



Illinois State Board of Education

November 2015

Guidance Document

15-9

IDEA Proportionate Share Services for Parentally Placed Nonpublic Students with Disabilities

*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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To: Directors of Special Education
District Superintendents
Other Interested Parties

From: David Andel
Division Administrator
Special Education Services

Date: November 2015

Subject: IDEA Proportionate Share Services for Parentally Placed Nonpublic Students with Disabilities

The Illinois State Board of Education has provided multiple guidance memoranda specific to the responsibilities of local education agencies (LEAs) in providing services to parentally placed students with disabilities who attend nonpublic schools, including home-schooled students. The guidance documents were recently reviewed for revisions and have been updated and consolidated into one comprehensive guidance document.

This guidance document replaces:

- Memorandum #05-7 – Interim Guidance for Special Education Services for Parentally Placed Nonpublic School Children with Disabilities (August 11, 2005)
- Additional Supplement to Guidance Document #05-7 (July 25, 2006)
- Memorandum #06-3 – Special Education Nonpublic Proportionate Share Calculation and Home-School Students (July 25, 2006)
- Memorandum #08-2 – Additional Clarification Regarding Proportionate Share Obligations (September 23, 2008)
- Guidance Document 13-15 – IDEA Proportionate Share Services for Parentally Placed Nonpublic Students with Disabilities (April 2013)

The document provides guidance on the requirements of local school districts in Individuals with Education Act (IDEA) child find activities, timely and meaningful consultations with representatives of nonpublic schools, and the provision of services to eligible students who attend nonpublic schools located in the LEA. In Illinois home-schooled students are included in the nonpublic school population. **All references in this document to nonpublic schools and nonpublic students include the home-school population.**

We hope that the IDEA Proportionate Share Services for Parentally Placed Nonpublic Students with Disabilities is helpful guidance for LEAs in completing all IDEA responsibilities in finding and providing services to eligible students in nonpublic schools. Please contact the Special Education Services division at 217/782-5589 with any questions about IDEA nonpublic proportionate share services.

IDEA Proportionate Share Services for Parentally Placed Nonpublic Students with Disabilities

The IDEA requires local education agencies to provide special education services to eligible students who are parentally placed in nonpublic schools. IDEA proportionate share expenditures must include minimally, services to the students. Supplies, materials, and professional development for non-public school staff, in relation to the student services, are allowable. Administrative services and child find expenditures are not allowable as proportionate share services. The LEAs must use a proportionate share of their IDEA funds to provide special education services to nonpublic and home-schooled students with disabilities. The LEA responsibilities include child find, timely and meaningful consultation (TMC), and service provision to eligible nonpublic students.

***Please note – The IDEA nonpublic proportionate share requirements are for students with disabilities who are parentally placed in nonpublic schools that serve the general population, e.g. private/parochial schools and home schools. This does not include students who were either parentally placed or have IEP placements in nonpublic special education schools. Information regarding nonpublic special education placements, services, and funding is available at <https://www.isbe.net/Pages/Nonpublic-Special-Education-Programs.aspx>.**

Child Find

Each LEA is responsible for locating, identifying, and evaluating all children with disabilities enrolled by their parents in nonpublic schools located in the school district served by the LEA. This means the LEAs must complete the initial evaluations and reevaluations of nonpublic students within their district boundaries - whether or not the students are residents of the district. If the student is attending a nonpublic school outside of the LEA of residence, then the LEA in which the nonpublic school is located is considered the serving district and is responsible for child find, evaluations, and service provision. The serving district does not have any responsibility to notify the resident district and should not release information to any other district without parental permission.

LEAs are required to provide notice of child find activities to nonpublic schools within their respective jurisdiction in a manner and at a time similar to the notice the LEAs provide to the general public. Child find activities must be conducted in a timely manner and any evaluations completed for nonpublic students must meet the same state timeline for completing evaluations (60 school days).

The cost of the child find activities, including evaluations, is not a part of the nonpublic proportionate share obligation. The LEAs are responsible for completing the evaluations and are prohibited from making evaluation contingent upon the existence of proportionate share funds (or lack thereof). The proportionate share funds are for providing special education services to IDEA- eligible nonpublic students. When completing the IDEA grant budgets, the LEAs should not include the child find expenses as part of the proportionate share expenses.

Timely and Meaningful Consultation (TMC)

Each LEA must consult annually with nonpublic representatives regarding child find, use of proportionate share funds, and the provision of special education services.

A. When Should Timely & Meaningful Consultation be completed?

The Illinois State Board of Education has established a deadline of no later than **May 31** for all local districts to complete their TMC meetings with their respective nonpublic schools and parent representatives. Local districts must maintain the necessary documentation evidencing completion of the TMC at the local level.

In order to ensure compliance with these procedures, this agency will request the submission of the TMC materials (or statements) from a sample of districts on an annual basis. This audit activity will occur during the Summer months of each year. Districts will be subject to sanctions by ISBE for their failure either to conduct the TMC meeting or to submit the required documentation as requested.

B. Cooperatives and TMC

This agency recognizes and permits the conducting of TMC meetings under the auspices of special education cooperatives. However, member districts must also maintain their documentation of compliance individually, regardless of whether TMC was conducted by the districts' cooperatives. This may result in the duplication of some documentation (such as meeting agendas or attendance lists), but is required to ensure that all LEAs complete the timely and meaningful consultation process in accordance with the IDEA.

C. Timing of the TMC Invitations

The purpose of notifying nonpublic schools of the TMC meeting is two-fold: (1) to provide the time and place for the meeting; and (2) to secure names of parent representatives who may wish to attend the TMC meeting. ISBE strongly suggests that districts send out their notices to nonpublic schools no later than four weeks prior to the scheduled meeting. The notice that is provided to the nonpublic schools should include a request for nonpublic school officials to submit, to the LEA, names and contact information of parents of students with identified disabilities attending the nonpublic schools no later than two weeks prior to the scheduled date of the TMC meeting. In turn, local districts are urged to send out notices to the identified parents no

later than two weeks prior to the scheduled TMC meeting. We have provided sample notice letters with this memorandum to provide districts with further guidance on the contents of the notice both to nonpublic schools and to parents. (See attached Appendix A and Appendix B.)

D. Who Should Conduct TMC?

All Illinois school districts are expected to complete the TMC process. This also applies to districts that have a reported proportionate share calculation from ISBE of \$0.00 for the previous school year.

E. Who Should be Included in the TMC Meeting?

Local districts are expected to include certain members of the community in the timely and meaningful consultation process:

1. Representatives/Administrators of Nonpublic Schools

Local districts should provide notice of TMC meetings to representatives of all known nonpublic school facilities within their respective jurisdictions. Such notice should be provided to facilities offering all or part of a kindergarten through 12th grade curriculum, but does not include facilities such as day care centers, youth centers or other such facilities that do not offer K-12 curricular instruction, in whole or in part. Districts are cautioned that facilities not appearing on the ISBE list of registered nonpublic schools should still receive notice of scheduled TMC meetings.

2. Parent Representatives of Nonpublic Schools

Section 1412(a)(10) of IDEA 2004 (20 USC Sec. 1412(a)(10)) states that the TMC process must also include “parent representatives” of students with disabilities who attend the nonpublic schools within a local district’s jurisdiction. Because we believe that nonpublic schools are in the best position to identify such parents, districts should request nonpublic school representatives to identify those individuals prior to conducting a TMC meeting. We have provided a sample notification letter to nonpublic schools that includes guidance on identifying such parents. Districts are strongly urged to provide nonpublic schools with deadlines for the submission of parent names and contact information. (See attached Appendix A). Deadlines should be set sufficiently in advance of the TMC meeting (we suggest at least two weeks in advance) so that the districts will have ample time to send out invitations to those parents.*

3. Parents of Home-Schooled Students

Home-school students are also part of the overall requirement that local districts provide proportionate share support to students in nonpublic schools. As part of that overall obligation, districts must include parents of known home-school students in the TMC process. Districts must provide the same written notice that is provided to nonpublic school parents to the known parents of home-schoolers within the district. Also, in order to ensure

the widest possible participation of such parents in the TMC process, districts should place an advertisement in a local publication of general circulation that provides notice to the public of the TMC meeting. (See attached Appendix C)

We have provided a sample notification letter to nonpublic schools that includes guidance on identifying such parents. Districts are strongly urged to provide nonpublic schools with deadlines for the submission of parent names and contact information. (See attached Appendix A). Deadlines should be set sufficiently in advance of the TMC meeting (we suggest at least two weeks in advance) so that the districts will have ample time send out invitations to those parents.*

* This is not to suggest that districts may not send invitations directly to parents before receiving names and contact information from the nonpublic schools. School districts are certainly encouraged to include as many parents as necessary to disseminate the TMC information to as wide an audience as possible.

F. Substantive Requirements of TMC

Local districts must conduct TMCs in a manner that covers the five principal topics described in IDEA 2004 at Section 1412(a)(10). Those five areas are:

1. Child Find

The district must discuss how it will be conducting the Child Find process and how interested parties will be informed of the process.

2. Proportionate Share

The district must disclose how much of its Federal Part B funds have been allocated to full-time nonpublic school students, including full-time home-school students, and how that amount was determined. The LEAs are provided with an estimated nonpublic proportionate share calculation in April based on child count data from the FACTS March transmission. The TMC participants should use the estimated calculation to complete the TMC process. The final nonpublic proportionate share calculations are released in August. The LEA would not need to reconvene the TMC unless a significant discrepancy existed between the estimated and final nonpublic proportionate share calculations. Each district is encouraged to submit accurate child count data in the FACTS March transmission in order to ensure that the estimated calculations do not vary greatly from the final nonpublic proportionate share calculations.

3. Meaningful Participation

The district must describe the procedures it will use to ensure that full-time nonpublic school students with disabilities will have the opportunity to meaningfully participate in school district special education and related services throughout the school year (i.e., the procedures

by which parents of nonpublic school students with disabilities can access the services being offered by the district during the coming school year).

4. Allocation of Services

The district must describe the types of service that will be provided during the school year, including the location(s) where the service will be provided. Included with this must also be a statement of how the district reached this conclusion and the rationale behind the conclusion.

5. Proposals of the Nonpublic School Representatives

Finally, the district must describe the process by which the district will provide a written response to proposals by the nonpublic school representatives when the district disagrees with those proposals. Agendas and other documentation generated in connection with the TMC meeting should clearly evidence that all five of these areas were covered, including some detailed documentation of the substantive information the district disclosed during the meeting. The level of documentation required to show adequate coverage of these topics should be such that an individual who was not in attendance could ascertain both the topic area discussed and **specific information disclosed by the district in connection with the given topic areas.**

G. Documentation of TMC Completion

Each LEA must maintain the following documents at the local level:

1. List of Nonpublic Schools and Home-School Parents

A list of the known nonpublic schools and known parents of home-schooled students with disabilities located within the district's jurisdiction with addresses and primary contact telephone numbers for each school and person listed.

2. Invitation Letters

Copies of each individual invitation letter sent out to a nonpublic school representative, a parent representative, or the parent of a home-school student.

3. Newspaper Advertisements

A copy of the text of the advertisement placed by the district to provide notice to parents of home-school students including the date and the name of the publication in which the text appeared.

4. Attendance Lists

A sign-in sheet or other documentation showing a list of the actual participants at the TMC meeting.

5. Meeting Agendas

The agenda for the meeting describing point-by-point each topic or issue discussed at the meeting, including each of the five principal topics described above in Section F.

6. Handouts

All handouts the district provides to meeting participants during the course of the meeting.

7. Attestation Forms

Copies of the attestation forms signed by each participant at the TMC meeting. Each participant should be asked to sign an attestation that indicates all five principal topics of the TMC were discussed. Districts may use a form that substantially conforms to the contents of our suggested attestation form, which is found at <https://www.isbe.net/Documents/pvtschAppA.pdf>. Districts should attempt to obtain at least one signed attestation from each school and family in attendance at the TMC meeting. In the event a school representative or family representative refuses to sign the attestation, the district should maintain a record of that refusal either in the form of a statement, “refused to sign” on the attestation form or on a list maintained and signed by the district individual responsible for conducting the TMC meeting. If the nonpublic representatives do not provide affirmation within a reasonable amount of time, the district must forward the documentation to the Special Education Services Division by June 15 of each year. (34 CFR 300.135)

As noted above in Section A, districts will be required to maintain all of the foregoing materials at the local level. Some districts will be required to submit such materials in conjunction with the annual audit activity conducted by this agency.

Registration of Home-Schooled Students

The State Board of Education wants to ensure that information on home-school enrollment is included, to the extent possible, as part of the total public and nonpublic enrollment figures used to distribute 85% of the IDEA grant award (after subtracting the Base Year) to each district. Parents of home-schooled students in Illinois are not required to register their children with any entity, at the local, county, or state level. However, voluntary registration by parents (which includes minimal information on the parents and students) could be a significant factor in the level of Part B funding available to provide services to eligible nonpublic students in a given serving district. Districts may wish to inform families of home-schooled students of the potential benefits in services to children eligible for special education that could result from their choosing to register their students.

The voluntary Home School Registration form asks for the parents’ name and address; the name, grade, and sex of the child or children; and information on the local public school/district. This

information is collected, but not disseminated, by the State Board of Education, and is used to achieve as accurate a count as possible of nonpublic attendance in each district area.

In order to ensure an accurate and prompt accounting of home-schooled students for the purposes of determining available Part B funding, we ask that the voluntary registration forms be completed and submitted in accordance with the directions on the form. The registration form is available on the ISBE website at https://www.isbe.net/Documents/87-02_hs_reg.pdf.

Proportionate Share for Students Ages 3-5

LEAs do have responsibility under the “proportionate share” provisions of IDEA for 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-age students in actual attendance in a kindergarten program) **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.

APPENDIX A

SUGGESTED INVITATION LETTER TO PRIVATE SCHOOL REPRESENTATIVES (TO BE SENT FOUR WEEKS PRIOR TO TMC MEETING)

Dear (NAME):

In accordance with the requirements of Section 612(a)(10) of the Federal Individuals With Disabilities Education Improvement Act of 2004 (“IDEA 2004”), this letter is to invite you to a meeting to discuss our plans for working with students with disabilities who currently attend your school during the 20 - 20 school year. This meeting will take place at (LOCATION) starting at (TIME) on (DATE).

As you may know, a public school district is required to utilize a portion of its Federal Part B special education funds in order to provide students with disabilities who attend private schools within the district the opportunity to equitably participate in special education and related services offered by the district. As part of that process, this district must disclose information about our plans for the coming school year and afford you the opportunity to offer ideas and input pertaining to our plans. We also wish to share additional information pertaining to how students who are suspected of having one or more disabilities may access the district programs to assess the nature and scope of the suspected disabilities.

In addition to meeting with representatives of private schools within the district, we are also expected to meet with parent representatives from your schools. We would therefore appreciate your assistance in identifying parents (preferably of students with known disabling conditions) who may wish to attend this meeting in order to offer their input. In order to provide reasonable advance notice to such parents, we would appreciate receiving names and contact numbers for such parents by no later than (CLOSE OF BUSINESS TIME) on (DATE AT LEAST TWO WEEKS IN ADVANCE OF THE TMC MEETING).

We thank you for your willingness to participate in this process. If you have any questions or concerns pertaining this meeting please call (CONTACT NAME AND NUMBER).

Sincerely,

(SUPT OR DSE NAME)

APPENDIX B

SUGGESTED INVITATION LETTER TO PRIVATE-SCHOOL PARENT REPRESENTATIVES AND KNOWN PARENTS OF HOME-SCHOOLED STUDENTS (TO BE SENT AT LEAST TWO WEEKS PRIOR TO TMC MEETING)

Dear (NAME):

You are invited to attend a meeting to be conducted by (DISTRICT NAME) at (LOCATION) on (DATE AND TIME). The purpose of this meeting is to discuss how students with disabilities who attend private schools or who are home-schooled within the district will be served by (DISTRICT NAME) during the 20 -20 school year.

In accordance with the requirements of the Federal Individuals With Disabilities Education Act of 2004 ("IDEA 2004"), public school districts are required to spend a portion of their Federal Part B special education funds in order to provide identified students with disabilities who attend private schools with the opportunity to equitably participate in special education services offered by the district. As part of that process, we must conduct a public meeting in order to discuss our plans to fulfill that responsibility for the coming school year.

In addition, we want to ensure that your voices are heard during this process through your attending the meeting and sharing your opinions and feedback. Finally, we wish to also share information about how students with suspected disabilities can access the process offered by our district to screen and evaluate for those suspected disabling conditions.

Your participation in this process is extremely valuable to us. We therefore hope you will attend. If you have questions or concerns in advance of the meeting, please contact (CONTACT NAME(S)) at (NUMBER).

We look forward to meeting you soon.

Sincerely,

(SUPT OR DSE NAME)

APPENDIX C

**SUGGESTED PUBLICATION NOTICE FOR
PARENTS OF HOME-SCHOOLED STUDENTS
(TO BE PLACED AT LEAST TWO WEEKS IN ADVANCE OF TMC MEETING)**

NOTICE OF PUBLIC MEETING

On (DATE) at (TIME), a meeting conducted by (DISTRICT NAME) will be take place at (LOCATION). The purpose of the meeting will be to discuss the district's plans for providing special education services to students with disabilities who attend private schools and home schools within the district for the 20 - 20 school year. If you are the parent of a home-schooled student who has been or may be identified with a disability and you reside within the boundaries of (DISTRICT NAME), you are urged to attend.

If you have further questions pertaining to this meeting, please contact (CONTACT NAME) at (NUMBER).

Sincerely,

(SUPT OR DSE NAME)