferential seating, additional time for tests and assignments, access to technology, and social work services. Section 504 regulations also give parents the right to file a complaint with the Office for Civil Rights at the U.S. Department of Education, although enforcement timelines and processes may vary and may, in some cases, be affected by staffing levels, available resources, and agency priorities.

Section 504 also gives parents the right to request a due process hearing to challenge the school's actions or inactions. Section 504 does not apply to private schools that do not receive federal financial assistance.

The final important federal civil rights protection for students with disabilities is the **Americans with Disabilities Act**. Title II of the ADA covers state and local governmental entities, including all public schools. Title III of the ADA covers places of public accommodation, including private schools at all levels. The ADA provides protections similar to those provided by Section 504, with even more detailed requirements. However, neither Title II nor Title III of the ADA applies to private religious schools.

Notably, if a public school uses IDEA funds to place a student with a disability in a private special education school, the requirements of the IDEA and Section 504 apply to the private school by virtue of the federal funding.

In addition to the protections afforded by the IDEA, Section 504, and the ADA, a limited number of states have their own civil rights statutes that protect against disability discrimination, including for students with disabilities who attend private schools. See, for example, California’s Unruh Civil Rights Act, the Pennsylvania Human Relations Act, and the New Jersey Law Against Discrimination. However, these state laws may not apply to religiously controlled schools. Most states’ disability laws do not apply to private schools, and especially not to private religious schools.

The key point is that students with disabilities in public schools have broad legal protections, but a patchwork of legal protections that provide much less consistent or no protection for students with disabilities in private schools.

For perspective, the number of pupils in public school with IEPs is 15% (approximately 6.8 million) and an additional 2.3-3% (approximately 1.6 million) are served under Section 504 plans. According to the National Center for Education Statistics, approximately 9% of school-age children attend private school, but only 4% of students with disabilities are enrolled in private schools. Of those, roughly half are placed by their parents and half are placed by school districts in private special education schools.

This indicates that students with disabilities are enrolled in private schools at lower rates than their representation in the overall student population.

In 2021, 4.7 million students—9% of total K–12 enrollment—attended private schools; approximately 75% of those students attended religious schools (

In addition, even where such laws apply, the mechanisms for oversight and enforcement differ from those in public school systems. As a result, students with disabilities in private schools can experience differences in admissions practices, availability of services and accommodations, and disciplinary processes compared to public schools, where legal protections are more comprehensive and consistently enforced.

Before parents decide whether to enroll their children in private schools, it is important that they be aware of the patchwork of legal protections available in private schools, compared with the more comprehensive protections available in public schools. Because private schools may not be governed by the same legal requirements as public schools, they may have greater discretion in admissions. Students who are admitted may not receive all the services and protections required in public schools, and some private schools may lack the staff or resources needed to provide specialized services and supports.

In addition, for those students with disabilities who are admitted to private schools, if they experience behavioral or academic difficulties, the private school may be able to impose disciplinary measures, including expulsion, without providing the same protections that are provided to students with disabilities in the public schools. A parent may have many compelling reasons for choosing to enroll a child with a disability in a private school. In making those important choices, it is critical that parents are aware of the very different legal protections that apply to those schools.

April 21, 2026. M. Cohen