

# Keep Calm...It's Just Equitable Services

## SELDA Department of Special Education Services and Supports *Nicole Croom, Program Specialist*



# Learning Targets



Understand the obligation to provide equitable services to private and home school students



Understand the LEA requirements



Explain the timely and meaningful consultation process



Become familiar with funding calculation

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Describe your comfort level with equitable services using only emojis:

 Start presenting to display the poll results on this slide.

What,  
Why?

Which  
Children?

How  
Much?





# What Would a Compliance-Driven Director Do?



# #1 Be Familiar with Regulations and Key Terms

# Definition of Equitable Services

- Special education and related services provided to **parentally-placed private school children with disabilities** in accordance with the provisions in the IDEA and its implementing regulations in [34 CFR §§ 300.130 - 300.144](#)
- Never applies to Charter LEAs





# Proportionate Share

- An LEA must expend a *proportionate share* of federal IDEA funds on equitable services for *parentally-placed private school children with disabilities* ([34 CFR § 300.133](#)).



# Eligible Students for IDEA Equitable Services

Students with disabilities (preschool – 12<sup>th</sup> grade) who are parentally placed in a nonprofit private elementary or secondary school (34 CFR §300.130)

Home-school students with disabilities

In Georgia, home school students 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 CFR § 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 CFR § 300.13](#) or secondary school in [34 CFR § 300.36](#) , other than children with disabilities covered under [34 CFR §§ 300.145 – 300.147](#).
  - The definitions of elementary school in [34 CFR § 300.13](#) and secondary school in [34 CFR § 300.36](#) specify that the school must be [nonprofit](#).

# Definition of Elementary School

## [34 CFR § 300.13](#)

- *Elementary school* means a [nonprofit](#) institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under State law.
- In Georgia, that includes any private school that meets the definition of elementary school to include having a **kindergarten program**.

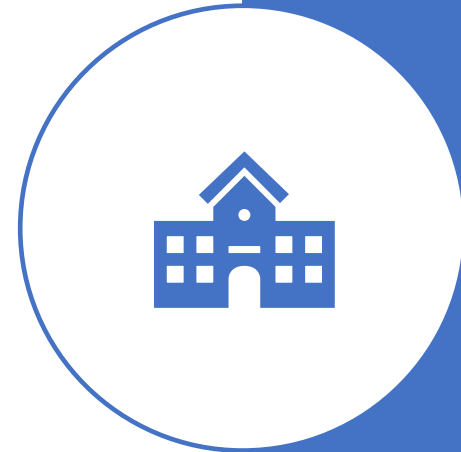
# Definition of Secondary School

## [34 CFR § 300.36](#)

- *Secondary school* means 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.
- 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\(38\)](#)).

# 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 CFR § 300.131\(a\)](#))
- Requirement does not apply if there are no private/home schools in the LEA's jurisdiction



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**Please answer the following questions.**

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## #2 Be Aware of and Adhere to LEA Requirements



# LEA Requirements



Timely and  
Meaningful  
Consultation



Written  
Affirmation



Child Find



Evaluation and  
Determination Of  
Eligibility

# LEA Requirements (cont.)



Proportionate Share  
Calculation



Proportionate Share  
Expenditure



Development of  
Service Plans



Providing or  
Contracting For  
Services

# Timely and Meaningful Consultation

## [34 CFR § 300.134](#)

- Occurs prior to other required activities
- Must invite and consult with the private school representatives and representatives of parents of eligible private and home-schooled children
- Collaborative process
- Ongoing process

# Timely and Meaningful Consultation – Required Topics

## [34 CFR § 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 (cont.)

## [34 CFR § 300.134](#)

- ③ Consultation process, methodology and schedule for the school 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 CFR § 300.137\(b\)\(2\)](#)).

# Timely and Meaningful Consultation – Required Topics (cont.)

## [34 CFR § 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 home school representatives ([34 CFR § 300.135](#)).



# Written Affirmation (cont.)



Need More Than a  
Record of Attendance



Provided to Each  
Representative to Sign



Any Refusals to Sign  
Should be Noted



# Documentation to Keep

- Emails/letters to find eligible students
- Copies of all notices – letters, emails, website notification, newspaper, home school registration materials, etc.
- Outreach attempts for consultation, nature of the attempts, and outcomes of the attempts
- Sign-in sheets
- Agendas, PowerPoints and all training materials
- Written affirmations and consultation notes



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**Please select the correct statement(s) describing timely and meaningful consultation.**

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# Child Find

Per [34 CFR § 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 CFR § 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.

An LEA must spend the proportionate share amount of IDEA Part B funds to provide equitable services for parentally-placed private school children with disabilities ([34 CFR § 300.133\(a\)](#)).



# Proportionate Share of Funds

## 34 CFR § 300.133 Expenditures

(a) *Formula.* To meet the requirement of [§300.132\(a\)](#) each LEA ***must spend*** the following 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 section 611(f) of the Act as **the number of private school children with disabilities aged 3 through 21** 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 3 through 21.**

# Proportionate Share of Funds (cont.)

## 34 CFR § 300.133 Expenditures

(2)(i) **For children aged three through five**, an amount that is the same proportion of the LEA's total subgrant under section 619(g) of the Act as **the number of parentally-placed private school children with disabilities aged three through five** who are enrolled by their parents in a private, including religious, elementary school located in the school district served by the LEA, is to **the total number of children with disabilities in its jurisdiction aged three through five**.

(ii) As described in paragraph (a)(2)(i) of this section, children aged three through five are considered to be parentally-placed private school children with disabilities enrolled by their parents in private, including religious, elementary schools, if the parent rejected the LEAs IEP offer of FAPE and they are enrolled in a private school that meets the definition of elementary school in §300.13.

# 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 CFR § 300.133\(b\)](#)).





# Proportionate Share Calculation

## 34 CFR § 300.133 Expenditures

(b) *Calculating proportionate amount.* In calculating the proportionate amount of Federal funds to be provided for parentally-placed private school children with disabilities, the LEA, **after timely and meaningful consultation with representatives of private schools under §300.134, must conduct a thorough and complete child find process to determine the number of parentally-placed children with disabilities attending private schools located in the LEA.** (See appendix B for an example of how proportionate share is calculated).

# Proportionate Share Calculation

## Calculation Worksheet

	IDEA 619 Preschool and IDEA 611 Flowthrough	3- 5 Only	3-21 Only
A.	Number of eligible private/home schooled children with disabilities not having an IEP:		
B.	Number of children with disabilities with IEPs (public, private and home):		
C.	Total number of children with disabilities (A + B):	0	0
D.	Proportionate Percentage (A / C):	#DIV/0!	#DIV/0!
E.	Allocation Amount:		
F.	Proportionate Amount (D * E):	#DIV/0!	#DIV/0!
G.	Carryover Amount <b>Prior year unspent amount</b>		
H.	Total Proportionate Amount (F+G):	#DIV/0!	#DIV/0!

### Remember:

- Use the previous fiscal year's October Child Find Count (A and B above)
- May need to amend count later

# Proportionate Share Expenditures

## 34 CFR § 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
- State and local funds may supplement, but not supplant, the proportionate share funds

# Direct and Indirect Services

- LEA must spend a proportionate amount of Part B funds on providing special education and related services (including direct services) to parentally-placed private school children with disabilities
- IDEA does not require an LEA to spend the proportionate share only for direct services
  - consultative services, equipment, or materials for eligible parentally-placed children with disabilities or training for private school teachers and other private school personnel

# Direct and Indirect Services (cont.)

- A determination must be made about how the available amount of funds will be utilized so that the parentally-placed private school children with disabilities designated to receive services *can benefit from the services offered*

# 34 CFR § 300.132 – Provision of Services for Parentally-Placed Private School Children with Disabilities – Basic Requirement

- Explains the provision of services for parentally-placed private school children with disabilities
  - The LEA where the private school is located has the obligation to provide equitable services.
  - A service plan must be developed and implemented.
  - Each LEA must maintain records and provide information to the 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.

# 34 CFR § 300.137(a) Equitable Services Determined

- Clarifies that no parentally-placed private school child with a disability has an individual right to services
  - No parentally-placed private 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.

# Unallowable Uses of Proportionate Share Funds

34 CFR § 300.141



To finance the existing level of instruction in a private school or to otherwise benefit the private school



To meet the needs of a private school



To meet the general needs of the students enrolled in the private school





**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 #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 #3

The Solon School District must set aside \$10,000 in Flowthrough funds for equitable services. The LEA 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.

- a. If the LEA expends all \$10,000 on speech and language, is the LEA required to provide orientation and mobility services to the 10<sup>th</sup> student?
  
  
  
  
  
  
  
  
  
  
- b. If the LEA expends only \$7,000 on speech and language and opts to carry over the remaining \$3,000, is the LEA in compliance? Why or Why not?



## #3 Be Mindful of FAQs

# FAQs

1. May an LEA give the proportionate share funds to the private school to provide equitable services?

No.

2. May proportionate share funds be used to pay for an employee of the private school?

Services administered by a private school employee may be paid using Part B funds if the employee performs the service outside of his or her regular hours of duty and must perform services under public supervision and control (34 CFR §300.142(b)).

# FAQs (cont.)

3. May an LEA use proportionate share funds for administrative costs?

No, these funds must be used on children directly or indirectly (34 CFR §300.144(a)).

4. May an LEA expend more funds for equitable service than required using Part B funds?

Yes, IDEA, as well as, state and local funds may be used as long as the minimum IDEA proportionate share amount is expended.

## FAQs (cont.)

5. Are there any *particular kinds of services* or *specified amounts of services* that must be provided to parentally-placed private school children with disabilities under Part B of the IDEA?

No. These decisions are made during the consultation process and are based on the needs of the children designated to receive services. Children have no individual entitlement to receive some or all of the special education and related services they would receive if enrolled in a public school.



## FAQs (cont.)

6. May an LEA place equipment and supplies for equitable services in a private school?

Yes, but only for the time period needed to provide services. The LEA must ensure that equipment or supplies must only be used for Part B purposes and can be removed without remodeling the facility. All equipment and supplies must be removed when no longer needed or if removal is necessary to prevent unauthorized use (34 CFR §300.144(b),(c) and (d)).

## FAQs (cont.)

7. May Part B funds for equitable services be used for repairs, minor remodeling, or construction of private school facilities?

No (34 CFR §300.144(e)).

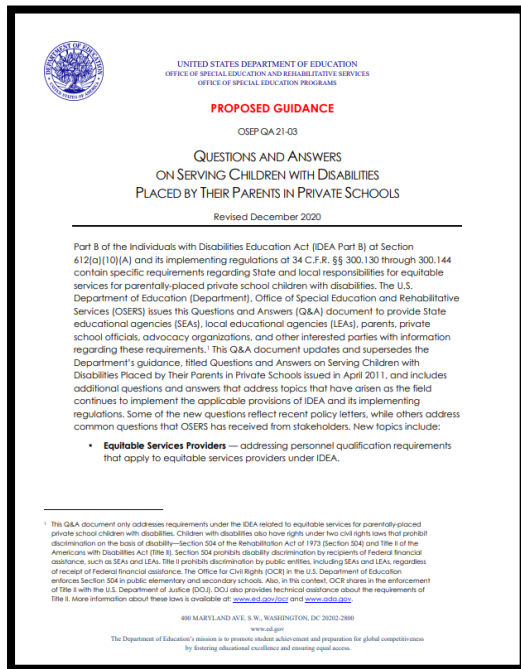


# #4 Be Resourceful

# Federal Resource

## IDEA Non-Regulatory Guidance Update

### [Proposed Guidance: Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools](#)



- Public Comment Period Ended January 21, 2021
- Last Published Guidance 2011
- New Topics:
  - Equitable Services Providers
  - Preschool Children with Disabilities
  - Children Who Reside Out-of-State or Whose Parents Live in Other Countries
  - State-funded School Voucher and Scholarship Programs
  - Extended Public-School Closures

# Federal and Georgia Department of Education (GaDOE) Resources

## Federal Resources

- [Provisions Related to Children with Disabilities Enrolled by Their Parents in Private Schools](#)
- [The Individuals with Disabilities Education Act: Provisions Related to Children with Disabilities Enrolled by Their Parents in Private Schools](#)

## Code of Federal Regulations

- [34 CFR Part 300 IDEA Regulations](#)
  - §300.130 - 300.144 Children with Disabilities Enrolled by Their Parents in Private School

## GaDOE Resources

- [GaDOE Implementation Manual - Private Schools Chapter](#)
- [Equitable Services for Private and Home School Students Webinar](#)
- Sample affirmation forms
  - [Individual form](#)
  - [Group form](#)

# GaDOE Resource

## Online Training Module

### IDEA Equitable Services: What You Need to Know

- Module 1: Introduction to IDEA Equitable Services
- Module 2: Timely and Meaningful Consultation
- Module 3: Child Find and Evaluations
- Module 4: Child Count and Proportionate Share
- Module 5: Services Plans and Provision of Services
- Module 6: Frequently Asked Questions (FAQs)
- Module 7: Resources

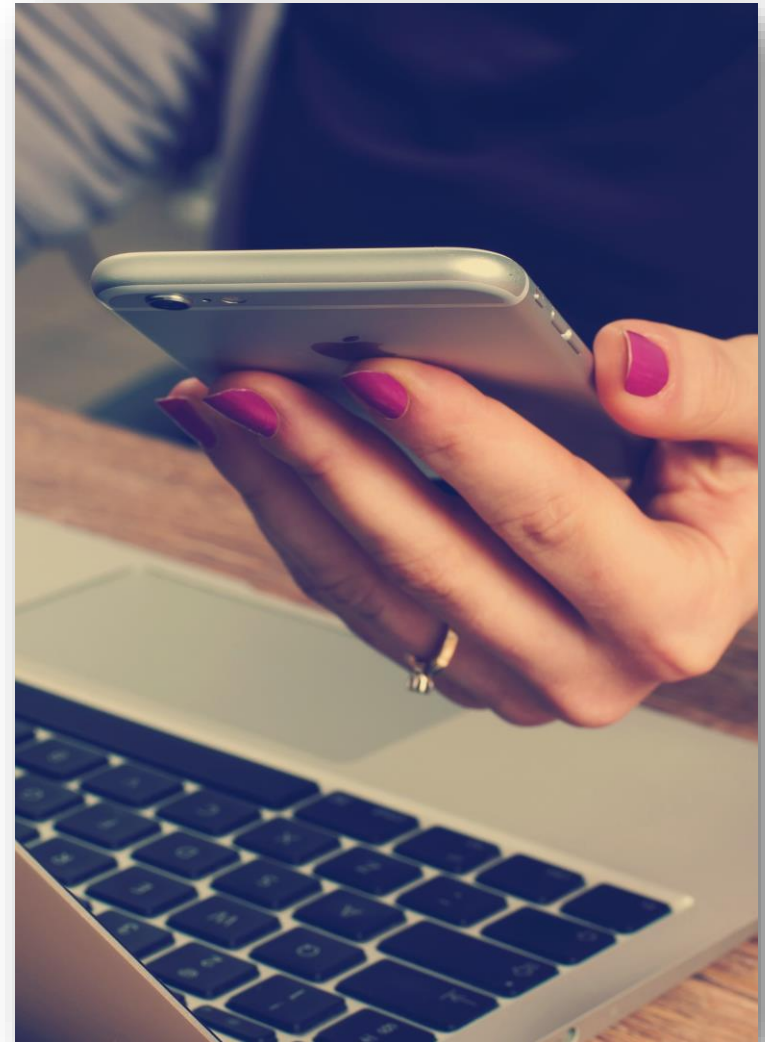
**Access through the Professional Learning (PL) application within SLDS**

# GaDOE Resource – Budget Liaisons

One-year carry-over period for unexpended proportionate share funds

Option for a waiver after one-year carry-over period if LEA is in compliance with the requirements related to parentally-placed private school children with disabilities in 34 CFR § 300.129 through 300.144

Approved waiver allows funds to pay for other allowable Part B expenditures





Questions?





# Contact Us

*We're Here to Help!*

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