

ISSUE BRIEF: PUBLIC FUNDS IN EDUCATION

OVERVIEW

Public education is the only education system legally required to serve all children, including children with disabilities. A strong public education system is critical to supporting equitable opportunities, strengthening communities, and sustaining a healthy democracy. Sustained investment in public education systems is essential to achieving positive outcomes for children and youth with disabilities.

Voucher and voucher-type programs, including scholarships, education savings accounts, tax credits, and similar funding mechanisms, redirect public education dollars to private entities for expenses such as tuition. These programs shift critical resources away from public schools, reduce accountability, and create inconsistencies in access to services and protections.

For children and youth with disabilities, strong public education systems are essential to providing access to a free appropriate public education (FAPE) guaranteed under the Individuals with Disabilities Education Act (IDEA). Diverting dollars away from public education has an outsized negative impact on students with disabilities, who are treated differently by private schools, where IDEA rights do not necessarily convey.

A new change to the federal tax code, Section 25F, establishes the first federal voucher program. The program, established through the One Big Beautiful Bill Act, provides a dollar-for-dollar tax credit for individuals who contribute up to \$1,700 to scholarship-granting organizations (SGOs). Those dollars are diverted from federal tax revenue, threatening future reductions in federal education expenditures, including special education. While SGOs are authorized to support a range of student-related expenses, the program is primarily designed to fund vouchers for private school tuition. Eligibility for voucher funds is determined by household income, with a cap set at 300% of the adjusted gross median income. In some counties, this threshold would allow a family of four earning up to \$500,000 annually to qualify.

Members of Congress are Urged to:

Congress must protect public education funding and preserve the rights and protections guaranteed to children with disabilities under IDEA. Therefore, we urge Members of Congress to:

Cosponsor the Keep Public Funds in Public Schools Act of 2026 (S. 4297/H.R.9289).

- This bill would repeal Section 25F of the Internal Revenue Code, ending the federal tax credit of up to \$1,700 for contributions to scholarship-granting organizations that provide vouchers for K–12 tuition and other allowable uses.
- Section 25F, which allows individuals to receive a dollar-for-dollar, nonrefundable tax credit for contributions, has not yet gone into effect.

IDEA PROVIDES RIGHTS TO CHILDREN WITH DISABILITIES AND THEIR FAMILIES

For more than 50 years, public schools have been required to meet federal standards for serving children with disabilities under the federal IDEA law. Core components of the law include ensuring a free appropriate public education (FAPE) in the least restrictive environment (LRE), as well as establishing teacher licensure requirements, discipline requirements, and due process rights for students and families. Before that time, public schools could choose whether to admit and serve children with disabilities, resulting in only one in five children with disabilities attending school. Most children with disabilities were kept home or placed in segregated schools or institutions, denying them access to the general education curriculum and the opportunity to integrate with their non-disabled peers. For the last five decades, IDEA has afforded millions of children with disabilities the right to a quality public education. (S. Res. 531) These rights are ensured by oversight and accountability at the local, state, and federal levels, and through due process rights for families.

PRIVATE SCHOOLS ARE NOT REQUIRED TO COMPLY WITH IDEA

Private schools are not bound by most federal and state laws, including IDEA, and may follow their own set of rules and regulations. Whereas public schools must enroll children with disabilities, private schools can choose which children to admit and can deny admission to a child because of their disability, putting school “choice” in the hands of private schools, not parents. Private schools do not need to follow teacher licensure standards or provide specialized education for children with disabilities and can expel a student because of their disability. When parents place their children in private schools, they waive their rights under IDEA. IDEA rights are conveyed only when a district places a student with a disability in a private school due to its inability to provide FAPE in its own public schools.

IDEA RIGHTS IN PUBLIC VS. PRIVATE SETTING

Children with disabilities have more legal protections in public schools than in parentally placed private schools.

IDEA Law	Public school or nonpublic placement by the district	Parentally placed in private school
Free Appropriate Public Education (FAPE)	FAPE is required for all eligible children under an individualized education program (IEP) designed to meet each child's unique needs.	FAPE is not required, and children are not entitled to an IEP. “Equitable services,” as determined by the district, private schools, and parents, can be provided.
Special educator certification	All K-12 special education teachers must meet certification requirements.	No requirements for educator certification.
Least restrictive environment (LRE)	To the extent possible, children with disabilities must be educated alongside their nondisabled peers.	No requirements to support students in the least restrictive environment.
School discipline	Students with disabilities are entitled to protections when their behaviors are a manifestation of their disability.	No protections for students with disabilities.
Due process rights	Parents have the right to a due process hearing if they have a dispute related to identification, evaluation, educational placement, the provision of FAPE, or disciplinary procedures.	Parents can only dispute a district's failure to identify a child with a disability through child find or evaluations.

Source: Government Accountability Office [report](#), *Private School Choice: Federal Actions Needed to Ensure Parents Are Notified About Changes in Rights for Students with Disabilities*

PUBLIC FUNDS MUST SUPPORT ALL CHILDREN

Private school vouchers rely on public funds to support private schooling, redirecting limited resources away from the public education system that serves the vast majority—about 90%—of American students. When a school district’s enrollment declines, the funding that would have been received for each student is lost. However, costs such as school personnel, maintenance, and electricity cannot be reduced by the same proportion, thereby raising the per-pupil cost of educating the remaining students. By channeling funds to private institutions, voucher programs weaken public schools. They shift much-needed resources from an inclusive system to subsidize education for a smaller, select group of voucher recipients. Public funds must be dedicated to public education, which supports all children.

CONGRESS MUST PROTECT PUBLIC EDUCATION

For public schools, voucher expansion can mean larger class sizes, staffing reductions, diminished student supports, and fewer resources available for special education, mental health services, and academic intervention programs. Federal education investments should strengthen the public education system that serves all children, not subsidize private systems that are not required to provide equal access, accountability, or protections for infants, toddlers, children and youth with disabilities.

Public funds must remain dedicated to public education.

FAST FACTS ON PRIVATE SCHOOL VOUCHERS

- The Government Accountability Office found that no more than half of private schools participating in voucher programs referenced serving students with disabilities on their websites, despite receiving publicly supported voucher funds. (U.S. Government Accountability Office, GAO-18-94)
- Whereas public schools must enroll children with disabilities, private schools can choose which children to admit and can deny admission to a child because of their disability, putting school “choice” in the hands of private schools, not parents.
 - » In April 2025, a Utah state court blocked a voucher program because it diverted public tax dollars to private schools and allowed those schools to reject students based on factors including disability or income. (*Labresh v. Cox*, No. 240904193 (Utah 3d Dist. Ct. April 18, 2025)).
 - » If a parent withdraws a child from a private school due to unmet special education needs, many voucher programs still allow the school to keep the tuition. If the child returns to public school after the school has submitted its enrollment data, the public school typically does not receive funding for that student.
- Studies repeatedly show that vouchers largely subsidize the tuition of wealthy families whose children already attend expensive, selective private schools:
 - » In Arkansas, 88% of participating voucher students in the 2024-25 school year did not attend public school the year before. (2024 Arkansas Education Freedom Accounts Program Annual [Report](#))
 - » A 2023 report from Florida found similar numbers—87% of enrolled students had not previously attended public school. (Step up for Students [data](#))