Keep Calm…It’s STILL Just Equitable Services

SELDA
August 21, 2023

Georgia Department of Education
Special Education Services and Supports Division
Nicole Croom, Program Specialist
Agenda

• Equitable services regulations and related terms
• Equitable services obligation
• Local educational agency (LEA) requirements
• Resources
WWCD?
Question to Ask

What Would a Compliance-Driven Director Do?
#1 Be Familiar with Federal Regulations and Related Terms
Definition of Equitable Services

• Special education and related services provided to parentally-placed private school children with disabilities in accordance with the provision in the IDEA and its implementing regulations in 34 C.F.R. §§ 300.130 - 300.144.

• Equitable services requirements do not apply to charter local educational agencies (LEAs).
Eligible Students for Equitable Services

• Students with disabilities (ages 3-21) who are parentally placed in a private elementary or secondary school (34 C.F.R. § 300.130).

• Homeschool students in Georgia are treated as private school students in regard to special education (Georgia Rule 160-4-7-.13(3)(a)(1)).
Definition of Parentally-Placed Private School Children with Disabilities

34 C.F.R. § 300.130

• Defines parentally-placed private school children with disabilities
  • Children with disabilities enrolled by their parents in private, including religious, schools or facilities that meet the definition of elementary school in 34 C.F.R. § 300.13 or secondary school in 34 C.F.R. § 300.36, other than children with disabilities covered under 34 C.F.R. §§ 300.145 – 300.147.
  • The definitions of elementary school in 34 C.F.R. § 300.13 and secondary school in 34 C.F.R. § 300.36 specify that the school must be nonprofit.
Definition of Elementary School
34 C.F.R. § 300.13

Elementary School

1) A **nonprofit** institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under State law.

2) In Georgia, that includes any private school that meets the definition of elementary school to include having a **kindergarten program**.
Definition of Secondary School

34 C.F.R. § 300.36

Secondary School

1) A **nonprofit** institutional day or residential school, including a public secondary charter school that provides secondary education, as determined under State law, except that it does not include any education beyond grade 12.

2) In Georgia, that includes any private school that meets the definition of secondary school. State law defines middle school as a school which contains no grade below grade four and no grade above eight. High school is defined as a school which contains any grade above grade eight. ([Georgia Rule 160-4-7-.21(38)](https://www.doe.org/sites/default/files/contents/docs/rules/ga_rule_160-4-7-.21.pdf)).
Private School Location and the LEA Responsible

- Obligation to provide equitable services rests with the LEA where the student’s private/home school is located (34 C.F.R. § 300.131(a))
- Requirement does not apply if there are no private/home schools in the LEA’s jurisdiction
#2 Be Aware of and Adhere to LEA Requirements
Equitable Services Requirements

Provision of Services Throughout the School Year

Development of Services Plans Prior to services beginning

Proportionate Share Calculation Summer/Fall

Child Count Fall

Timely and Meaningful Consultation Ongoing

Child Find Ongoing

Evaluation and Determination of Eligibility Ongoing

Provision of Services Throughout the School Year
Timely and Meaningful Consultation

34 C.F.R. § 300.134

To ensure **timely and meaningful consultation**, an LEA, or, if appropriate, an SEA, **must consult** with private school representatives and representatives of parents of parentally-placed private school children with disabilities during the **design and development** of special education and related services for the children…
### What is Consultation?

<table>
<thead>
<tr>
<th>Mandatory Process</th>
<th>Ongoing Process</th>
<th>Collaborative Process</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Occurs prior to other required activities</td>
<td>• Not solely an annual meeting</td>
<td>• Opportunity for all parties to express their views and consider others’ views</td>
</tr>
<tr>
<td>• Involves discussions between the LEA and stakeholders</td>
<td>• May occur as many times as needed</td>
<td>• Decisions about services may not be made in advance</td>
</tr>
</tbody>
</table>
Timely and Meaningful Consultation
Required Topics #1-2

34 C.F.R. § 300.134

1. Child find process including:
   • How parentally-placed private school children suspected of having a disability can participate equitably in child find
   • How parents, teachers, and private school officials will be informed of the process

2. The proportionate share amount available to serve parentally-placed private school children with disabilities and how it was calculated.
Timely and Meaningful Consultation
Required Topics #3-4

34 C.F.R. § 300.134
3. Consultation process, methodology and schedule for the year
4. How, where and by whom special education and related services will be provided for parentally-placed private/home school children with disabilities, including a discussion of the types and amounts of services that will be provided
   • The LEA must make the final decisions on services to be provided after receiving views from the participants (34 C.F.R. § 300.137(b)(2)).
Timely and Meaningful Consultation
Required Topic #5

34 C.F.R. § 300.134

5. How, if the LEA disagrees with the views of the private schools on services, it will provide a written explanation of why it chose not to follow the views of the private schools.
Written Affirmation

The LEA must obtain a signed written affirmation from participating private school and homeschool representatives

(34 C.F.R. § 300.135).
## Documentation to Keep

<table>
<thead>
<tr>
<th>Documentation</th>
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</thead>
<tbody>
<tr>
<td>a. Emails and letters to find eligible students</td>
</tr>
<tr>
<td>b. Copies of all notices such as letters, emails, website and newspaper</td>
</tr>
<tr>
<td>notifications, etc.</td>
</tr>
<tr>
<td>c. Outreach attempts for consultation, nature of attempts, and outcomes of</td>
</tr>
<tr>
<td>attempts</td>
</tr>
<tr>
<td>d. Sign-in sheets</td>
</tr>
<tr>
<td>e. Meeting agendas, PowerPoints and all consultation materials</td>
</tr>
<tr>
<td>f. Signed written affirmation forms and consultation notes</td>
</tr>
</tbody>
</table>
Child Find

Per 34 C.F.R. § 300.131, an LEA must conduct child find activities for parentally-placed private school children with disabilities.
Child Find for Parentally-Placed Private School Children with Disabilities

34 C.F.R. § 300.131

(a) General. Each LEA must locate, identify, and evaluate all 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, in accordance with paragraphs (b) through (e) of this section, and §§300.111 and 300.201.

(b) Child find design. The child find process must be designed to ensure:

(1) The equitable participation of parentally-placed private school children; and

(2) An accurate count of those children.
Proportionate Share

An LEA must expend a proportionate share of IDEA funds on equitable services for parentally-placed private school children with disabilities (34 C.F.R. § 300.133).
Proportionate Share Calculation

An LEA must **calculate** the proportionate share amount of IDEA Part B funds to be provided for parentally-placed private school children with disabilities (34 C.F.R. § 300.133(b)).
Proportionate Share Expenditures

34 C.F.R. § 300.133

An LEA …

• Determines the services to provide certain parentally-placed private school children with disabilities after timely and meaningful consultation

• Must carry over any unexpended proportionate share funds for one year (34 C.F.R. § 300.133(a)(3))

• May use state and local funds to supplement, but not supplant, the proportionate share funds
## Eligible Expenditures

<table>
<thead>
<tr>
<th>Eligible Expenditures</th>
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</thead>
<tbody>
<tr>
<td>• Benefit only eligible students</td>
</tr>
<tr>
<td>• Direct services</td>
</tr>
<tr>
<td>• Equitable services providers:</td>
</tr>
<tr>
<td>• LEA employees</td>
</tr>
<tr>
<td>• Contractors</td>
</tr>
<tr>
<td>• Private school employees only if performing services outside of regular hours of duty and the employee is under the supervision and control of the LEA</td>
</tr>
</tbody>
</table>
Eligible Expenditures (cont.)

<table>
<thead>
<tr>
<th>Eligible Expenditures</th>
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</thead>
<tbody>
<tr>
<td>• Indirect services</td>
</tr>
<tr>
<td>• Consultative services</td>
</tr>
<tr>
<td>• Equipment and materials</td>
</tr>
<tr>
<td>• Training for private school personnel</td>
</tr>
<tr>
<td>• Transportation</td>
</tr>
<tr>
<td>• If necessary for the child to benefit from or receive services</td>
</tr>
<tr>
<td>• Mileage reimbursement</td>
</tr>
</tbody>
</table>
Non-Eligible Expenditures

<table>
<thead>
<tr>
<th>Non-Eligible Expenditures</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Administrative costs – clerical, director, etc.</td>
</tr>
<tr>
<td>• Child find activities</td>
</tr>
<tr>
<td>• Evaluations</td>
</tr>
<tr>
<td>• Re-evaluations</td>
</tr>
<tr>
<td>• Separate classes if classes are at the same site and the classes include public and private school students</td>
</tr>
</tbody>
</table>
Non-Eligible Expenditures (cont.)

<table>
<thead>
<tr>
<th>Non-Eligible Expenditures</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Remodeling or repairs of private school facilities</td>
</tr>
<tr>
<td>• Paying salaries of private school staff for part of regular duties</td>
</tr>
<tr>
<td>• Funds used to benefit a private school</td>
</tr>
<tr>
<td>• Meeting the needs of a private school or the general needs of its students</td>
</tr>
<tr>
<td>• Turning over proportionate share funds to the private school to use at its discretion</td>
</tr>
</tbody>
</table>
Provision of Services for Parentally-Placed Private School Children with Disabilities

34 C.R.F. § 300.132

- The LEA where the student’s private/homeschool is located has the obligation to provide equitable services.
- The LEA must develop and implement a services plan for each child designated to receive services.
- Each LEA must maintain records and provide information to the state education agency (SEA).
  1. The number of children evaluated;
  2. The number of children determined to be children with disabilities; and
  3. The number of children served.
Equitable Services Determined

34 C.F.R. § 300.137

• No parentally-placed private school child with a disability has an individual right to special education and related services.

• Decisions about services may not be made in advance or in the absence of timely and meaningful consultation.
  • The LEA must make the final decisions about all aspects of the services to be provided.

• The LEA must initiate and conduct meetings to develop, review, and revise a services plan for the child.
We know.
That's a lot of info.
Let's see how you're doing!
Scenario #1

Student A is a parentally-placed private school student with a disability.

Student A resides in the Beachwood School District.

Student A attends a non-profit private school located in the Pepper Pike School District.

Which district is responsible for providing equitable services?
Scenario #1

Which district is responsible for providing equitable services?

a. Beachwood School District
b. Pepper Pike School District
Scenario #2

Student B is a parentally-placed private school student with a disability.

Student B resides in the Lyndhurst School District.

Student B attends a for-profit private school located in the Richmond Heights School District.

Which district is responsible for providing equitable services?
Scenario #2

Which district is responsible for providing equitable services?

a. Lyndhurst School District
b. Richmond Heights School District
c. Neither school district
Scenario #3

The Solon School District must set aside $10,000 in IDEA 611 Flowthrough funds for equitable services. The district has four private schools. There are 10 students with disabilities enrolled in those schools and are all on services plans. Of those students, nine students need speech and language services but one student needs orientation and mobility services.

If the district expends all $10,000 on speech and language, is the district required to provide orientation and mobility services to the 10th student?
Scenario #3

If the district expends all $10,000 on speech and language, is the district required to provide orientation and mobility services to the 10\textsuperscript{th} student?

a. Yes  
b. No
Scenario #4

The Solon School District must set aside $10,000 in IDEA 611 Flowthrough funds for equitable services. The district has four private schools. There are 10 students with disabilities enrolled in those schools and are all on services plans. Of those students, nine students need speech and language services but one student needs orientation and mobility services.

If the district expends only $7,000 on speech and language and opts to carry over the remaining $3,000, is the LEA in compliance?
Scenario #4

If the district expends only $7,000 on speech and language and opts to carry over the remaining $3,000, is the district in compliance?

a. Yes
b. No
#3 Be Resourceful
Non-Regulatory Guidance
FAQs

Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools
(Revised February 2022)

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GaDOE Resources
Special Education Webpages

- Implementation Manual - Private Schools Chapter
- Special Education Budget webpage - Resources for Guidance section
- Sample affirmation forms
  - Individual form
  - Group form
Questions
Budget Liaisons

Map
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We’re Here to Help!

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