

OSEP Part B Regulations Regional Implementation Meetings



Building the Legacy: IDEA 2004



Children Enrolled by Their Parents in Private Schools



FINAL REGULATIONS

34 CFR §§300.130-300.144 -
Requirements for children with
disabilities enrolled by their
parents in private schools

Key Elements Remaining the Same

- No individual right to special education and related services
- Equitable participation based on a process that includes timely and meaningful consultation
- Proportionate share of Part B funds must be spent on this population
- Program offered to children designated to receive services is through a services plan - not an individualized education program (IEP)

“Parentally Placed”—General



School District Responsibility

Which school district is responsible...

The local educational agency (LEA) where the private school is located.

...for decisions about services to parentally-placed private children with disabilities?

Key Changes

- LEA where the private schools are located is responsible for child find and provision of services
- Preschool children with disabilities aged 3-5 can be considered parentally-placed children under IDEA only if they are enrolled in a private school that is considered an elementary school
- Consent override procedures unavailable
- Consent required for disclosure of evaluations between the LEA of the parent's residence and the LEA where the private school is located

Key Changes *(cont.)*

- Private school personnel do not have to meet requirements for HQT in 34 CFR §300.18
- Additional provisions related to expenditures
- Consultation requires written affirmation
- Private school officials can file a complaint with the state educational agency (SEA) regarding consultation process
- Clarification provided regarding scope of responsibility for due process and state complaint procedures

Topical Areas

- Equitable Services
- Consultation
- Child Find & Individual Evaluations
- Expenditures
- Services Plans
- Highly Qualified Teachers
- Due Process & State Complaints
- Preschool

Equitable Services

- Equitable Services Determined
 - 34 CFR §300.137
- Equitable Services Provided
 - 34 CFR §300.138

Consultation

How are decisions made about services to be provided to “parentally placed” children with disabilities?

■ Each LEA must consult:

- with private school representatives and representatives of parents of “parentally placed” children with disabilities
- in timely and meaningful way
- on key issues affecting the ability of eligible children to participate equitably in IDEA-funded special education and related services

Consultation

What must the consultation process involve?

- Child find
- Determining the proportionate share of IDEA funds available
- Determining the consultation process to be used
- How, where, and by whom services will be provided
- Disagreement process for LEA

Child Find and Individual Evaluations

Each LEA must locate, identify and evaluate all children with disabilities who are enrolled by their parents in private, including religious,...schools **located in the school district served by the LEA**

34 CFR §300.131(a)

Protecting Privacy

- Release of personally identifiable information
- Sharing information between LEAs



Expenditures

Number of eligible children
with disabilities

In public schools: 300

In private schools: + 20

Equals: **320**

Federal Part B
Flow-Through \$\$

LEA receives: **\$152,500**

$\$152,500/320$

Equals: **\$476.57**
per student

x 20 students

Equals: **\$9,531.25**
for
proportionate
share

Expenditures/ Proportionate Share

- State and local funds may supplement but not supplant federal funds for this population
34 CFR §300.133(d)
- Cost of child find may not be considered in proportionate share obligation
34 CFR §300.131(d)

Services Plans

Services provided in accordance with
a services plan

34 CFR §300.138(b)

Highly Qualified Teachers

...private elementary school and secondary school teachers who are providing equitable services to parentally-placed private school children with disabilities **do not have to meet** the highly qualified special education teacher requirements of 34 CFR §300.18

34 CFR §300.138(a)(1)

Personnel



Do requirements for “highly qualified” teachers apply to personnel providing equitable services?

If services are provided by an employee of:

- ✓ **The public agency—*Yes.***
- ✓ **The private school—*No.***

Due Process

Any due process complaint regarding the child find requirements in 34 CFR §300.131, including §§300.300-300.311, must be **filed with the LEA in which the private school is located** and a copy must be forwarded to the SEA

34 CFR §300.140(b)(2)

Due Process

May parents who have placed their child with disabilities in a private school file a due process complaint?

Regarding child find requirements— <i>Yes</i>	Regarding provision of services— <i>No</i>
Must file with LEA where private school is located	Must use State complaint procedure

State Complaints

Any complaint that an SEA or LEA has failed to meet the requirements in 34 CFR §§300.132-300.135 and 300.137-300.144 [regarding parentally-placed private school children with disabilities] must be filed in accordance with the state complaint procedures

34 CFR §300.140 (c)(1)

Complaints

Let's take a look at:

- Complaints filed by private school officials
- Complaints filed by parents

Preschool

Children aged 3-5 are considered to be parentally-placed private school children with disabilities enrolled by their parents in private, including religious, elementary schools, if they are enrolled in a **private school that meets the definition of elementary school in 34 CFR §300.13**

34 CFR §300.133(a)(2)(ii)

Elementary School Definition

Elementary school means a nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined by State law

34 CFR §300.13

Preschools

And what about “parentally placed” preschoolers?

The state’s definition of **elementary school** directly affects whether or not preschool children with disabilities attending private schools are considered for equitable services



Out-of-State



Situation:

Children with disabilities from one state placed by their parents in a private school in another state.

The LEA where the private school is located.

Question:

Who's responsible for conducting child find activities for such parentally placed" students?

Contact Information

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