

Distribution of Proportionate Share Funds for Participating Nonpublic Schools

Each school district is required to provide equitable services and participation for eligible children¹ who are attending a chartered or non-chartered nonpublic school located within the district's geographical boundaries. The school district must have timely and meaningful consultation with the chartered and non-chartered nonpublic school officials to determine if any children attending those nonpublic schools are eligible for equitable services.

Note: No parentally-placed IDEA eligible nonpublic school child with a disability has an *individual* right to receive some or all of the special education and related services that the child would receive if enrolled in a public school. The district makes the final decision about the services that will be provided to the whole group of parentally-placed IDEA eligible nonpublic school children with disabilities.

Equitable Services

- Equitable services refer to special education and related services, including direct services for parentally-placed nonpublic school children with disabilities. Equitable services are determined after the district has had meaningful consultation with the nonpublic schools in their district for **all parentally-placed private school children with disabilities**.
- Equitable services can include direct or consultative services, equipment, or materials for IDEA eligible parentally placed SWD or training for nonpublic schoolteachers and other nonpublic school personnel.²
- The consultation must include a representative of the nonpublic school and representatives of parents of parentally-placed nonpublic school children with disabilities, per IDEA eligibility, during the design and development of the special education and related services.
- For children aged 3 through 21, these services are funded with a proportionate amount of the district's total IDEA Part B subgrant.
- The nonpublic school may opt to reject the equitable services being offered by the DISTRICT. In this case, the DISTRICT will reallocate proportionate share funds to the remaining participating nonpublic schools that accept equitable services.

Funding/Use of Proportionate Share

- Generally, IDEA Part B funds are to supplement state and local funds.³ However, an exception to that rule concerns the proportionate share, which provides that state and local funds must supplement, but not supplant the proportionate amount of federal funds required to be expended for parentally placed IDEA eligible SWD in nonpublic schools.⁴
- To comply with supplement, not supplant, the following explains the priority on the use of funds and who controls the decision on the use of funds:

First, the DISTRICT uses proportionate share funds for special education and related services (i.e. direct services) and determines the use of these funds after timely and meaningful consultation with the nonpublic school representatives and representatives of parents of parentally-placed private school children with disabilities is held.

Second, the DISTRICT must meet its Maintenance of Effort, which includes state and local funds, for purposes of establishing the district's eligibility for an IDEA award for a fiscal year. In addition to general state and local funds which may be used to meet Maintenance of Effort, state law permits the amount paid to parents of eligible

¹ The term "eligible children" or "IDEA eligible children" shall refer to those children that meet the definition of a "child with a disability" as defined in [34 C.F.R. 300.8](#), regardless of whether they are receiving scholarship funds as well.

² See USDOE guidance, "[Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools](#)", Question D-4. See also the definition of "Related Services" at [34 CFR 300.34](#)

³ See [34 CFR 300.202](#)

⁴ See [34 CFR 300.133\(d\)](#)

students, receiving either the Jon Peterson or Autism Scholarship funds to be included as part of the district's Maintenance of Effort expenditures, even though the DISTRICT has no control over how these funds are expended, and the parent, guardian, or custodian determines how the funds are spent.

In the cases where the district has not expended all the proportionate share funds by the end of the fiscal year, the district must obligate the remaining funds for special education and related services (including direct services) to parentally-placed IDEA eligible nonpublic school children with disabilities during a carry-over period of one additional year.

Note: The cost of carrying out the child find requirements of parentally-placed nonpublic school children, including evaluations, may not be considered in determining whether the district has met the obligation under [34 C.F.R. 300.133](#)/Expenditures.

Individualized Services Plan (ISP)

- The DISTRICT where the nonpublic is located (District of Service) must develop and implement a services plan for each IDEA eligible SWD attending a nonpublic who has been designated by the DISTRICT to receive special education and related services.⁵
 - These services cannot be determined in advance of the timely and meaningful consultation with the nonpublic schools.
- An ISP must be developed for each parentally-placed IDEA eligible child with a disability that will receive direct services being offered using the proportionate share dollars, describing the special education and related services provided by the district. This includes students participating using the Autism or Jon Peterson scholarships.
- The ISP must be developed, reviewed and revised consistent with IEP regulations.
- All parentally-placed IDEA eligible private school children with disabilities, including students who receive the Autism Scholarship or Jon Peterson Scholarship, are eligible for special education and related services (including direct services), that a district provides using its IDEA Part B proportionate share funds. The district will develop an ISP if the parentally-placed nonpublic school child with a disability needs the designated services being provided by the district.
 - For example, after the DISTRICT and nonpublic school complete the timely and meaningful consultation to determine the needs of all the parentally-placed IDEA eligible children with disabilities, the district determines to provide a .25 FTE speech therapist to a nonpublic school. All parentally-placed IDEA eligible children with disabilities, including children with disabilities receiving Autism Scholarship and Jon Peterson Scholarship funds, who require speech services as indicated on their IEP or ISP, will have an ISP written to include the speech services being provided under the IDEA Part B proportionate share funding.
- Students with disabilities in chartered nonpublic schools may receive accommodations for and excusals from statewide tests if the accommodations or excusals are made in a student's individualized services plan or if a written plan is developed for a student who does not have an individualized services plan. Nonpublic schools and parents work together to develop the plans for students who do not have individualized services plans.

Scholarship Students

- The district must consider all parentally-placed IDEA eligible children with disabilities enrolled in the nonpublic schools of the district when determining the special education and related services to be provided to those nonpublic schools.
- The district cannot exclude students receiving either the Autism Scholarship or Jon Peterson Scholarship funds when determining the special education and related services being funded under the IDEA Part B proportionate share funds. As detailed above, the scholarship funds are awarded to the parents and must supplement, not supplant, the federal dollars used by the district.

⁵ [34 CFR 300.132\(b\)](#)