



Guidance

IDEA Equitable Services at a Glance

Michigan Department of Education Office of Special Education
October 2023

Overview

Under the Individuals with Disabilities Education Act (IDEA) 34 CFR 300.132, each Local Education Agency (LEA)¹ must expend a portion of their IDEA, Part B, Section 611, Special Education, ages 3 through 21 (Flowthrough) and IDEA, Part B, Section 619, Special Education, ages 3 through 5 (Preschool)² allocation on special education and related services for IDEA eligible children with disabilities who are enrolled by their parents in non-profit, private elementary and secondary schools. In Michigan, as related to equitable services, private schools include nonpublic and home schools registered and approved by Michigan Department of Education (MDE) Nonpublic and Home School Office. To obtain a list of registered and approved nonpublic schools and for information on how to access registered and approved home schools, Intermediate School Districts (ISDs) can refer to the [MDE Nonpublic and Home Schools webpage](#). If an updated list is not posted on the webpage, the list can also be obtained by emailing nonpublicschools@michigan.gov. A list of registered and approved home schools is provided to ISD superintendents, typically in January and at the end of the fiscal year. The proportionate share allocation applies to children placed in private schools by their parents (parent choice), and the provision of a free appropriate public education (FAPE) is not in dispute. This set-aside is not for children who are placed in private schools by the LEA or other public agencies.

Intermediate School District (ISD) Requirements

MDE Office of Special Education (OSE) understands ISDs have different implementation models regarding how equitable services are provided to parentally placed private school children with disabilities (i.e., services performed by the ISD, services performed by the member district, or a combination of both). However, accountability and compliance are determined at the ISD level

¹ Local Education Agency (LEA): The IDEA definition of LEA includes ESAs. Therefore, in Michigan, an intermediate school district (ISD), regional education service agency (RESA), or educational service agency (ESA) are considered an LEA.

² The Preschool grant is administered by the Office of Great Start. Questions about proportionate share regarding Section 619 of the IDEA should be directed to that office.

regardless of the implementation model used since the ISD is the subrecipient of IDEA funds. Each ISD/member district must ensure compliance with the following requirements on an annual basis:

1. Timely and Meaningful Consultation

Before the ISD/member district makes any decisions regarding the participation of parentally placed private school children in IDEA programs, the IDEA requires the ISD/member district consult in a timely fashion 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" 34 CFR §300.134. ISDs/member districts must invite and consult with private school representatives and representatives of parents of eligible privately enrolled children educated in the ISD (See [OSEP Q&A Questions B-1](#), [B-2](#).) Required topics discussed during the consultation process include:

- the child find process;
- how proportionate share is calculated;
- an explanation that the consultation process is ongoing and how it will operate throughout the school year;
- how, where, and by whom special education and related services will be provided to the private school;
- and in the event there is a disagreement between the ISD/member district and private school regarding services, a written explanation of how the ISD/member district determined the provision of services.

See 34 CFR §300.134(a)–(e) for more specifics on the required topics for the consultation process. Consultation must be an ongoing process, not solely an annual meeting. Establishing a timeline for consultation can help ensure timely and meaningful consultation occurs throughout the year 34 CFR §300.134(c). Simply providing sign-in sheets as documentation that consultation occurred is not adequate. (See [OSEP Q&A Questions B-6](#), [B-7](#).)

2. Written Affirmation Following Consultation

The ISD/member district must obtain written affirmation, signed by the private school representatives, confirming timely and meaningful consultation has occurred. The written affirmation is confirmation consultation has occurred—not that there is agreement among meeting participants. If written affirmation is not received, the ISD must note this and

submit documentation to MDE OSE with an explanation of attempts made to obtain written affirmation.

3. Child Find

ISDs/member districts must ensure child find activities for children placed by their parents in private schools are conducted and are comparable to activities conducted for public school children. The ISD/member district must include all children placed by their parents in private schools located in the ISD boundaries and provide all private schools and the parents of children in private schools with information describing how children can access publicly funded evaluations and special education services. (See [OSEP Q&A Question A-2.](#))

4. Evaluation and Determination of Eligibility

ISDs/member districts must evaluate and determine whether children placed by their parents in private schools located within the ISD boundaries are eligible for special education services. ISDs/member districts may conduct their own evaluation or may accept a prior evaluation if the information is comprehensive and current. As part of its child find obligation, the ISD must collect and maintain the following records from their member districts and provide to MDE: the number of children evaluated, the number of eligible children with disabilities, and the number of children with disabilities receiving services in private schools within the ISD's jurisdiction. 34 CFR §300.132(c).

Activities in items 1-4 above are not allowable proportionate share costs. (See [OSEP Q&A Question A-11.](#))

5. Development of Services Plans

ISDs/member districts are responsible for ensuring each parentally placed private school child with a disability who has been designated to receive equitable services under either the Flowthrough or Preschool grant has a services plan describing the specific special education or related service(s) the ISD/member district will provide, including where and when the ISD/member district will provide services to the child. As a reminder, parentally placed private school children with disabilities do not have a right to a FAPE; therefore, parentally placed private school children with disabilities do not have an Individualized Education Plan (IEP). (See [OSEP Q&A Question A-5, A-6, E-1, E-3, E-4.](#))

6. Providing or Contracting for Services

Services may be provided by public school personnel qualified to provide special education services (employee or contractor) or nonpublic school personnel contracted by the ISD/member district. Nonpublic school personnel must perform services outside of their regular hours of duty 34 CFR §300.142(b)(1). Note: Nonpublic school teachers are not

required to meet special education teacher qualification requirements. (See [OSEP Q&A Questions G-1, G-2, G-4, G-5.](#))

Generally, unless there is a compelling rationale for these services to be provided off-site, ISDs/member districts should provide services on-site at the child's private school to not unduly disrupt the child's educational experience. (See [OSEP Q&A Question F-3.](#)) If necessary, however, ISDs/member districts may provide services at a public or neutral site convenient to the private school, on public school grounds, or contract for the provision of services at an appropriate site, ensuring they provide transportation to the child.

ISDs/member districts are not required to provide transportation from the child's home to the private school 34 CFR §300.139(b)(1)(ii). Proportionate share can only be charged for transportation expenditures to transport from the child's school or the child's home to a service 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 34 CFR §300.139(b)(2). (See [OSEP Q&A Question F-4.](#))

7. Child Count

ISDs must determine annually the number of parentally placed private school children with disabilities attending private schools located in the ISD boundaries and ensure the count is conducted on any date on or between October 1 and December 1. 34 CFR §300.133(c).

Typically, the ISD uses the fall child count from the previous year for the public and nonpublic counts, i.e., proportionate share calculation for 2022-23 Flowthrough 230450 grant would use the fall 2021 child counts. The parentally placed private school child count is based on the number of eligible children in nonpublic and home schools registered and approved by MDE Nonpublic and Home School Office, not just children receiving services. As a reminder, the child count is determined based on headcount, not full-time equivalency (FTE). (See [OSEP Q&A Questions A-7, A-8, D-7, N-2, N-3.](#))

Child counts needed for the proportionate share calculation include the following:

■ Flowthrough

- Number of eligible children (3-21) with disabilities in public schools within the ISD (Children with IEPs) and
- Number of parentally placed children (3-21) determined eligible in private elementary and secondary schools within the ISD.

■ Preschool

- Number of eligible children (3-5) with disabilities in public schools within the ISD (Children with IEPs) and

- Number of parentally placed children (3-5) determined eligible in private elementary schools within the ISD.

When determining the child count for children ages 3-5, the count will include children attending a private preschool program operated within and by a registered and approved private elementary school. The child count for children ages 3-5 also includes 4 and 5-year-olds in kindergarten, including developmental kindergarten. (See [OSEP Q&A Questions J-1, J-2, J-3.](#)) Because stand-alone private preschools or private childcare centers do not meet the definition of an elementary school in Michigan, those programs are not included in the ISD's proportionate share child count.

8. Proportionate Share Calculation

After the child find activities and eligibility determinations have been completed, each ISD must use those counts to calculate proportionate share. Separate calculations for the Flowthrough and Preschool grants must be completed. The calculations required for the Flowthrough proportionate share calculation include the following:

- Step 1: Calculate the average allocation per eligible child by dividing the total Flowthrough allocation by the total number of public and private eligible children (3-21) from the Flowthrough child count described in item 7.
- Step 2: Calculate the Flowthrough proportionate share amount by multiplying the average allocation per eligible child from Step 1 by the number of parentally placed children (3-21) determined eligible in private elementary and secondary schools within the ISD as described in the Flowthrough child count in item 7.

A similar calculation is performed for the Preschool grant for eligible children ages 3-5. ISDs can also utilize the [Proportionate Share Guidance and Example](#) or the [Proportionate Share Calculation Template](#) for additional assistance with the calculation. (See [OSEP Q&A Questions N-1, N-2, N-3.](#))

9. Proportionate Share Expenditure

State and local funds may be used to supplement but not supplant the required federal proportionate share expenditure. ISDs/member districts must maintain sufficient documentation of expenditures, (e.g., time and effort documentation, mileage, etc., related to IDEA and proportionate share). Examples of allowable and unallowable expenditures can be found in the [Proportionate Share Allowable Costs](#) document. As a reminder, the proportionate share allowable costs document is not an all-inclusive list of allowable and unallowable expenditures. (See [OSEP Q&A Question D-6, O-1, O-2, O-3, P-1, P-2.](#))

10. Carryover

If the ISD has not fully expended their Flowthrough and/or Preschool proportionate share allocations, in the aggregate, by the end of the initial 15-month spending period (e.g., July 2021 – September 2022), the ISD is required to carryover the unspent funds for an additional 12 months. All carryover funds for proportionate share must be expended before the proportionate share allocation for new grant funds can be utilized. (See [OSEP Q&A Question O-5.](#))

11. Recoding

If, after the full 27-month spending period (15-month initial and 12-month carryover period), the ISD is unable to fully spend the proportionate share allocation on allowable expenditures, the ISD, upon approval of MDE OSE, may recode unspent funds to be used for other allowable IDEA Part B expenditures from the same period of availability. If your ISD is in need of a recoding review, please contact John Andrejack, OSE Financial Manager, at AndrejackJ@michigan.gov as early February, but no later than April of the carryover period to inform MDE OSE of the need to initiate the process. Understand the ISD must be able to reasonably demonstrate compliance with the child find, consultation, and other requirements related to parentally placed private school children with disabilities in 34 CFR §§300.129—300.144 before approval will be granted.

Additional Resources

- [OSEP Q&A on Serving Children with Disabilities Placed by their Parents in Private Schools – February 2022](#)
- [Equitable Services: Proportionate Share and Recoding-October 2022](#)
- [MDE Proportionate Share Webpage](#)