## DESE Logo

## IDEA Equitable Services Quick Reference Guide

## Overview

Districts have an obligation to locate and evaluate students with disabilities enrolled by their parents in private schools located within the district, and to calculate and spend a proportionate share of federal special education (Individuals with Disabilities Education Act or IDEA) grant funds providing equitable services for these students. IDEA entitlement grants are awarded to Massachusetts districts under DESE Fund Codes 0240 (students age 3-21) and 0262 (students age 3-5).

Privately-enrolled students include students at secular, non-secular, and independent schools, and home-schooled students. **Please review the Department’s guidance on proportionate share requirements,** [**Special Education Administrative Advisory SPED 2018-1**](http://www.doe.mass.edu/sped/advisories/2018-1.pdf#page=1) (2018-1 Advisory) **for more detailed information.**

## District Requirements

Each district must comply with the following requirements on an annual basis:

| **1.** | **Timely and Meaningful Consultation.**  Prior to other required activities, districts must invite and consult with private school and home school representatives, and representatives of parents of eligible privately-enrolled students educated in the district. Topics that must be discussed are: child find process, determination of proportionate share, consultation process, provision of special education and related services, and provision of a written explanation by the district regarding services (in the event of disagreement between the district and private school officials). Although the initial consultation must occur prior to other required activities, additional consultation may occur subsequently and be an ongoing process. |
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| **2.** | **Written Affirmation Following Consultation.** The district must obtain written affirmation confirming that timely and meaningful consultation has occurred, signed by the private school representatives and home school representatives. A sample written affirmation can be found [here](http://www.doe.mass.edu/sped/advisories/2018-1.pdf#page=1) (2018-1 Advisory at Attachment C). The written affirmation is confirmation that consultation has occurred—not that there is agreement among meeting participants. If participants do not sign, the district must forward documentation of the consultation to the Department at: [IDEAequitableservices@doe.mass.edu](mailto:IDEAequitableservices@doe.mass.edu). |
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| **3.** | **Child Find.** Child find activities for privately-enrolled students must be conducted by the district and must be comparable to those conducted for public school students. The district must include all privately-enrolled students educated in the district, and provide all private schools and privately-enrolled students with information describing how students can access publicly-funded evaluations and special education services.  For preschool-aged students (3-5), only those who attend a private preschool program meeting the definition of an elementary school under the law may be included. Because stand-alone private preschools or private childcare centers do not provide “elementary education” consistent with the federal definition of elementary schools, otherwise-eligible preschool-aged children attending those programs are not included in the district’s proportionate share child count. |
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| **4.** | **Evaluation and Determination of Eligibility.** Districts must evaluate and determine whether privately-enrolled students educated within the district’s boundaries are eligible for special education services. Districts may conduct their own evaluation or may accept a prior evaluation if the information is comprehensive and current. |
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| **5.** | **Child Count and Proportionate Share Calculation.** As described on [the DESE website](http://www.doe.mass.edu/sped/advisories/2018-1.pdf#page=1%20(2018-1%20Advisory%20at%2011-12)), districts must determine the number of eligible students who are privately-enrolled and educated within the district. The child count is the number of *eligible* students, not the number of such students receiving services. Child count must be performed on any date between October 1 and December 1, inclusive, of each year. |

| **6.** | **Proportionate Share Expenditure**. Districts determine which services to provide following consultation with representatives of the private schools located in the district and parent representatives of eligible private school and/or home-schooled students. State and local funds may be used to *supplement but not supplant* the required expenditure of federal funds. Examples of allowable and unallowable expenditures can be found [here](http://www.doe.mass.edu/sped/advisories/2018-1.pdf#page=1) (2018-1 Advisory at 11-12). Districts must document expenditures and other activities related to IDEA and proportionate share. |
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| **7.** | **Development of Services Plans.** Districts are responsible for ensuring that each parentally-placed private school student with a disability who has been designated to receive proportionate share services under either the 240 or 262 grant has a services plan describing the specific special education services that the district will provide, including where and when the district will provide services to the student. A sample services plan can be found [here](http://www.doe.mass.edu/sped/advisories/2018-1.pdf#page=1) (2018-1 Advisory at Attachment E). |
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| **8.** | **Providing or Contracting for Services.** In expending federal IDEA Part B funds, districts may provide services at the private school, 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 that they provide transportation to the student. |

## FAQs

1. ***Can the district give the proportionate share funds to the private school to provide equitable services?***No. The control of funds used to provide special education services and the control of materials, equipment, and property purchased with those funds is the sole responsibility of the public school district. With regard to personnel, [34 C.F.R. § 300.142](https://www.ecfr.gov/cgi-bin/text-idx?SID=f8a3e1dcfedbaa7e7b4b6115f1012436&mc=true&node=se34.2.300_1142&rgn=div8) states that the district “may use funds available under [special education grants] to pay for the services of an employee of a private school to provide services…if the employee performs the services outside of his or her regular hours of duty, and the employee performs the services under public supervision and control.”
2. ***Can families receive some of their services at their private school when funded by proportionate share and the rest of their services at the local public school?*** Yes, the district can provide services using federal funds to students at the location of the private school, in another location, or at the public school. The terms of service and their location are determined after consultation.
3. ***What happens if the district does not use all of the proportionate share of 0240 or 0262 funds by the end of the fiscal year for which Congress appropriated the funds?*** If a district has not expended its proportionate share minimum obligation of federal funds for either grant by the end of the fiscal year, the district must obligate and carry over the remaining funds for special education and related services for privately-enrolled students for one year.
4. ***What if the district cannot spend the proportionate share funds after the one-year carry-over expires?*** Districts should make every effort to spend the proportionate share funds each year, including any carry-over from the prior year. If, after the carry-over period, the district is unable to expend the entire proportionate share of funds due to exceptional circumstances, and assuming the district has complied with all requirements in [34 C.F.R. §§ 300.129](https://www.ecfr.gov/cgi-bin/text-idx?SID=f8a3e1dcfedbaa7e7b4b6115f1012436&mc=true&node=se34.2.300_1129&rgn=div8)-[300.144](https://www.ecfr.gov/cgi-bin/text-idx?SID=f8a3e1dcfedbaa7e7b4b6115f1012436&mc=true&node=se34.2.300_1144&rgn=div8), the district may use the unexpended funds—at the end of the period during which the funds may be spent on parentally-placed private school children—to pay for other allowable Part B expenditures. *See* [2011 U.S. Dept. of Educ. Q&A](https://sites.ed.gov/idea/files/Private_School_QA_April_2011.pdf) at Question H-5. The district should document and retain records of all efforts made, even if unsuccessful, to spend the proportionate share funds.

For additional FAQs, please review the [**2018-1 Advisory**](http://www.doe.mass.edu/sped/advisories/2018-1.pdf#page=1)**.**