

PARENTALLY PLACED PRIVATE SCHOOL CHILDREN WITH DISABILITIES QUICK GUIDE AND FREQUENTLY ASKED QUESTIONS

This quick guide highlights key points and important resources for local educational agencies (LEAs) to consider for children with disabilities enrolled by their parents in private schools, including religious, elementary, and secondary schools located in the LEA, as well as children with disabilities who are homeschooled.

Definition of a Private School:

TAC §89.1096 (a)(1) defines a private school as a private elementary or secondary school, including any pre-school, religious school, and institutional day or residential school, that:

- as required by 34 CFR, §300.13 and §300.130, is a nonprofit entity that meets the definition of nonprofit in 34 CFR, §77.1; and
- provides elementary or secondary education that incorporates an adopted curriculum designed to meet basic educational goals, including scope and sequence of courses, and formal review and documentation of student progress.

A homeschool meets the definition of private school if it meets the criteria in the second bullet.





Throughout this guide when the term “parent” or “parents” is used, the term includes the definition aligned to 34 CFR § 300.30. That definition includes biological or adoptive parent, foster parent, guardian, an individual acting in the place of a biological parent with whom the child lives or is legally responsible for the child’s welfare, or a surrogate parent as defined in 34 CFR § 300.519. When “parent” is used throughout this document this may include adult students where appropriate.

The U.S. Department of Education, Office of Special Education Programs (OSEP) developed a Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools document in February of 2022. This document is intended to provide guidance regarding Individuals with Disabilities Education Act (IDEA) requirements applicable to children with disabilities placed by their parents in private schools, who are not enrolled in the LEA, and for whom the provision of a free and appropriate public education (FAPE) is not at issue. Readers are encouraged to reference OSEP’s document as it provides valuable answers to questions about services plans, equitable service providers, location of services, transportation, and more.

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Child Find

[Child Find](#) is the process of locating, identifying, and evaluating children with disabilities from birth through age 21 who may need special education and related services. This process extends to children parentally placed in private schools, including home-schooled children.




	<p>The LEA where the private school is located is responsible for Child Find; this process includes evaluation.* <i>* See the Dual Enrollment section for more information.</i></p>
	<p>LEAs must have outreach activities to locate children with disabilities who attend private schools within the LEA boundaries. For example, flyers posted in private school facilities and the community should inform families about the Child Find process.</p>

Initial Evaluations

If it is determined that a full and individual initial evaluation (FIIE) will be conducted, the LEA must provide the parent with [prior written notice](#) of its proposal to conduct an evaluation, the [Overview of Special Education for Parents form](#), a copy of the [Notice of Procedural Safeguards](#), and an opportunity to provide [written informed consent](#).




	<p>Subject to parental consent, the LEA where the private school is located is responsible for ensuring that the child is evaluated.</p> <p>If the LEA where the private school is located is not the LEA where the child resides and the parent requests the LEA of residence to evaluate the child, the resident LEA must conduct an evaluation upon receiving written parental consent if it suspects or has reason to suspect that the child is a child with a disability.</p> <p>If the parent has requested an evaluation from both LEAs and one or both of the LEAs are aware of it, then upon receiving parental consent to speak with the other LEA about the child, the LEA may initiate evaluation procedures.</p>
	<p>After obtaining written parental consent to conduct an evaluation, the LEA must complete the FIIE within 45 school days. The timeline may not be extended due to the absences of a private school child.</p>

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	<p>An LEA may not require a private school to implement a response to intervention (RTI) process before the LEA evaluates a private school child.</p>
	<p>If a parent refuses to sign the consent for evaluation or does not respond to a request for consent, the LEA may not use special education due process to attempt to override the lack of consent.</p>
	<p>The LEA that completed the evaluation conducts the initial admission, review, and dismissal (ARD) committee meeting to address eligibility for special education and related services. Depending on factors such as whether the LEA where the private school is located is the resident LEA (the resident LEA is required to offer FAPE) and whether the parent makes clear an intention to keep the child in the private school, the ARD committee must also determine equitable participation in programs for such children and/or the provisions of a FAPE.</p>

Reevaluations





The LEA where the private school is located is responsible for reevaluating parentally placed private school children with disabilities.

	<p>Reevaluations follow the evaluation procedures.</p>
	<p>The LEA must provide the parent with prior written notice and offer the opportunity to provide informed written consent for reevaluation.</p>
	<p>If a parent does not provide consent for the reevaluation or fails to respond to the LEA's request for consent for reevaluation, the LEA may not use the special education due process to attempt to override the lack of consent.</p>

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Services Plan

The LEA where the private school is located must develop a services plan for each parentally placed private school child with a disability who is designated to receive equitable services. **Equitable services** are special education and related services, including direct services, provided to parentally placed private school children with disabilities. LEAs have an obligation to provide these children an opportunity to participate in the services funded with IDEA Part B funds. After timely and meaningful consultation, the LEA must make available services to those children with disabilities that have been designated to receive equitable services. The amount of IDEA Part B funds is based on the proportionate share calculation. **Proportionate share** means the IDEA funds that an LEA spends to provide equitable services to parentally placed private school children with disabilities. A [services plan](#) outlines the special education and related services that a parentally placed private school child with disabilities will receive.

	<p>Each LEA determines, in accordance with IDEA requirements, which special education and related services will be provided to eligible children with disabilities parentally placed in private schools.</p>
	<p>Parentally placed private school children with disabilities have no individual entitlement to receive some or all the special education and related services they would receive if enrolled in a public school. Therefore, the LEA where the private school is located develops a services plan for the child that describes the specific special education and related services that the child will receive in light of the services the LEA determined it would make available to children with disabilities parentally placed in private school.</p>
	<p>The LEA determines the location where services will be provided to parentally placed private school children with disabilities during the consultation process among LEA officials, private school representatives, and parents.</p>
	<p>*If necessary for the parentally placed private school child with a disability to benefit from or participate in the services provided, the LEA must provide transportation:</p> <ul style="list-style-type: none"> • From the child’s school or the child’s home to a site other than the private school; and • From the service site to the private school or to the child’s home, depending on the timing of the services. <p>The LEA is not required to provide transportation from the child’s home to the private school if that transportation is provided solely to enable the child to attend the private school.</p> <p>*Transportation services may come out of the funds allotted to each child and most likely will reduce the number of other services the child will receive due to the limited amount of funds.</p>

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Dual Enrollment

	Parents of children with disabilities ages three or four can choose dual enrollment for their child in both the public school and the private school.
	Beginning on their third birthday, an eligible child with disabilities can attend a private or home school and still receive the services they need from the public school until the end of the school year in which the child turns five or becomes eligible to attend the LEA's kindergarten program, whichever occurs first.
	The LEA where a child resides is responsible for providing special education and related services to a child whose parents choose dual enrollment.



Key Points to Remember

- LEAs must provide training and professional development regarding Child Find and are encouraged to hold training on the IDEA and evaluation requirements with private school staff.
- The LEA where the private school is located needs to reach out to the parent of the parentally placed private school child in sufficient time to ensure that the need for a reevaluation is addressed and conducted at least once every three years unless the parent and the LEA agree that reevaluation is unnecessary. This assumes the child continues to attend the private school.
- If the parent requests the LEA of residence to conduct an evaluation for purposes of making FAPE available to the child, including when a parent intends to dual enroll a child 3 or 4 years of age that LEA must conduct the evaluation if the LEA suspects or has reason to suspect that the child is a student with a disability and the parent has provided proper consent. If the parent also requests the LEA where the private school is located to conduct an evaluation for purposes of determining whether the child could be eligible for equitable services, that LEA must conduct the evaluation if the LEA suspects or has reason to suspect that the child is a student with a disability and the parent has provided proper consent. Even though these evaluations are conducted for different purposes, in [OSEP's Q & A document](#), (Question and Answer A-4), OSEP stated it does not believe that the child's best interests would be served when separate evaluations are conducted by two LEAs. As a practical matter, one LEA may not know that a parent also requested an evaluation from another LEA. Parental consent for the release of information between LEAs is required. Further, subjecting a child to repeated testing by separate LEAs in close proximity of time may not be the most effective or desirable way to ensure that the evaluations are meaningful measures of

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whether a child has a disability, or of obtaining an appropriate assessment of the child’s educational needs.

- It is generally recommended to review a services plan periodically to assess a child’s progress and determine if any revisions are necessary. This review process helps ensure that the goals set for the child are being achieved and that the services provided effectively support their needs. While the frequency of these reviews may vary depending on local regulations or individual circumstances, it is commonly advised that they occur at least once a year.
- If the parent disagrees with the evaluation that an LEA conducted, the parent has the right to request an [independent educational evaluation \(IEE\)](#) from that LEA at public expense. According to [OSEP’s Q & A document](#), Question and Answer Q – 1-4, a parent who has enrolled his or her child in a private school has the right to file a due process complaint to request a due process hearing regarding the Child Find requirements. Such a complaint must be filed with the LEA in which the private school is located, and a copy must be forwarded to the Texas Education Agency (TEA) by the LEA. The state complaints, due process complaints, and mediation do not apply to issues regarding the provision of services to any particular parentally placed private school child with a disability. Disputes that arise between LEAs where private schools are located and parents about equitable services are, however, properly subject to state complaints, due process complaints, and mediation.
- A parent may file a signed written complaint in accordance with TEA’s complaint procedures alleging that an LEA has failed to meet IDEA’s equitable services requirements, such as the LEA’s failure to properly conduct the consultation process. There is no individual right to services for parentally placed private school children with disabilities.

For information on consultation with private schools, equitable services, and proportionate share calculations, please see the Additional Resources below.

Additional Resources

 Legal Resources	 State Resources
 <p>The Texas Legal Framework-Children in Private Schools</p>  <p>U.S. Department of Education, Office of Special Education Programs - Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools</p>	 <p>19 Texas Administrative Code §89.1096 - Provision of Services for Students Placed by their Parents in Private Schools or Facilities</p>

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[U.S. Department of Education - The IDEA Provisions Related to Children with Disabilities Enrolled by Their Parents in Private Schools](#)

Frequently Asked Questions and Answers - Including Additional Information Specific to Texas

1. What are the criteria for determining if a home school is a private school?

For a home school to be considered a private school under [19 TAC §89.1196](#), the home school must provide elementary or secondary education that incorporates an adopted curriculum designed to meet basic educational goals, including scope and sequence of courses, and conduct formal review and documentation of student progress. If a home school meets this requirement, then students with disabilities in home schools must be treated the same way as other parentally placed private school children with disabilities.

2. Why is it important to identify the number of parentally placed private school children with disabilities located in the LEA where the private school is located?

An accurate count of the number of eligible private school children with disabilities enrolled by their parents in private schools located in the LEA is needed to calculate the proportionate share of IDEA Part B funds that the LEA must expend annually for services for these children. [34 C.F.R. § 300.133\(c\)](#)

3. How are proportionate share funds calculated?

The proportionate share calculation must be based on the total number of children with disabilities who are enrolled in private elementary and secondary schools, including religious schools, located in the LEA, whether or not the children or their parents reside in the LEA. [34 C.F.R. §§ 300.132 and 300.133\(a\)](#) More specifically, each LEA must spend the following amounts on providing special education and related services (including direct services) to parentally placed private school children with disabilities:

1. For children aged 3 through 21, an amount that is the same proportion of the LEA's total subgrant under IDEA-B as the number of private school children with disabilities who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district served by the LEA, is to the total number of children with disabilities in its jurisdiction aged three through 21.
2. For children aged 3 through 5 the LEA must allocate a portion of its IDEA-B Preschool funds. This portion is based on the number of children with disabilities placed by their parents in private schools, compared to the total number of children with disabilities aged 3 through 5 in the LEA's area.

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- Proportionate share funds are calculated based on the previous year’s annual child count, as of the Texas Student Data System (TSDS)/Public Education Information Management System (PEIMS) Fall snapshot date.

Example

Proportionate Share Calculation for Parentally Placed Private School Children with Disabilities for “Somewhere ISD”	
Number of eligible children with disabilities enrolled in Somewhere ISD	300
Number of parentally placed eligible children with disabilities in private schools located in Somewhere ISD	20
Total number of eligible children	320
Total allocation to Somewhere ISD	\$152,500
Calculating Proportionate Share	
Total allocation to Somewhere ISD	\$152,500
Divided by total number of eligible children	320
Average allocation per eligible child	\$476.5625
Multiplied by the number of parentally placed children with disabilities	20
Amount to be expended for parentally placed children with disabilities in private schools by Somewhere ISD	\$9,531.25

[Appendix B to 34 CFR Part 300](#) provides an example of how to make this calculation.

The proportionate share is calculated for IDEA-B funds for children aged 3 through 21. Another proportionate share is calculated for IDEA-B Preschool funds for children aged 3 through 5.

Remember: Preschool children who are served under dual enrollment are **not** included in the proportionate share count because they count as the LEA’s students.

4. Because the annual child count forms the basis for the proportionate share calculation, what is an LEA’s obligation to a parentally placed private school child who is identified as a child with a disability after that calculation has been made for school year?

Each LEA must consult in a timely and meaningful way with private school representatives and parents during the design and development of special education and related services. The consultation process must include a discussion of how that process will operate throughout the school year to ensure that children with disabilities can meaningfully participate in special education and related services. The discussions could include how to address fluctuations in the population of children to be served and how to serve children who are identified during the school year in which expenditures are made after the proportionate share calculation for that school year has been determined.

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Note that the child count on the TSDS/PEIMS fall snapshot date, inclusive of the previous fiscal year, is used to determine the amount that the LEA must spend on providing special education and related services to parentally placed private school children with disabilities in the next fiscal year. Please see the example below for more information.

Example

A child identified on the TSDS/PEIMS fall snapshot date of Year A would be used in the calculation of proportionate share funds to be spent in Year B. A child identified on the TSDS/PEIMS fall snapshot date of Year A through the TSDS/PEIMS fall snapshot date of Year B would be used in the calculation of proportionate share funds to be spent during Year C.

	Previous Year's TSDS/PEIMS Fall Snapshot Date	Current Year's TSDS/PEIMS Fall Snapshot Date
YEAR A	Identified for Year B	Identified for Year C
YEAR B	Proportionate Share Year B	
	Identified for Year C	Identified for Year D
YEAR C	Proportionate Share Year C	
	Identified for Year D	Identified for Year E

The count from the TSDS/PEIMS fall snapshot date of the previous year is used to determine the amount of proportionate share funds to be spent during the subsequent year. The count is not used to determine which parentally placed private school students with disabilities are to be served. Any parentally placed private school student with a disability may be considered for services.

The services do not need to be limited to those children who were included in the count that determined the amount of proportionate share funds. If a parentally placed private school student with disabilities is identified after the TSDS/PEIMS snapshot date of the previous year, the LEA is not prohibited from using its proportionate share funds to provide services for that student if the LEA has proportionate share funds available and the students who were included in the calculation are not adversely affected.

If the LEA does not have proportionate share funds because no parentally placed private school children with disabilities were identified on the fall Snapshot date of the previous year, or funds were already obligated to other eligible children, the LEA is not required to provide special education and related services to a new child during the year in which there are no proportionate share funds available.

Parentally placed private school students with a disability may be considered for services anytime during the school year as long as funds are still available.

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5. What are the requirements if the LEA does not spend the entire amount of proportionate share funds?

Each LEA is required to spend a minimum amount of its IDEA-B funds on children with disabilities placed by their parents in private schools. If an LEA has not expended all the proportionate share funds by the end of the federal fiscal year (September 30th of each calendar year), the LEA must obligate the remaining funds for special education and related services to children with disabilities placed by their parents in private schools during a carry-over period of one additional year.

If near the end of the carry-over year, it is apparent that some of the carry-over proportionate share funds will not be expended, the remaining funds may be expended by the LEA for other allowable costs for students with disabilities in the public schools.

This situation should be the exception. It is the clear intent of IDEA that LEAs spend these proportionate share funds on providing special education and related services to parentally placed private school children with disabilities. As a reminder, LEAs should take into consideration that the identified time to utilize proportionate share funds does not end until the end of the federal fiscal year.

If the carry-over amount of proportionate share funds are not used or expended on other allowable costs by the end of the carry-over year, the carry-over proportionate share funds will lapse.

6. Do parentally placed private school children with disabilities receive a TSDS/PEIMS or Instructional Arrangement (IA) code?

No. Parentally placed private school children with disabilities do not receive a TSDS/PEIMS code or an IA code because they are not enrolled in LEAs. Under the IDEA, these children may be eligible for some special education services, but they do not have an individual right to the same services as children enrolled in LEAs.

The LEA must maintain its records and provide to TEA the number of parentally placed private school children evaluated, the number of private school children determined to be children with disabilities under Part B Preschool of IDEA, and the number of parentally placed private school children who are provided equitable services.

7. Are children enrolled in a for-profit private school counted for the purpose of determining the proportionate share of IDEA Part B funds to be spent on equitable services and eligible to receive equitable services?

Children with disabilities who attend **for-profit** private schools are not included in the proportionate share calculation or considered for equitable services. The regulations in 34 CFR 300.130 define parentally placed

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private school children with disabilities as children enrolled by their parents in private, including religious, schools or facilities that meet the definition of elementary school in 34 CFR 300.13 or secondary school in 34 CFR 300.36. The definitions of elementary school and secondary school specify that the school must be **nonprofit**.

However, under 34 CFR 300.111, TEA must ensure that all children with disabilities, including those attending private schools, who are in need of special education and related services, are identified, located, and evaluated through the Child Find process. The Child Find process includes children with disabilities attending **for-profit** schools.

If there are no funds available for children with disabilities attending for-profit private schools, they are not required to provide services under IDEA Part B. However, the LEA must still identify, locate, and evaluate these children through the Child Find process. This ensures that all children with disabilities, including those in for-profit schools, are recognized and assessed for their needs.

If you ever have a question, concern, comment, suggestion, or find a broken link within this document, please email the TEA Division of Special Education Programs at sped@tea.texas.gov