



# PUBLIC SCHOOLS OF NORTH CAROLINA

DEPARTMENT OF PUBLIC INSTRUCTION | Mark Johnson, *Superintendent of Public Instruction*

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DATE: January 17, 2020

TO: Directors, Exceptional Children Programs  
Preschool Coordinators, Exceptional Children Programs

FROM: Sherry Thomas, Exceptional Children Division *STH*  
Amy Rhyne, Office of Early Learning (Pre-K – Grade 3) *AR*

RE: Preschool Programs in Private Schools and in Childcare Programs

Children ages 3 through 5 with a disability must be offered a Free and Appropriate Public Education (FAPE) by the local education agency (LEA). The purpose of this memo is to provide clarification of the provisions in the Individuals with Disabilities Education Improvement Act of 2004 (IDEA) regarding services provided to preschool children enrolled in childcare programs versus preschool programs operated by private schools recognized by the NC Division of Non-Public Education (<https://ncadmin.nc.gov/about-doa/divisions/division-non-public-education>).

## Preschool Programs in Private Schools

The LEA in which a private school or schools is located is required to conduct child find.

The Office of Special Education Programs (OSEP) in the US Department of Education issued guidance (The Individuals with Disabilities Education Act: Provisions Related to Children With Disabilities Enrolled by Their Parents in Private Schools, Washington, D.C., 2011, [https://www2.ed.gov/admins/lead/speced/privateschools/report\\_pg2.html](https://www2.ed.gov/admins/lead/speced/privateschools/report_pg2.html)) that describes the obligation of LEAs to serve children ages 3 through 5 who are parentally placed in a preschool that is part of a private school.

This obligation is met when the LEA, in which the private school is located, engages in consultation with private schools to identify how the proportionate share funds will be spent on parentally placed private preschool students eligible for special education and related services. An LEA's proportionate share plan could include a wide-range of services, including itinerant, related services, etc.

Based on the LEA's proportionate share plan, parentally placed private school preschoolers may receive services through a Private School Services Plan (PSSP) if the child was determined to be eligible for special education and related services through the child find process.

Additional information regarding the provision of services to parentally placed private school students can be found at the end of the attached flowcharts.

## OFFICE OF EARLY LEARNING

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## **Childcare Programs**

Conversely, children enrolled in other programs (e.g., childcare, faith-based programs, or residing in the home versus attending an organized program), are the responsibility of the LEA in which the child/family reside (See, OSEP letter to Smith 2006 located here:

<https://www2.ed.gov/policy/speced/guid/idea/letters/2006-4/smith120106privschools4q2006.pdf>).

Preschoolers that are determined to be eligible for special education and related services may receive those services through an Individualized Education Program in the LEA's public preschool program or through itinerant services within the childcare program.

When the IEP team identifies the least restrictive placement as the regular early childhood setting for a child enrolled in a childcare program, the IEP team must determine if the current childcare program's instructional practices and curriculum comply with North Carolina's Foundations for Early Learning and Development (standards). This is required to ensure that the child will continue to make adequate progress in the current regular early childhood program and potentially close the gap in his/her development given itinerant special education and related services provided in that program. If the IEP team determines that the current childcare setting is not adequate to support the needs of the child, then the LEA must provide the regular early childhood setting in its own preschool program.

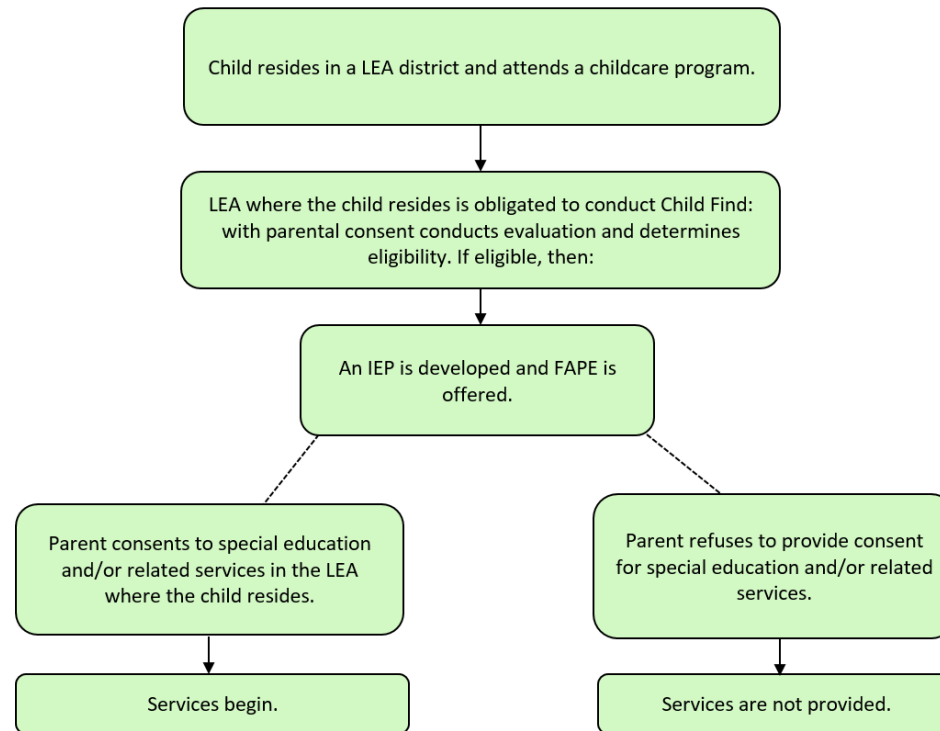
NCDPI is providing the attached flowcharts to assist LEAs in the coordination of its preschool services. LEAs should consider this information in light of each preschooler's unique circumstances. Any changes to a preschool child's program/plan should be considered and discussed at the child's annual review for the IEP/PSSP and communicated clearly to families on a case by case basis.

## **Attachments**

CC: Carol Ann Hudgens  
Vivian James  
Dawn Meskil



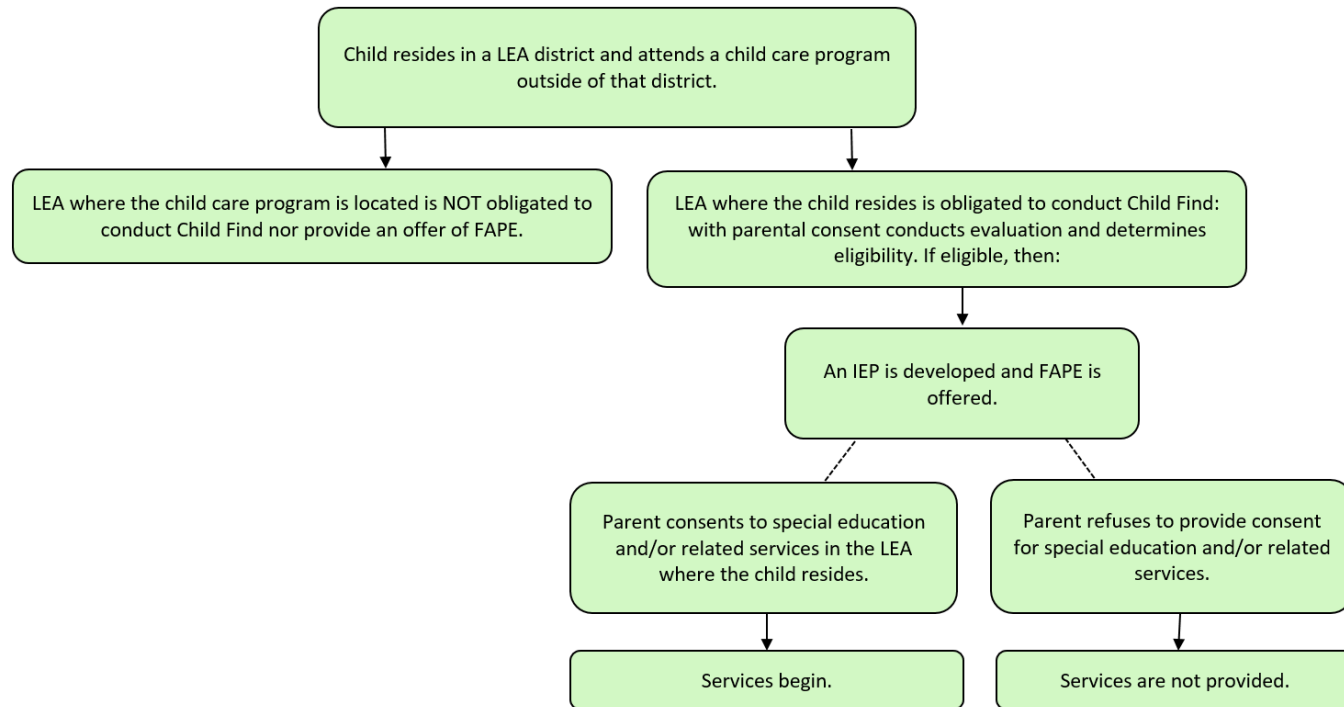
## Preschool child attends a child care program that is within the LEA of residence



**\*Note: § 115C-75. Recommended school classification**



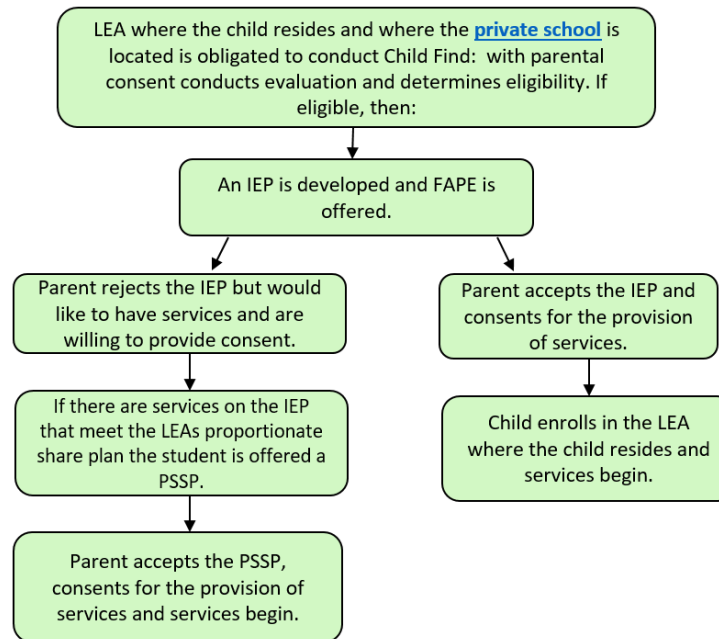
## Preschool child attends a child care program that is NOT within the LEA of residence



**\*Note: § 115C-75. Recommended school classification**



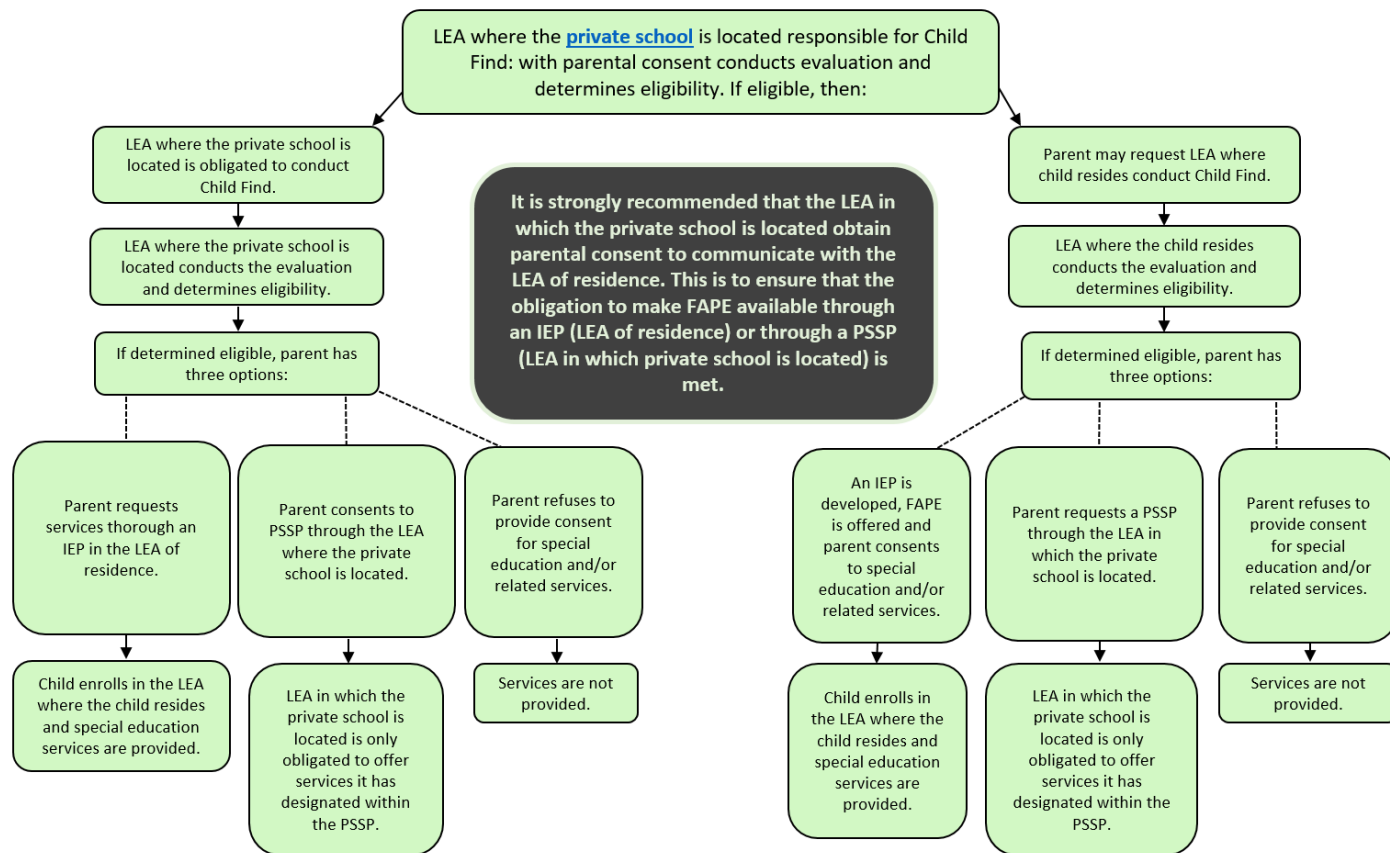
## Preschool child parentally placed in a private school preschool within the LEA of residence



**\*Note: § 115C-75. Recommended school classification**



## Preschool child parentally placed in a private school preschool NOT within the LEA of residence



**\*Note: § 115C-75. Recommended school classification**

## References

- **NC Directory of Private Schools**, <https://ncadmin.nc.gov/citizens/private-school/nc-directory-private-schools>
- **OSEP Letter to Smith** (2006), <https://www2.ed.gov/policy/speced/guid/idea/letters/2006-4/smith120106privschools4q2006.pdf>
- **A Parents' Guide to Special Education in North Carolina** (2017), [https://law.duke.edu/childedlaw/docs/Parents'\\_guide.pdf](https://law.duke.edu/childedlaw/docs/Parents'_guide.pdf)
  - *PART II, CHAPTER 8, Special Education and Private Schools*
- **NC Q & A for Preschool LRE** (2008) – Addresses questions frequently asked about early childhood educational settings, [https://content.govdelivery.com/attachments/NCSBE/2018/02/19/file\\_attachments/960778/Memo-Preschool%2BLRE%2BSettings%2B0218%2BQA%2BEarly%2BChildhood%2BSettings.pdf](https://content.govdelivery.com/attachments/NCSBE/2018/02/19/file_attachments/960778/Memo-Preschool%2BLRE%2BSettings%2B0218%2BQA%2BEarly%2BChildhood%2BSettings.pdf)
  - *Questions 13, 14 and 15*
- **The Individuals with Disabilities Education Act: Provisions Related to Children With Disabilities Enrolled by Their Parents in Private Schools** (2011), [https://www2.ed.gov/admins/lead/speced/privateschools/report\\_pg2.html](https://www2.ed.gov/admins/lead/speced/privateschools/report_pg2.html)
  - *Page 12 and on*
- **Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools** (2011), [https://sites.ed.gov/idea/files/Private\\_School\\_QA\\_April\\_2011.pdf](https://sites.ed.gov/idea/files/Private_School_QA_April_2011.pdf)
  - *Question B-5: Does the LEA where the private school is located have an obligation to make an offer of a free appropriate public education (FAPE)?*