

IDEA, Part B

Equitable Services to Children Unilaterally Enrolled by their Parents in Private Schools



Some slides courtesy of Brustein & Manasevit from their conference:
Transparency and Change:
Balancing Stimulus Funds, ESEA Reauthorization and Federal Grants Management
December 3 & 4, 2009

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Definitions

- LEA = Local Education Agency (the school district)
- SEA = State Education Agency (Office of Superintendent of Public Instruction or OSPI)
- IDEA, Part B = Individuals with Disabilities Education Act (Part B is the section of the Act that authorizes special education services to eligible students age 3 to 21)
- FAPE = Free Appropriate Public Education

What changed in Washington State effective November 1, 2009

This is one of several amendments made to WAC 392-172A

Allowing districts to use federal proportional share funds to provide special education services on site of religious schools for children unilaterally enrolled by their parents in [non-profit, approved] private schools.

Key Elements Remaining the Same

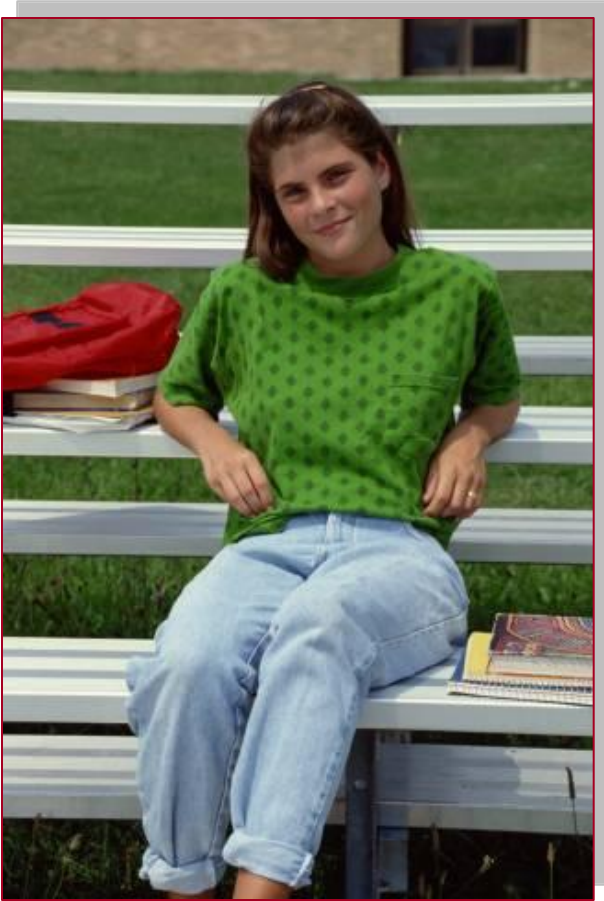
- ✓ Child Find responsibilities
- ✓ No individual right to special education and related services
- ✓ Equitable participation based on a process that includes timely and meaningful consultation
- ✓ Proportionate share of Part B funds must be spent on this population
- ✓ Program offered to children designated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

Equitable Participation Services

Parentally-Placed Private School Children Receive Equitable Participation Services not FAPE

- **Who are these children?**
 - *Voluntarily enrolled by their parents in private schools*
 - Not referred to private schools by LEA to receive FAPE
 - Not placed by parents seeking FAPE tuition reimbursement
- **No individual right to Equitable Participation services**
 - Cannot file due process complaint based on an individual right to services, BUT can file due process complaint on private school child find rights

“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?**

For Unilaterally Enrolled Private School Students Eligible for Special Education Services

Child Find Obligations	Residency	What services can be accessed?
The district in which the private school is located.	Student resides in the district in which private school is located.	Proportional share services (equitable services through a SP*) through the district in which the private school is located. <u>OR students may part time enroll in the district in which they reside</u> and receive services through an IEP ⁺ .
	Student does <u>not</u> reside in the district in which private school is located.	<u>Proportional share services (SP) through the district in which the private school is located.</u> Students <u>may part time enroll in the district in which they reside</u> and receive services through an IEP.

Once enrolled in a public school district, the student is no longer “unilaterally enrolled” and is eligible to receive those services for which they enrolled through an IEP.

*Service Plan

+Individual Education Plan

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)

WAC 392-172A-04005(1)

The child find process must be designed to ensure the equitable participation of parentally-placed private school children; and an accurate count of those children

34 CFR 300.131(b)

WAC 392-172A-04005(2)

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

34 CFR §300.134

WAC 392-172A-04020

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

LEA makes final decisions and provides notice to private schools.

34 CFR §300.134

WAC 392-172A-04020

Proof of Consultation

- **Signed, written affirmation** after consultation occurs – from representatives of participating private schools
- If no affirmation provided within a “reasonable period of time” after consultation, forward to OSPI (the) documentation of consultation process

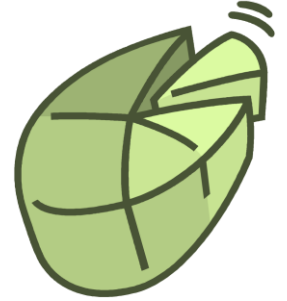
34 CFR §300.135

WAC 392-172A-04025

Link to State Forms

http://www.k12.wa.us/SpecialEd/forms.aspx#Model_State_Forms

Proportionate Share Set-Aside



- Must spend proportionate share of Part B subgrant funds on providing special education and related services
- Plus any unused carryover from previous year
34 CFR § 300.133(a)(3) & 392-172A-04015(c)

$$\frac{\text{Number of eligible parentally-placed private school CWDs*}}{\text{Total number of eligible CWDs in the LEA (public and private)}} = \text{\% of LEA IDEA Part B Grant for Equitable Services to Parentally-Placed CWDs}$$

*(Children with disabilities)

Proportionate Share Calculation for Parentally-Placed Private School Children with Disabilities For Flintstone School District:

Number of eligible children with disabilities in public schools in the LEA.....	300
Number of parentally-placed eligible children with disabilities in private elementary schools and secondary schools located in the LEA.....	20
Total number of eligible children	320
<u>FEDERAL FLOW-THROUGH FUNDS TO FLINTSTONE SCHOOL DISTRICT</u>	
Total allocation to Flintstone	\$152,500
Calculating Proportionate Share:	
A. Total allocation to Flintstone	\$152,500
B. Divided by total number of eligible children	320
C. Average allocation per eligible child (A divided by B).....	\$476.56
D. Multiplied by the number of parentally placed children with disabilities (C times D).....	20
E. Amount to be expended for parentally- placed children with disabilities	\$ 9,531.25

From Appendix B to Part 300 of 34 CFR (<http://idea.ed.gov/download/finalregulations.pdf>)

Parent's Right to file Due Process or State Complaint

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

✓ Regarding child find requirements—*Yes*

Must file with LEA where private school is located

✓ Regarding provision of services—*No*

Must use State complaint procedure

Private School Officials' Right to Submit Complaint

- Complaint to SEA
 - Not necessarily formal state complaint procedures
 - Similar to right of complaint by private schools under NCLB
- Basis of complaint
 - Consultation was not “meaningful and timely”; and/or
 - LEA not give(n) due consideration to views of private school officials § 300.136(b)
- If dissatisfied with outcome, private school officials can file with OSEP.

IDEA Specific Rules

- **Equitable Participation Services:**
 - LEA must control and administer funds and property at private schools
 - Any equipment/supply must be used for Part B purposes only
 - Equipment/Property must be able to be removed without remodeling private school
 - No funds for repairs, minor remodeling or construction of private school

34 CFR 300.144
392-172A-04070

Resources on the Web

Children Enrolled by their Parents in Private Schools:

The screenshot shows the ED.gov website interface. At the top, it says "U. S. Department of Education Promoting educational excellence for all Americans". Below that is a banner for "Building the Legacy: IDEA 2004" with a stack of books and a photo of a child. The main content area is titled "Major Topic" and lists several resource categories: "Private Schools", "Topic Briefs", "Video Clip", "Training Materials", "Dialogue Guide", and "Presentations". A search bar is on the right, and a "Related Items" section lists various regulations and content related to the topic.

ED.gov U. S. Department of Education
Promoting educational excellence for all Americans

Building the Legacy: IDEA 2004

Home Contact Us

Browse Major Topics

- Alignment with the No Child Left Behind Act
- Discipline
- Disproportionality
- Early Intervening Services (EIS)
- Evaluation and Reevaluation
- Funding
- Highly Qualified Teachers (HQT)
- Identification of Specific Learning Disabilities
- Individualized Education Program (IEP)
- Monitoring and Enforcement
- National Instructional Materials Accessibility Standard (NIMAS)
- Part C Option
- Private Schools**
- Procedural Safeguards
- Secondary Transition
- Statewide and Districtwide Assessments

Check These Out

- Regulations
- Statute
- Training Materials
- Model Forms
- Video Clips
- Webcast
- Presentations
- Dialogue Guides
- Q&A Documents

Major Topic

Private Schools

Topic Briefs

- [Children Enrolled by Their Parents in Private Schools](#)

Video Clip

- [Children Enrolled by their Parents in Private Schools](#)

Training Materials

- [Provisions Related to Children with Disabilities Enrolled by their Parent in Private Schools](#)
- [Private Schools Curriculum Module](#)

Dialogue Guide

- [Click here for the Facilitator Handbook](#)
- [Children Enrolled By Their Parents In Private Schools](#)

Presentations

- [Children with Disabilities Parentally Placed in Private Schools \(RIM 2007\)](#)
- [Children with Disabilities Parentally Placed in Private Schools \(Leadership 2006\)](#)

Q&A Documents

- [Questions and Answers On Serving Children With Disabilities Placed by Their Parents at Private Schools](#)

Search

Entire Site

GO >

Related Items

Related Statute

- ▶ Sec. 612(a)(10)
- ▶ Sec. 612(a)(10)(A)
- ▶ Sec. 612(a)(10)(A)(i)
- ▶ Sec. 612(a)(10)(A)(i)(I)
- ▶ Sec. 612(a)(10)(A)(i)(II)
- ▶ Sec. 612(a)(10)(A)(ii)
- ▶ Sec. 612(a)(10)(A)(iii)
- ▶ Sec. 612(a)(10)(A)(iv)
- ▶ Sec. 612(a)(10)(A)(v)
- ▶ Sec. 612(a)(10)(A)(vi)
- ▶ Sec. 612(a)(10)(A)(vii)

Related Regulation

- ▶ Sec. 300.129
- ▶ Sec. 300.130
- ▶ Sec. 300.131
- ▶ Sec. 300.132
- ▶ Sec. 300.133
- ▶ Sec. 300.133(b)
- ▶ Sec. 300.134
- ▶ Sec. 300.135
- ▶ Sec. 300.136
- ▶ Sec. 300.137
- ▶ Sec. 300.138
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- ▶ Sec. 300.141
- ▶ Sec. 300.142
- ▶ Sec. 300.143
- ▶ Sec. 300.144

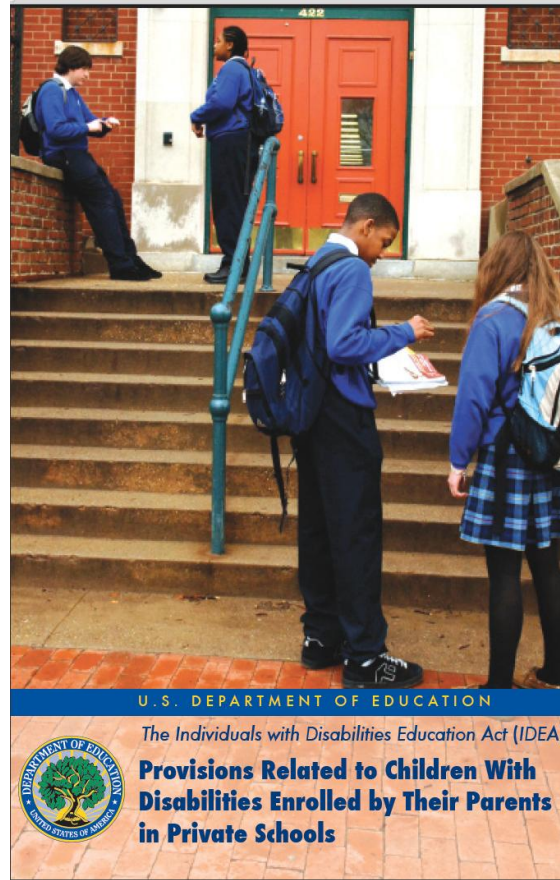
Other Related Content

- ▶ Video Clips
- ▶ Provisions Related to Children with Disabilities Enrolled by their Parent in Private Schools
- ▶ Private Schools Curriculum Module
- ▶ Children with Disabilities Parentally Placed in Private Schools (RIM 2007)

<http://idea.ed.gov/explore/view/p/%2Croot%2Cdynamic%2CTopicalArea%2C5%2C>

Resources on the Web

Provisions Related to Children with Disabilities Enrolled in Private Schools:



<http://ed.gov/admins/lead/speced/privateschools/idea.pdf>

Text of WAC 392-172A-04045

WAC 392-172A-04045 Location of services and transportation.

Services to parentally placed private school students eligible for special education may be provided on the premises of private(~~(,nonsectarian)~~) schools.

- (2) If necessary for the student to benefit from or participate in the services provided, a parentally placed private school student eligible for special education must be provided transportation:
 - (a) From the student's school or the student's home to a site other than the private school; and
 - (b) From the service site to the private school, or to the student's home, depending on the timing of the services.
- (3) School districts are not required to provide transportation from the student's home to the private school.
- (4) The cost of the transportation described in subsection (2) of this section may be included in calculating whether the school district has met its proportional share requirement.

What Questions Do You Have?