

When a student eligible for special education is placed by his/her parents in a private school, is the public school required to provide special education and related services to that parentally-placed private school student?

“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.” [34 C.F.R. § 300.137(a)] (Emphasis added) However, that student might still be entitled to receive some special education and related services provided by the school district under the IDEA’s proportionate share provisions. [See 34 C.F.R. §§ 300.130 through 300.144] Instead of having an IEP, parentally-placed private school children with disabilities who have been designated to receive equitable services must have a service plan that describes the specific education and related services that the district where the private school is located has determined it will make available to the child under the proportionate share provisions of the IDEA. [34 C.F.R. § 300.138(b)] However, parentally-placed children with disabilities may receive a different amount of services in their private school placement than children with disabilities in public schools. [34 C.F.R. § 300.138(a)(2)]

Proportionate Share/Equitable Services

Frequently Asked Questions

[Contact ESS Program Management](#) with questions.

In Arizona, are parentally-placed private school students who receive ESA (Empowerment

Scholarship Account) funds also eligible for equitable services under the proportionate share mechanism of the IDEA?

Any parentally-placed private school student who attends a non-profit private school, even a student who receives ESA funding, is eligible for equitable services under proportionate share funding, but a parentally-placed private school student (regardless of whether on an ESA or whether the parents are paying tuition) attending a for-profit private school is not. Although Arizona parents opt out of the public school system when their child is granted an ESA account, the proportionate share mechanism of the IDEA overrides state law, meaning that some ESA students, those who attend a non-profit private school, can double-dip and receive ESA funding at the same time they receive proportionate share funding. [See Letter to Chapman, 49 IDELR 163 (OSEP 2007)]

When a student eligible for special education is placed by his/her parents in a private school, is the private school required to provide special education and related services to that parentally-placed private school student?

Because “[n]o 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” [34 C.F.R. § 300.137(a)], the private school is not required to provide the special education instruction and services that might be outlined in a student’s IEP. (Emphasis added) However, that student might still be entitled to receive some special education and related services provided by the school district under the IDEA’s proportionate share provisions. [See 34 C.F.R. §§ 300.130 through 300.144]

Do parentally-placed private school students with disabilities have IEPs?

Parentally-placed private school students with disabilities do not have IEPs, but they do have a services plan that “must be developed and implemented for each private school child with a disability who has been designated by the [school district] in which the private school is located to receive special education and related services.” [34 C.F.R. § 300.132(b)] This service plan must “describe[] the specific special education and related services that the [district] will provide to the child in light of the services that the [school] has determined through [a proscribed process] it will make available to parentally-placed private school children with disabilities.” [34 C.F.R. § 300.138(b)(1)]

When a student eligible for special education is placed by his/her parents in a private school, is the public school required to provide special education and related services to that parentally-placed private school student?

“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.” [34 C.F.R. § 300.137(a)] (Emphasis added) However, that student might still be entitled to receive some special education and related services provided by the school district under the IDEA’s proportionate share provisions. [See 34 C.F.R. §§ 300.130 through 300.144] Instead of having an IEP, parentally-placed private school children with disabilities who have been designated to receive equitable services must have a service plan that describes the specific education and related services that the district where the private school is located has determined it will make available to the child under the proportionate share provisions of the IDEA. [34 C.F.R. § 300.138(b)] However, parentally-placed children with disabilities may receive a different

amount of services in their private school placement than children with disabilities in public schools. [34 C.F.R. § 300.138(a)(2)]

What is meant by “proportionate share?”

Public school districts are required to spend a proportionate share of their federal special education funding to provide special education and related services to children with disabilities who are enrolled by their parents in private, including religious, elementary and secondary schools located within their district boundaries. [34 C.F.R. §§ 300.132 and 133] However, the regulations that implement the IDEA specifically state that “[p]arentally-placed private school children with disabilities may receive a different amount of services than children with disabilities in public schools.” [34 C.F.R. § 300.138(a)(2)] Accordingly, it is possible that some parentally-placed children with disabilities will not receive any services while other students will. The public school district, in consultation with the private schools in its geographical area, can determine that the funds will be devoted to speech services only, for example, or any other service or arrangement of instruction. When the funds are spent, the obligation of the public school ends for that school year. (The formula for determining proportional share is rather complicated; See 34 C.F.R. § 300.133)

What is the process for determining the services to be provided under the proportionate share provisions of the IDEA?

The regulations that implement the IDEA require school districts to consult with private schools within their geographical boundaries and parents of parentally-placed private school children with disabilities (including in Arizona the parents of students with disabilities who are homeschooled) in order to determine the types of services to be provided, how these services will be apportioned if funding is insufficient, and how, where and by whom

said services will be provided for parentally-placed private school children (and homeschooled children) with disabilities. To this end, the regulations that implement the IDEA require public school districts to initiate and conduct a meeting to develop a service plan that describes the special education and related services that the school will provide to the parentally-placed private school child with a disability in light of the services that the school district has determined it will make available to that population of children. [34 C.F.R. §§ 300.137(c)(1) and 138(b)] Services plans must be developed, reviewed, and revised in a manner similar to the process for developing, reviewing, and revising an individualized education program (IEP). [See 34 C.F.R. §§ 321 through 324] However, it is the school district that makes the “final decisions with respect to the services to be provided to eligible parentally-placed private school children with disabilities.” [34 C.F.R. § 300.137(b)(2)]

Does a service plan under the proportionate share provisions of the IDEA have to be reviewed and revised annually at a meeting?

“If a child with a disability is enrolled in a religious or other private school by the child’s parents and will receive special education or related services from [the district where the private school is located], the [district] must initiate and conduct meetings to develop, review, and revise a services plan for the child and ensure that a representative of the religious or other private school attends each meeting. If the representative cannot attend, the [district] shall use other methods to ensure participation by the religious or other private school, including individual or conference telephone calls.” [34 C.F.R. § 300.137(c)] The services plan must be reviewed and revised annually. [34 C.F.R. § 300.138(b)(2)(ii)]

Does the services plan have to include all of the related services that are outlined in a student's IEP?

No. "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," [34 C.F.R. § 300.137(a)] Therefore, if the district decides that its proportionate share dollars will be directed solely at speech services, then it is not required to provide OT, PT, counseling, or any other special education or related service that might be outlined in a student's IEP. When the funding is gone for that year, the district is not required to continue the service, meaning that students receiving services under the proportionate share provisions might receive different amounts of services or no services at all (if, for example, a student transferred into the district late in the year after all proportionate share funding has been used up).

Can proportionate share services be used on students parentally-placed in preschool?

No. Preschool students who would be considered parentally-placed do not meet the requirement of attending an elementary school under state law. While districts are required to operate special education programs for preschool students with disabilities, preschool programs are specifically excluded under the definition of elementary grades under A.R.S. § 15-101(12) which indicates that "Elementary grades means kindergarten programs and grades one through eight."

Is registration/enrollment documentation required for students receiving proportionate services?

Since students eligible for proportionate share services are parentally-placed private school students (also includes homeschooled students), it

needs to be clear to the parent or legal guardian that the student is not enrolling within the school district. Additionally, districts should be mindful that the documentation required to implement a service plan (ISP) should not be identical to enrollment paperwork. The documentation required should reflect the minimum information needed in order to allow the child access to the services, to allow the district to facilitate the services, and also to submit the required information to the state.

Who is responsible for child find activities for school-aged students who are homeschooled or those who attend private schools or charter schools?

The regulations that implement the IDEA require each State to have policies and procedures to ensure that “all children with disabilities . . . including children with disabilities who are homeless children or are wards of the State, and children with disabilities attending private schools, regardless of the severity of their disability, and who are in need of special education and related services, are identified, located and evaluated.” [34 C.F.R. § 300.111(a)(i)] In Arizona, each public education agency must have written procedures for the identification and referral of all children with disabilities within its boundaries of responsibility, including children with disabilities attending private schools and those who are home schooled. [A.A.C. R7-2-401(D)(1)] This is known as “child find.” A school district is responsible for identifying children with disabilities attending non-profit private schools located within its boundaries. [A.A.C. R7-2-401(D)(4)(b)] With regard to children with disabilities attending for-profit private schools, the school district responsible for child find activities is the district where the parent resides. [Letter to Chapman, 49 IDELR 163 (OSEP 2007)] Under Arizona statutes, homeschooled students are considered private school students. [A.R.S. § 15-763(C)] Charter schools are responsible for child identification activities for students enrolled in the

charter school. [A.A.C. R7-2-401(D)(4)(a)] However, charter schools are not responsible for outreach under the child find regulations because charter schools have no specific geographical boundaries.