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IDEA Reauthorization

Objective

To secure equitable services for parentally placed private school students in the reauthorization of the Individuals with Disabilities Education Act (IDEA).

Rationale

Although IDEA provides significant assistance to public school children in need of special education, it has never provided the same scope and quality of services to children in private schools. Currently, no individual child in a private school is entitled to any services under IDEA, and collectively, children with special needs in private schools receive funding for only a small portion of the special education services available to their public school counterparts.

When Congress reauthorized IDEA in 1997, it required a given school district to provide to children with special needs in private schools only those services that could be purchased by a proportionate share of the federal funds available to the district under the statute. Thus, if 10 percent of students with disabilities in a school district are enrolled in private schools, the district must only set aside 10 percent of its IDEA funds to serve those children. And since IDEA funds cover only a small share of the total cost of special education services to begin with, the net effect is that children with special needs in religious and independent schools receive only a fraction of the services they would otherwise receive.

Since IDEA does not provide any particular private school child the right to special education services, the proportionate spending rule applies to private school students as a whole. As a result, public school officials must ration the scarce resources available for private school students. They choose which, if any, students will be served, which disabilities will be addressed, and whether any direct services will be provided.

Action

To address the inequity faced by children in private schools, Congress should amend IDEA as follows:

Services

- ★ Incorporate innovative approaches that would ensure equitable services to eligible individual private school students.
- ★ Require on-site services for children in private schools.
- ★ Require districts to provide each private school child identified as having a disability with services or with a certificate for services.
- ★ Strengthen the current child-find language to identify and evaluate eligible children in private schools and to include the use and payment of private evaluators.
- ★ Require districts to develop an Individualized Education Program (IEP) for each private school child identified as having a disability.

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- ★ Require districts to consider a child's cultural and linguistic background in determining appropriate IDEA services.

Funding

- ★ Increase significantly the federal share of funds for IDEA. (A significant increase in federal IDEA support from current levels would help districts meet the needs of all students with disabilities and would ensure a more equitable level of service and participation for students in private schools.)
- ★ Document consultation on the method and data used to determine the proportionate share of IDEA funds for services to students in private schools.
- ★ Require districts to spend the full proportionate share of IDEA funds on students in private schools, regardless of any separate state and local funds used to serve those children.
- ★ Change the law so there is no fiscal disincentive for school districts to serve children in private schools.

Accountability

- ★ Strengthen the provisions relating to timely and meaningful consultation with private school officials regarding the design and implementation of services to children in private schools.
- ★ Strengthen the bypass language to provide a recourse to students whose LEAs do not provide equitable services.
- ★ Require districts to report annually on all private school children located, referred, identified, evaluated, and served.
- ★ Provide for equitable due process procedures for parents of eligible students in public, private, and religious schools.
- ★ Require federal monitors who evaluate the implementation of IDEA programs to include representatives of private and religious schools in this process.
- ★ Require the full disclosure of the number of private school students identified, the number served, and the dollars expended on those services.

The reauthorization of IDEA provides Congress a unique opportunity to recraft an act that will truly provide enhanced opportunities for special education students. The above proposals would go a long way toward realizing the equity that IDEA has always sought.