



ILLINOIS STATE BOARD OF EDUCATION

September 23, 2008

Memorandum #08-2

Additional Clarification Regarding Proportionate Share Obligations

*This document is intended to provide non-regulatory guidance on the subject matter listed above.
For specific questions, please contact the person(s) identified in the document.*

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MEMORANDUM #08-2

TO: District Superintendents
Directors of Special Education
Other Interested Parties

FROM: Elizabeth Hanselman *Elizabeth Hanselman*
Assistant Superintendent for Special Education

DATE: September 23 2008

SUBJECT: Additional Clarification Regarding Proportionate Share Obligations

Over the last several months, a number of new issues have begun to emerge in the wake of implementing the “proportionate share” mandates of IDEA 2004 for parentally-placed private school students and their interplay with Section 14-6.01 of the Illinois School Code which addresses private school students with disabilities that dually-attend a public school program. To address these principal issues, additional guidance is offered below. For further background, you are encouraged to review our previous guidance memoranda on parentally placed private school students at:

http://www.isbe.net/spec-ed/pdfs/guidance_06-2.pdf

http://www.isbe.net/spec-ed/pdfs/guidance_5-7.pdf

http://www.isbe.net/spec-ed/pdfs/memo_05-7.pdf

1. Proportionate Share for Students Ages 3-5

Recent comments and concerns raised by both parents and school districts indicate that questions persist about the students and entities for whom local districts have responsibility under the “proportionate share” provisions of IDEA 2004. This is particularly the case concerning children who fall within the 3-5 year age range. The following guidelines are therefore suggested to clarify the relative obligations of districts of residence and so-called “serving districts” (i.e., districts responsible for serving students attending private schools within the boundaries of the district regardless of residence). Please note that these guidelines cover both child-find obligations and the obligation to provide service to such children.

For purposes of determining which facilities fall under proportionate share use the following guidelines:

- For-profit daycare facilities, as well as pre-kindergarten and pre-school programs, are **not** considered “elementary schools” for the purposes of proportionate share. See 34 CFR 300.130, also 34 CFR 300.13, 300.16 – **Responsible District: District of Residence.**

- Not-for-profit daycare facilities and pre-kindergarten programs that include an active kindergarten program (i.e., with kindergarten-ages students in actual attendance) **are** considered elementary schools and do fall under proportionate share – **Responsible District: Serving District.**
- If any part of a not-for-profit, private educational facility is recognized as falling under the proportionate share service requirements, the entire facility shall fall under proportionate share guidelines – **Responsible District: Serving District.**

In cases where pupils are being served in a facility, based on the guidelines listed above, that is NOT considered to fall under proportionate share guidelines, those pupils should be directed to their districts of residence to determine their eligibility to receive special education and related services, as well as to access any possible services that may be available to such children through the district of residence (with appropriate enrollment and attendance). Districts are encouraged to share the contents of this guidance memorandum with inquiring parents.

2. Timely and Meaningful Consultation Requirements for the 2008-2009 School Year and Subsequent Years

All local Illinois school districts will be expected to conduct Timely and Meaningful Consultation (“TMC”) with representative of their local private schools, as well as parent representatives of those schools. TMC shall be conducted following the guidelines set forth previously in our Memorandum #06-2. For the 2008-09 school year and all subsequent school years, TMC shall be completed by local school district no later than October 15th of the school year. All documentation required to be submitted to ISBE (again as described in Memorandum #06-2) shall be submitted by no later than November 1st of the school year.

For further information, please contact one of the following staff members in Special Education Services at 217-782-5589:

- Bonnie Douglas
- Andrew Eulass
- Julie Evans
- Marcia Kelley