FLORIDA DEPARTMENT OF EDUCATION

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Technical Assistance Paper

Students with Disabilities Enrolled by Their Parents in Private Schools

Summary:

Although there is no individual entitlement to a free appropriate public education (FAPE) for students with disabilities who have been enrolled by their parents in private schools, school districts where nonprofit private schools are located have an obligation to ensure that students with disabilities enrolled in these schools have an opportunity to participate in programs assisted by or carried out under Part B of the Individuals with Disabilities Education Act (IDEA). The purpose of this technical assistance paper is to provide all involved parties with guidance in the development and implementation of procedures for parentally-placed private school students with disabilities.

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TABLE OF CONTENTS

A. Background 1

A-1. What are the school district's obligations to parentally-placed private school students with disabilities? 1

A-2. Which private school students must the district serve? 1

B. Definitions 1

B-1. Who falls under the designation of "parentally-placed private school students"? 1

B-2. How are private elementary and secondary schools defined in Florida? 2

B-3. Are students who are placed by other state agencies considered parentally-placed private school students? 2

B-4. Are private prekindergarten programs considered private schools within the context of parentally-placed private school students? 2

B-5. Are prekindergarten (PreK) children with disabilities enrolled in private childcare programs or community-based early education and care programs considered parentally-placed private school students in the same manner as school-age children? 2

B-6. Are students identified solely as gifted students considered parentally-placed private school students for whom the district must ensure equitable participation? 3

C. Consultation 3

C-1. What does "consultation" mean for the purposes of equitable participation of private school students? 3

C-2. Is it required that the consultation process between the school district and the representatives of the private schools be documented? 4

C-3. What if a representative of a private school disagrees with the consultation process or the decisions made regarding the provision of services? 4

D. Child Find/Reevaluations 4

D-1. What is the school district's responsibility for child find activities for parentally-placed private school children? 4

D-2. Can the district require that the parent of a private school student provide information regarding the student's response to instruction or intervention in the student's current setting, prior to accepting the parent's request for evaluation? 5

D-3. How is PS/RtI implemented with students enrolled in private schools? 5

D-4. If a school district evaluates a parentally-placed private school student and determines that the student has a disability, must the district develop an IEP in order to make FAPE available to the student? 6

D-5. Can the school district where the private school is located and the school district of residence share information about a parentally-placed private school student (e.g., the results of an evaluation)? 7

D-6. Must the timing of child find for private school children be comparable to child find for public school children? 7

D-7. How is child find handled for out-of-state students who attend private schools located in Florida? 7
D-8. Are public agencies required to conduct triennial reevaluations of parentally-placed private school children with disabilities? 8
D-9. What is the procedure for conducting reevaluations of parentally-placed private school students? 8
D-10. What if the parent does not respond to attempts to obtain consent for formal assessment as part of a reevaluation? 8
D-11. What happens if, through the reevaluation process, the team determines that a parentally-placed private school student no longer is eligible as a student with a disability? 9

E. Services Provided 9
E-1. What types of services may the school district provide to private school students? 9
E-2. Are private school personnel providing equitable services under IDEA required to meet the highly qualified teacher requirements? 9
E-3. Is there any requirement about the location at which services may be provided? 10
E-4. If the services are not provided at the private school, who is responsible for transportation? 10
E-5. Is professional development for private school teachers an allowable service to be provided? 10
E-6. Can the school district place equipment and supplies for equitable services in a private school? 10
E-7. Can assistive technology devices and/or services be provided to parentally-placed private school students with disabilities? 10

F. Services Plan 11
F-1. What is the process for developing a services plan for a parentally-placed private school student with a disability? 11
F-2. Can an IEP be used as a services plan? 11

G. Funding 11
G-1. Is the proportionate share calculation only applicable to Part B entitlement funds? 11
G-2. How is the proportionate share for parentally-placed private school students with disabilities calculated? 11
G-3. Are students participating in the McKay Scholarships for Students with Disabilities Program to be counted as parentally-placed private school students? 12
G-4. Are students participating in home education included in the eligible count of parentally-placed private school students? 12
G-5. When should the count of parentally-placed private school students be collected? 12
G-6. What are appropriate expenditures when satisfying the proportionate share requirement? 13
G-7. Are there any circumstances by which Part B funds for equitable services may be paid directly to a private school? 13

G-8. May amounts expended for child find, including individual evaluations, be deducted from the required amount of funds to be expended on services for parentally-placed private school children with disabilities? 13
G-9. If the amount of the proportionate share to be expended by the school district has not been satisfied by the end of the fiscal year, is the school district obligated to expend the remaining amount in a "roll year"?.....13

H. Reporting Requirements..... 14
H-1. Are parentally-placed private school students reported through the state's automated student database?.....14
H-2. Are data reported for parentally-placed private school students who are not receiving services? 14

I. Procedural Safeguards..... 14
I-1. Do parentally-placed private school students with disabilities have the same right to request a due process hearing as students with disabilities enrolled in public schools? 14
I-2. Do the state complaint procedures apply to parentally-placed private school students in the same way they do for students with disabilities enrolled in public schools? 15

Appendix A: Parentally-Placed Private School Prekindergarten Children with Disabilities..... 16
Appendix B: Appendix B to Part 300 – Proportionate Share Calculation..... 17

A. Background

A-1. What are the school district's obligations to parentally-placed private school students with disabilities?

The requirements related to parentally-placed private school students with disabilities under the Individuals with Disabilities Education Act (IDEA) are found in sections 300.130 – 300.144, Title 34, Code of Federal Regulations (CFR). The corresponding state requirements are found in Rule 6A-6.030281, Florida Administrative Code (F.A.C.). In general, IDEA requires that school districts:

- Consult with private school representatives and representatives of parents of parentally-placed private school students with disabilities during the design and development of special education and related services for these students (34 CFR §300.134)
- Conduct child find activities to 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 (34 CFR §300.131)
- Provide opportunities for the participation of eligible students with disabilities in programs assisted by or carried out under Part B (34 CFR §300.132)
- Expend a proportionate amount of the Part B funds for providing special education and related services to parentally-placed private school students with disabilities (34 CFR §300.133)

A-2. Which private school students must the district serve?

As part of the reauthorization of IDEA in 2004, the obligation related to equitable participation of private school students shifted the district's responsibility from those parentally-placed private school students who *live* in the district, regardless of where the private school is located, to those students who *attend nonprofit private schools that are located in the district*, without regard to where the students reside. 34 CFR §300.130 clarifies that these are students with disabilities enrolled by their parents in private or facilities that meet the definition of elementary school in 34 CFR §300.13 or secondary school in 34 CFR §300.36 (i.e., nonprofit private schools).

B. Definitions

B-1. Who falls under the designation of "parentally-placed private school students"?

Under IDEA, parentally-placed private school students are students with disabilities who are enrolled by their parents in *nonprofit elementary or secondary private schools* as a result of parent choice. This includes children who are participating in voucher or scholarship programs (e.g., McKay Scholarship Program for Students with Disabilities, Corporate Tax Credit Program). It does not include students with disabilities placed by a public agency at a private school or facility as a means of providing special education and

related services, and does not include students participating in home education programs or students enrolled by their parents in *for-profit* private schools.
(Sections 1002.01 and 1002.41, Florida Statutes (F.S.); 34 CFR §300.130)

B-2. How are private elementary and secondary schools defined in Florida?

Section 1002.01(2), F.S., defines a "private school" as an individual, association, co-partnership, corporation, department, division, or section of such organizations that designates itself as an educational center that includes kindergarten or a higher grade. IDEA defines an "elementary school" as a nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under State law. A "secondary school" is defined as 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 doesn't include any education beyond grade 12. (34 CFR §§300.13 and 300.36)

B-3. Are students who are placed by other state agencies considered parentally-placed private school students?

No. Parentally-placed private school students are only those students who are placed by their parents in a nonprofit private school. In the case of a placement by a state agency (i.e., Department of Children and Families (DCF); Agency for Persons with Disabilities (APD); Agency for Health Care Administration (AHCA)), even if it is initiated at the request of the parents, it is the state agency making the placement. Such students are not considered parentally-placed private school students.
(34 CFR §300.130; s. 1003.57(3) and (4), F.S.)

B-4. Are private prekindergarten programs considered private schools within the context of parentally-placed private school students?

Yes, if the school where the prekindergarten program is located meets the statutory definition of a private school (i.e., includes kindergarten or a higher grade) and the federal definition of "a nonprofit institutional day or residential school," it is considered a private school. The students with disabilities enrolled there would be included in the required activities. (34 CFR §300.130)

B-5. Are prekindergarten (PreK) children with disabilities enrolled in private childcare programs or community-based early education and care programs considered parentally-placed private school students in the same manner as school-age children?

When an eligible PreK child is identified as a child with a disability, the school district offers to make a free appropriate public education (FAPE) available at a public school or through a district placement in a private school or other community program. In some cases, the individual educational plan (IEP) team may determine that the childcare or

other setting selected by the parent is the least restrictive environment (LRE) in which to provide FAPE to the child. (34 CFR §300.116)

No. If the parents **accept** the school district's offer of FAPE, the child is enrolled in the district, provided services in accordance with an IEP, and reported for funding through the Florida Education Finance Program (FEFP) for the amount of time services are provided. This process applies regardless of any other educational programs the child may be accessing independently of the services the school district provides (e.g., enrolled by the parent in a partial-day PreK program in a private school).

Yes. If the parents **refuse** the school district's offer of FAPE and choose to enroll the child in a PreK program in a school that meets the requirements described in B-1 above, then the child is in the pool of potentially eligible parentally-placed private school students.

Because the mandatory school attendance requirements do not apply to PreK children, the process for determining whether a prekindergarten-age child should be considered a parentally-placed private school student, and if so, which district is responsible for child find, can be confusing. See Appendix A of this technical assistance paper for a graphic representation of different conditions the district may encounter and the procedures for each.

B-6. Are students identified solely as gifted students considered parentally-placed private school students for whom the district must ensure equitable participation?

No. The IDEA requirements apply only to students with disabilities. School districts may elect to provide services to gifted students who are enrolled in private schools, but IDEA funds cannot be used to provide services to those students unless they are also students with disabilities. (34 CFR §300.130)

C. Consultation

C-1. What does "consultation" mean for the purposes of equitable participation of private school students?

Consultation is the process by which school districts engage in timely and meaningful discussions with private school representatives and representatives of parents of parentally-placed private school students to make decisions regarding the services that will be provided in order to ensure equitable participation of eligible private school students in federally funded special education and related services. In accordance with 34 CFR §300.134, the consultation process must address the following:

- The child find process and how parentally-placed private school children suspected of having a disability can participate equitably, including how parents, teachers, and private school officials will be informed of the process
- The determination of the proportionate amount of federal funds available to serve parentally-placed private school students, and how the amount was calculated

- How the consultation process will operate throughout the year, including when the private schools should expect meeting notices
- How, where, and by whom special education and related services will be provided, either directly or through a contract, including direct services and alternate service delivery mechanisms; how such services will be apportioned if funds are insufficient to serve all students; and how and when these decisions will be made
- How, if the school district disagrees with the views of the private school officials, the district will provide a written explanation of the reasons why the district chose not to provide services directly or through a contract

C-2. Is it required that the consultation process between the school district and the representatives of the private schools be documented?

Yes. Once the consultation process has occurred, the school district is to obtain written affirmation signed by the representatives of participating private schools. If they do not provide this written affirmation within a reasonable period of time, the district must forward its documentation of the consultation process to the Florida Department of Education. (34 CFR §300.135)

C-3. What if a representative of a private school disagrees with the consultation process or the decisions made regarding the provision of services?

If a school district disagrees with the views of private school officials on the provision of services or the types of services to be provided, the school district will provide to the private school officials a written explanation of the reasons why the school district chose not to provide the requested services, either directly or through a contract.

A private school representative has the right to submit a complaint to the state if the representative disagrees with the consultation process or the decisions made regarding the provision of services (that the school district did not engage in consultation that was meaningful and timely or did not consider the views of the private school). In this case, the private school representatives must provide documentation of their grievance with the Florida Department of Education. In turn, the school district must forward its appropriate documentation to the state. FDOE will investigate the complaint and render a decision. Should the private school representative still be dissatisfied, a complaint may be submitted to the Secretary of the U.S. Department of Education. (34 CFR §300.136)

D. Child Find/Reevaluations

D-1. What is the school district's responsibility for child find activities for parentally-placed private school children?

School districts must conduct child find for all children attending *nonprofit* private schools, including religious schools, located in the jurisdiction of the district, to identify students who are in need of special education and related services. Note, however, that if the private school operates as a *for-profit* school, then the district where the student resides is responsible for child find activities.

The child find activities must ensure equitable participation and an accurate count of parentally-placed private school students with disabilities enrolled in nonprofit private schools. In carrying out child find for parentally-placed private school children, districts must undertake activities similar to those undertaken for their publicly enrolled or publicly placed children. Some activities that districts may use to communicate with families and assist in identifying students who may have disabilities include widely distributing informational brochures, providing regular public service announcements, staffing exhibits at health fairs and other community activities, and creating direct liaisons with private schools. (34 CFR §§300.111(a)(1)(i) and 300.131(b) and (c))

If the parents of a private school student request an evaluation to determine if their child is a child with a disability, the district must promptly respond to the request. The district is not required to implement the general education intervention requirements related to public school students prior to obtaining consent for evaluation of a private school student. However, the district must ensure that, once consent is obtained, evaluations are conducted in accordance with State Board of Education rules related to particular areas of suspected disability, including implementation of progress monitoring and response to intervention procedures as appropriate, and that the evaluation is completed within 60 school days of which the student is in attendance. (Rule 6A-6.0331(1), F.A.C.)

D-2. Can the district require that the parent of a private school student provide information regarding the student's response to instruction or intervention in the student's current setting, prior to accepting the parent's request for evaluation?

No. The parent of a private school student or a home education student may request an evaluation and potentially provide no other data regarding the student's response to intervention in the current setting. The district's obligation to ensure general education interventions are implemented prior to referral does not apply to students enrolled in private schools. (Rule 6A-6.0331(1), F.A.C.)

D-3. How is PS/RtI implemented with students enrolled in private schools?

Once a parent requests an evaluation and consent is received, the district should collaborate with the parents and private school personnel, as appropriate, to gather any information which may be available. The group of qualified individuals must make decisions about what additional data are needed to determine whether a student is a student with a disability in need of special education and related services, including standardized assessment or progress monitoring data, and how best to collect it. School districts include in their ESE Policies and Procedures (SP&P) documents a description of their referral procedures for school-age students not enrolled in the public schools. Those procedures often incorporate methods for identifying and obtaining relevant data, include progress monitoring data that can be used to inform the problem solving/response to intervention (PS/RtI) process.

As with any evaluation, the team must complete the evaluation within the established timeline (i.e., 60 days of which the student is in attendance), and determine, based on the

available data and the criteria established in the relevant State Board of Education rules, whether the student has a disability and needs special education and related services. Because of the unique nature of the PS/RtI framework when applied to home education or private school students, districts must ensure that all reasonable effort is directed toward communicating and working with parents and private school staff to obtain the required information. In the event that a private school or parent is unable or unwilling to assist in the process or provide the information necessary to meet the evaluation and eligibility requirements for a given disability, despite reasonable efforts by the district to provide support or obtain the information in other ways, the team may determine that there are not sufficient data to determine eligibility. In that case, the student would be determined to be not eligible for ESE services.

D-4. If a school district evaluates a parentally-placed private school student and determines that the student has a disability, must the district develop an IEP in order to make FAPE available to the student?

The *Analysis of Comments and Changes* section of the regulations related to child find for parentally-placed private school students with disabilities found at 71 Federal Register (Fed. Reg.) 46593 states that, "If a determination is made by the LEA [local educational agency] where the private school is located that a child needs special education and related services, the LEA where the child resides is responsible for making FAPE available to the child. If the parent makes clear his or her intention to keep the child enrolled in the private elementary school or secondary school located in another LEA, the LEA where the child resides need not make FAPE available to the child."

Previous technical assistance issued by the U.S. Department of Education, Office of Special Education Programs (OSEP) in Memorandum 00-14, *Questions and Answers on Obligations of Public Agencies in Serving Children with Disabilities Placed by Their Parents at Private Schools* (May 4, 2000), stated that "If the parents make clear their intention to enroll their child at a private school and that they are not interested in a public program or placement for their child, the public agency need not develop an IEP for the child." The regulations in place at that time established the district of residence as the party responsible for conducting child find activities for *all* students, regardless of enrollment. This response does not directly address the situation in which the student attends a private school located in the district of residence.

Yes. In addition, House Bill (HB) 1505 provides for eligibility for the McKay Scholarship for Students with Disabilities Program if the following criteria are met:

- The child was enrolled and reported by a Florida public school district for funding, during the October and February Florida Education Finance Program surveys, in any year between July 1, 2005, and June 30, 2010
- The child has a current individualized educational plan (IEP) developed by the district school board **no later than June 30, 2011**
- The child receives the McKay Scholarship for the first time in the 2011-12 school year

The bill requires the school district to "complete a matrix of services… for a student requesting a current individual educational plan…" Unlike the McKay Scholarship requirements under s. 1002.39(2), F.S., which require that the student be enrolled in the district and have a current IEP in place, a student availing him/herself of the McKay Scholarship under HB 1505 may not have a current IEP upon which to base a matrix. For those students, the district must determine whether the student is an eligible student with a disability, and if so, complete a matrix of services based on a current IEP. This requires that, for the period from July 1, 2010, when the bill became effective, and June 30, 2011, the district must develop an IEP for a parentally-placed private school student, even if the parents make clear their intent to enroll the student in a private school.

Therefore, with the exception of students availing themselves of the provisions of House Bill (HB) 1505 regarding the McKay Scholarship Program for Students with Disabilities, the district need not develop an IEP for a parentally-placed private school student whose parents have made clear their intent not to enroll their child in the public school.

D-5. Can the school district where the private school is located and the school district of residence share information about a parentally-placed private school student (e.g., the results of an evaluation)?

IDEA requires parental consent before any personally identifiable information about the student is released between the school district where the private school is located and the school district of the student's residence (34 CFR §300.622(b)(3)). If sharing information would facilitate identifying and serving the child (e.g., facilitating the ability of the district of residence to make FAPE available to the student), it may be appropriate to seek parental consent, but the district is not required to share the information.

D-6. Must the timing of child find for private school children be comparable to child find for public school children?

Yes. Activities undertaken to carry out child find must be comparable and equitable for both groups; this includes the timing of the activities. The child find process must be completed in a time period comparable to that for students attending public schools in the district. As with students enrolled in the public schools, individual evaluations must be completed within the required 60-day timeline, and the district must ensure that eligibility determination occurs with no unreasonable delay. (34 CFR §300.131(e))

D-7. How is child find handled for out-of-state students who attend private schools located in Florida?

Child find responsibilities are the same regardless of where the student resides. The school district where the private school is located remains the responsible party for child find activities for those students attending private, including religious, elementary schools and secondary schools located in the school district. (34 CFR §300.131(f))

D-8. Are public agencies required to conduct triennial reevaluations of parentally-placed private school children with disabilities?

Yes. The school district is responsible for ensuring a reevaluation is conducted at least once every three years, unless the parent and the district agree that a reevaluation is not necessary. One purpose of reevaluation is to determine whether the student continues to be a student with a disability, and as such it is a part of the school district's child find responsibilities. An accurate annual count of eligible students with disabilities enrolled in public and private schools within the district is critical in calculating the proportionate share of funds that must be expended.
(34 CFR §§300.303, 300.305(a)(2)(i)(B), and 300.133(c))

D-9. What is the procedure for conducting reevaluations of parentally-placed private school students?

The three-year reevaluation requirement applies to all eligible parentally-placed private school students, including those eligible students not currently receiving services from the school district. The school district where the private school is located is responsible for ensuring the reevaluation is conducted. However, the school district has flexibility as to how this is accomplished. For example, the district may assume the responsibility itself, contract with another public agency (such as the school district of residence), or make other arrangements. (34 CFR §300.131; 71 Fed. Reg. 46592–46593)

The district should establish a procedure for notifying the private school and the parents that a reevaluation is due and for ensuring that the reevaluation is completed. The following are strategies that a district might use to fulfill the reevaluation requirements:

- Schedule a telephone conference with the private school staff and the parent. During this call, discuss existing information regarding the student, such as a review of student progress, current classroom-based assessments, and teacher observations. If, at the conclusion of the discussion, it is determined that a formal evaluation is required, obtain parental consent prior to any testing.
- Arrange for a meeting with private school staff and the parent to conduct the activities described above.
- Collect input from private school staff and the parent via a district-developed form. The information captured from this form should provide information on the student's current progress, classroom-based assessments, and any staff observations. If formal assessment is required, parent consent is needed prior to conducting any testing.

D-10. What if the parent does not respond to attempts to obtain consent for formal assessment as part of a reevaluation?

If the parent does not provide consent for reevaluation, or fails to respond to a request to provide consent, the school district is not required to consider the child as eligible for services as a parentally-placed private school student with a disability. However, to meet

the reasonable efforts requirement regarding obtaining parental consent, the school district must document its attempts to obtain that consent (e.g., detailed records of telephone calls made or attempted, and the results of those calls; copies of correspondence sent to the parents, and any responses received).
(34 CFR §300.300(d)(4) and (5))

D-11. What happens if, through the reevaluation process, the team determines that a parentally-placed private school student no longer is eligible as a student with a disability?

If the team determines that the student is no longer eligible for services as a student with a disability, the student must be dismissed. In that case, the student would no longer be eligible for consideration for services as a parentally-placed student with a disability under IDEA. (34 CFR §300.305(e)(1))

Note, however, that a student's McKay Scholarship remains in place until the student returns to a public school, graduates from high school, or reaches the age of 22, whichever occurs first. (s. 1002.39(4)(a), F.S.)

E. Services Provided

E-1. What types of services may the school district provide to private school students?

The specific types of services to be provided are based on information obtained during the school district's consultation with representatives of private schools and parents of students with disabilities. The school district makes the final decision with respect to the services provided. (34 CFR §300.137)

Services that may be provided include, but are not limited to, the following:

- Speech and language therapy
- Occupational and physical therapy
- Consultative services
- Specific instructional materials
- Specific professional development for teachers
- Assistive technology

E-2. Are private school personnel providing equitable services under IDEA required to meet the highly qualified teacher requirements?

No. Private elementary school and secondary school teachers who are providing equitable services to parentally-placed private school children with disabilities do not have to meet the highly qualified special education teacher requirements of 34 CFR §300.18.
(34 CFR §300.18(h) and §300.138(a))

E-3. Is there any requirement about the location at which services may be provided?

No. Services may be provided on-site at the private school, including religiously affiliated private schools, at a public school, or at some other mutually agreed upon site. (34 CFR §300.139)

E-4. If the services are not provided at the private school, who is responsible for transportation?

If transportation is required for the student to benefit from or participate in the services provided, then the school district must provide transportation from the student's school or the student'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. The school district is not required to provide transportation between the student's home and the private school. Transportation costs incurred by the school district may be included in the expenditures toward satisfying the proportionate share amount. (34 CFR §300.139(b))

E-5. Is professional development for private school teachers an allowable service to be provided?

Yes. There is no stipulation in IDEA that excludes professional development for private school teachers as a means of facilitating special education and related services for those students with disabilities enrolled in private schools through parental choice. (34 CFR §300.134(d)(1))

E-6. Can the school district place equipment and supplies for equitable services in a private school?

Yes. However, equipment and supplies are property of the school district and are to be placed in a private school only for the period of time needed for the program. They must be used for meeting the district's obligations under IDEA, Part B for parentally-placed private school students. Removal of the equipment and supplies from a private school must occur when the equipment and supplies are no longer needed for Part B purposes or if removal is necessary to avoid unauthorized use of the equipment and supplies for other than IDEA purposes. (34 CFR §300.144)

E-7. Can assistive technology devices and/or services be provided to parentally-placed private school students with disabilities?

Yes, as long as the services plan team determines that the student needs assistive technology devices or services as specially designed instruction, related services, or supplementary aids and services, and these devices or services are included in the services the school district has agreed to provide through its proportionate share obligation. (34 CFR §300.138)

F. Services Plan

F-1. What is the process for developing a services plan for a parentally-placed private school student with a disability?

To the extent appropriate, a services plan must parallel the IEP content requirements and must be developed, reviewed, and revised consistent with the requirements for IEP development, review, and revision. Note, however, that the plan need only include information related to those specific services that the school district has determined the student will receive in accordance with the consultative agreement. (34 CFR §300.138(b))

The school district ensures that a representative of the private school attends each meeting for development of a services plan. If the private school representative cannot attend, then other methods, such as individual conference telephone calls, should be used. (34 CFR §300.137(c)(2))

F-2. Can an IEP be used as a services plan?

No. Rule 6A-6.03411(1)(hh), F.A.C., defines a services plan as "a written statement that has been developed and implemented in accordance with Rule 6A-6.030281, F.A.C., and describes the special education and related services that a school district will provide to a parentally-placed student with a disability enrolled in a private school…, including the location of the services and any transportation necessary." A services plan contains only information relevant to the special education and related services to be provided to the student. An IEP used as a services plan would not be appropriate as it contains additional information that might imply that the student is entitled to FAPE. (71 Fed. Reg. 46596)

G. Funding

G-1. Is the proportionate share calculation only applicable to Part B entitlement funds?

No, the proportionate share calculation applies to Part B entitlement funds and to preschool funds. (71 Fed. Reg. 46814)

G-2. How is the proportionate share for parentally-placed private school students with disabilities calculated?

The proportionate share calculation described in Appendix B to 34 CFR Part 300 (71 Fed. Reg. 46814) is included as Appendix B in this TAP. The proportionate share is calculated using the proportion of eligible parentally-placed private school students compared to the total population of eligible students in the school district multiplied by the district's IDEA, Part B funds for the school year and Part B preschool amounts. An example is provided below:

First, determine how many "eligible" students are enrolled in public or nonprofit private schools located in the school district (those students who have been evaluated

and determined eligible as students with disabilities in accordance with IDEA and Florida State Board of Education rules).

90 eligible public school students
+ 10 eligible private school students
= 100 total population of eligible students

Next, determine the district's IDEA Part B and Part B Preschool allocation. For this example, assume the allocation is $100,000. There are two ways to calculate the proportionate share:

I. (Allocation) x (# eligible private school students) ÷ (total # of eligible students)
$100,000 x 10 ÷ 100 = $10,000 proportionate share amount

II. (Allocation) ÷ (total # of eligible students) x (# eligible private school students)
$100,000 ÷ 100 x 10 = $10,000 proportionate share amount

G-3. Are students participating in the McKay Scholarships for Students with Disabilities Program to be counted as parentally-placed private school students?

Yes, if the student continues to be identified as a child with a disability and is enrolled in a nonprofit private school. However, if the student has been dismissed from ESE, the student would not be counted among the eligible students. (34 CFR §300.130)

G-4. Are students participating in home education included in the eligible count of parentally-placed private school students?

No. The *Analysis of Comments and Changes* section related to 34 CFR §300.133 (71 Fed. Reg. 46594) states that whether home-schooled students are considered parentally-placed private school students is a matter of state law. In Florida, students who are enrolled in a home education program are not considered parentally-placed private school students. (s. 1002.01(2), F.S.)

G-5. When should the count of parentally-placed private school students be collected?

For the purpose of calculating the proportionate share for the upcoming school year, districts should count eligible parentally-placed private school students during Survey 2 in October of each year, which is the time period during which public school students with disabilities are counted and reported to FDOE. This allows for a common time period for counting eligible students for the purpose of calculating proportionate share. This does not exclude parentally-placed private school students found eligible after October from consideration for services during that school year. (34 CFR §300.133(c))

G-6. What are appropriate expenditures when satisfying the proportionate share requirement?

Appropriate expenditures include all costs associated with providing special education and related services for parentally-placed private school students with disabilities. This includes personnel costs for salaries or contracted services positions. Applicable costs may also include staff development and training, equipment for students with disabilities, instructional materials and supplies, and the costs of providing transportation. Costs must be allocable to providing special education and related services for students with disabilities enrolled in private schools but not meeting the needs of the private school or the general needs of the students enrolled in the private school.
(34 CFR §§300.141–300.144)

G-7. Are there any circumstances by which Part B funds for equitable services may be paid directly to a private school?

No. Part B funds for equitable services may not be used to finance the existing level of instruction in a private school or to otherwise benefit the private school. The school district must control and administer the funds used to provide special education and related services and maintain title to any materials, equipment, or property purchased with those funds. (34 CFR §§300.141 and 300.144)

G-8. May amounts expended for child find, including individual evaluations, be deducted from the required amount of funds to be expended on services for parentally-placed private school children with disabilities?

No. The statutory provisions regarding child find and participation of parentally-placed private school children with disabilities in programs assisted or carried out under Part B of IDEA are separate and distinct obligations. The child find obligation, including individual evaluations (both initial and reevaluations), exists independently from the services provision. Therefore, the costs of child find activities, including individual evaluations, may not be considered as part of the proportionate share expenditure requirement. (34 CFR §300.131(d))

G-9. If the amount of the proportionate share to be expended by the school district has not been satisfied by the end of the fiscal year, is the school district obligated to expend the remaining amount in a "roll year"?

Yes. School districts must document all applicable expenditures for satisfying the proportionate share amount. Any remaining funds from the first year must be obligated for special education and related services (including direct services) to parentally-placed private school children with disabilities during a carry-over ("roll") period of one additional year. (34 CFR §300.133(a)(3))

H. Reporting Requirements

H-1. Are parentally-placed private school students reported through the state's automated student database?

Parentally-placed private school students **receiving services through a services plan** must be reported for each designated survey period during the school year. With the exception of McKay Scholarship students, use N999 to identify the school of enrollment. For McKay Scholarship students, use 3518 to identify the school of enrollment. Refer to the *Database Manual* available through the Education Information and Accountability services website at http://www.fldoe.org/eias for additional information.

H-2. Are data reported for parentally-placed private school students who are not receiving services?

Each school district must maintain in its records, and provide to the state, the following information related to parentally-placed private school children covered under 34 CFR §§300.130 through 300.144.

- The number of children evaluated
- The number of children determined to be children with disabilities
- The number of children served (34 CFR §300.132(c))

However, only those students who are receiving services based on a services plan should be reported through the automated student database (see the *Database Manual* at http://www.fldoe.org/eias).

I. Procedural Safeguards

I-1. Do parentally-placed private school students with disabilities have the same right to request a due process hearing as students with disabilities enrolled in public schools?

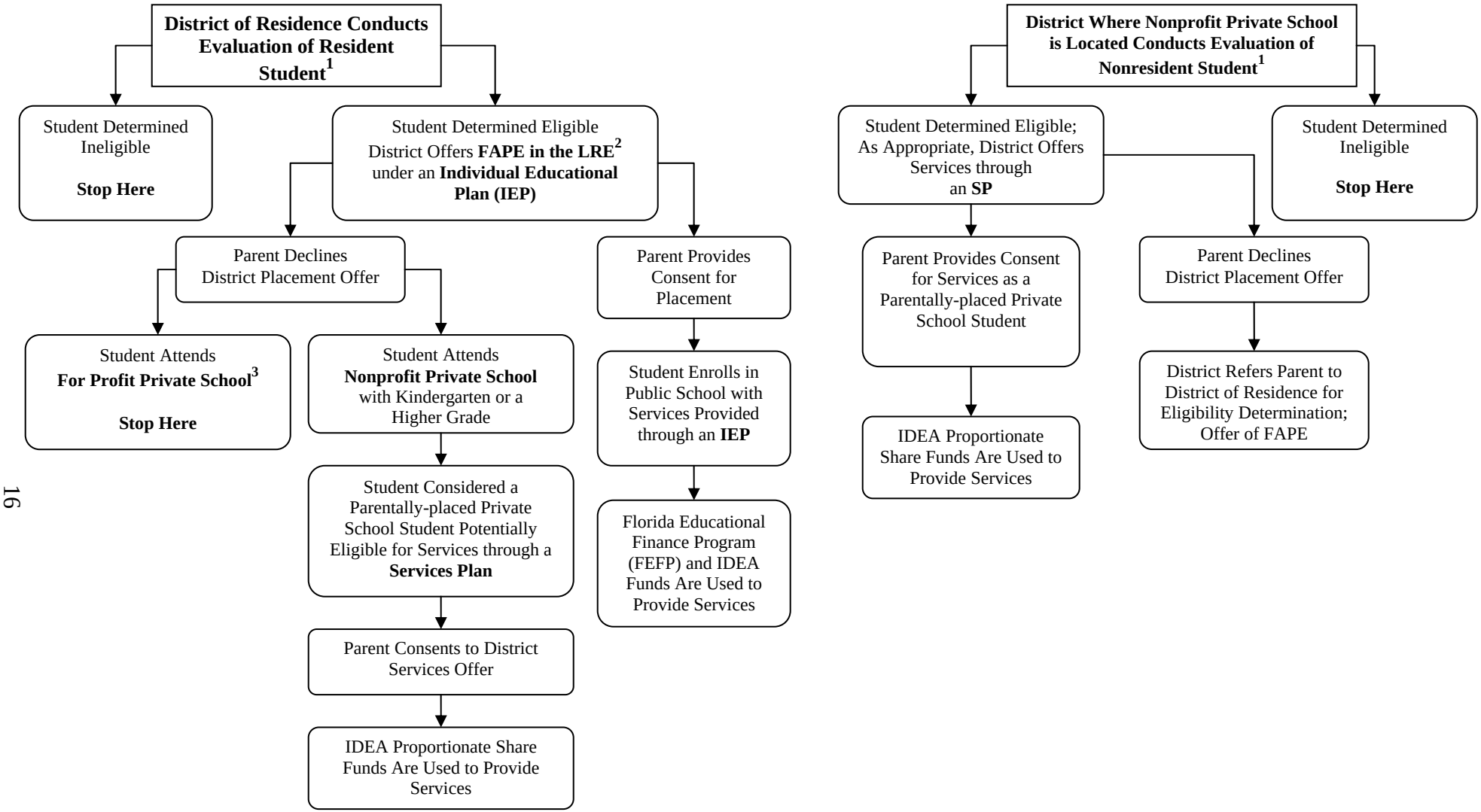
No. Unlike for students enrolled in public schools, due process is not applicable, except in the case of child find. The due process procedures described in 34 CFR §§300.504–300.519 apply only to issues involving the identification and evaluation of parentally-placed private school children with disabilities, including reevaluations. Disagreements between parents and the school district related to eligibility for special education and related services, a district's refusal to conduct an evaluation, or a district's refusal to conduct an evaluation within a reasonable period of time are some issues that could be resolved through due process proceedings. (34 CFR §300.140(a))

A due process hearing request indicating that child find has not taken place must be filed with the school district where the private school is located, and a copy must be forwarded to FDOE. (34 CFR §300.140(b))

I-2. Do the state complaint procedures apply to parentally-placed private school students in the same way they do for students with disabilities enrolled in public schools?

Yes. A parent, a private school official, or another individual or organization may file a state complaint alleging that the school district failed to meet any of the requirements related to equitable participation of parentally-placed private school students with disabilities (e.g., provision of services, proportionate share, the consultation process). A signed written complaint must be submitted to FDOE and forwarded to the school district serving the child at the same time the complaint is filed. A request for mediation also may be submitted to resolve disputes. (34 CFR §300.140(c))

Appendix A
Parentally-Placed Private School Prekindergarten Children with Disabilities



NOTES

1. When a preschool child resides in one district but attends a nonprofit private school located in a different district, the two districts should communicate to mutually determine the best plan for evaluation.
2. Services that constitute FAPE for a preschool child may reflect a broad range of frequency and intensity and may not necessarily include full-time enrollment in an exceptional student education (ESE) program (e.g., a child for whom FAPE is speech therapy on a twice weekly basis or a part-day program).
3. These students must not be included in the proportionate share calculation. Districts may choose to offer services funded through general revenue; however, there are no rules designating the type of plan that would apply (i.e., IEP representing FAPE or SP representing services provided at district discretion under its IDEA obligation).

Appendix B

Appendix B to Part 300 – Proportionate Share Calculation

71 Federal Register 46814

Each LEA must expend, during the grant period, on the provision of special education and related services for the parentally-placed private school children with disabilities enrolled in private elementary schools and secondary schools located in the LEA an amount that is equal to –

(1) A proportionate share of the LEA's subgrant under section 611(f) of the Act for children with disabilities aged 3 through 21. This is an amount that is the same proportion of the LEA's total subgrant under section 611(f) of the Act as the number of parentally-placed private school children with disabilities aged 3 through 21 enrolled in private elementary schools and secondary schools located in the LEA is to the total number of children with disabilities enrolled in public and private elementary schools and secondary schools located in the LEA aged 3 through 21; and

(2) A proportionate share of the LEA's subgrant under section 619(g) of the Act for children with disabilities aged 3 through 5. This is an amount that is the same proportion of the LEA's total subgrant under section 619(g) of the Act as the total number of parentally-placed private school children with disabilities aged 3 through 5 enrolled in private elementary schools located in the LEA is to the total number of children with disabilities enrolled in public and private elementary schools located in the LEA aged 3 through 5.

Consistent with section 612(a)(10)(A)(i) of the Act and Sec. 300.133 of these regulations, annual expenditures for parentally-placed private school children with disabilities are calculated based on the total number of children with disabilities enrolled in public and private elementary schools and secondary schools located in the LEA eligible to receive special education and related services under Part B, as compared with the total number of eligible parentally-placed private school children with disabilities enrolled in private elementary schools located in the LEA. This ratio is used to determine the proportion of the LEA's total Part B subgrants under section 611(f) of the Act for children aged 3 through 21, and under section 619(g) of the Act for children aged 3 through 5, that is to be expended on services for parentally-placed private school children with disabilities enrolled in private elementary schools and secondary schools located in the LEA.

The following is an example of how the proportionate share is calculated:

- There are 300 eligible children with disabilities enrolled in the Flintstone School District and 20 eligible parentally-placed private school children with disabilities enrolled in private elementary schools and secondary schools located in the LEA for a total of 320 eligible public and private school children with disabilities (note: proportionate share for parentally-placed private school children is based on total children eligible, not children served).
- The number of eligible parentally-placed private school children with disabilities (20) divided by the total number of eligible public and private school children with disabilities (320) indicates that 6.25 percent of the LEA's subgrant must be spent for the group of eligible parentally-placed children with disabilities enrolled in private elementary schools and secondary schools located in the LEA.

- Flintstone School District receives $152,500 in Federal flow through funds. Therefore, the LEA must spend $9,531.25 on special education or related services to the group of parentally-placed private school children with disabilities enrolled in private elementary schools and secondary schools located in the LEA. (Note: The LEA must calculate the proportionate share of IDEA funds before earmarking funds for any early intervening activities in Sec. 300.226).

The following outlines the calculations for the example of how the proportionate share is calculated for parentally-placed private school children with disabilities for Flintstone School District:

Student Count

Number of eligible children with disabilities in public schools in the LEA	300
Number of parentally-placed eligible children with disabilities in private nonprofit elementary schools and secondary schools located in the LEA	+ 20
Total number of eligible children	320

Federal Flow-Through Funds to Flintstone School District

Total allocation to Flintstone	$152,500

Calculating Proportionate Share

Total allocation to Flintstone	$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	$9,531.25