

# TASB Student Solutions

## CHILD FIND

### CHILDREN IN PRIVATE SCHOOLS

August 2024



Disclaimer: This information is provided for educational purposes only to facilitate a general understanding of the law or other regulatory matter. This information is neither an exhaustive treatment on the subject nor is this intended to substitute for the advice of an attorney or other professional advisor. Consult with your attorney or professional advisor to apply these principles to specific fact situations.

©2024 by Texas Association of School Boards, Inc.

TASB grants members/subscribers of TASB Student Solutions™ the limited right to customize this publication for internal (non-revenue generating) purposes only.

**CONTENTS**

|   |   |
|---|---|
| CHILDREN IN PRIVATE SCHOOLS.....                              | 3 |
| What is Required .....  | 3 |
| Child Find .....  | 3 |
| Referral to District .....                                    | 3 |
| Developing the Proportionate Share Services Plan .....        | 4 |
| Implementation of the Proportionate Share Services Plan ..... | 4 |
| Transportation Services .....                                 | 4 |
| Right of Private School Official to Submit a Complaint .....  | 5 |
| Dual Enrollment .....   | 5 |
| Private School Placement When FAPE Is An Issue .....          | 5 |
| Definitions.....  | 5 |
| Additional Procedures .....                                   | 6 |
| Proportionate Share Services .....                            | 6 |
| Evidence of Implementation .....                              | 7 |
| Resources .....   | 7 |
| Citations .....   | 8 |

## CHILDREN IN PRIVATE SCHOOLS

### What is Required

#### Child Find

The District must locate, identify, and evaluate all students with disabilities who are parentally placed in private schools—including religious, elementary, and secondary schools—located in its jurisdiction. To do so, the District Special Education Administration must timely and meaningfully consult with representatives of private schools located within the District and conduct a thorough and complete child find process. The District must conduct the child find process for students parentally placed in private schools in a manner comparable to that of students with disabilities enrolled in District campuses. See [CHILD FIND DUTY]. The District Special Education Administration must maintain records and provide information to TEA indicating the number of students parentally placed in private school students within the boundaries of the District that have been evaluated, determined to be students with disabilities, and served. All child find efforts must comply with requirements related to proportionate share funding for students parentally placed in private schools. See [PROPORTIONATE SHARE FUNDING FOR CHILDREN PARENTALLY PLACED IN PRIVATE SCHOOLS].

If the District is the student's district of residence, rather than the district in which the private school is located, the District cannot refuse to conduct the evaluation and determine the student's eligibility for FAPE just because the student attends a private school in another District.

A home school in Texas may be considered a private school. In order to be considered a private school, a home school must provide elementary or secondary education that incorporates an adopted curriculum designed to meet basic educational goals, including scope and sequence of courses, and formal review and documentation of students' progress, but is not required to be a nonprofit entity.

#### Referral to District

When a student with a disability who has been placed directly by the parent in a private school is referred to the District, the District or Campus Special Education Assessment Personnel will evaluate the student in accordance with the evaluation procedures and hold an ARD Committee meeting to consider the evaluation and determine whether the District can offer the student FAPE. See [EVALUATION PROCEDURES].

However, the District is not responsible for providing FAPE until such time as the student's parent chooses to enroll the student in the District full time. Specifically, no student with a disability parentally placed in a private school has an individual right to receive in the

private school some or all of the special education and related services that the student would receive if enrolled in a District school.

A student with a disability parentally placed in private school may receive some special education and related services if the District designates the student to receive service under a proportionate share services plan. *See Proportionate Share Services below.*

### **Developing the Proportionate Share Services Plan**

After consultation, the District Special Education Administration is the final decision-maker regarding the services to be provided to a parentally placed private school student with a disability. If the District or Campus Special Education Administration decides that a parentally placed private school student is eligible to receive special education and related services, District or Campus Special Education Personnel will convene a meeting to develop, review, and revise an Individual Services Plan (“ISP”) for the student based on services that the District has agreed to provide the student. A representative of the private school will be in attendance at the meeting or participate through another method, such as through a telephone call. The District is not required to provide the same amount of services to the parentally placed private school student as it would to students with disabilities enrolled in a District campus.

### **Implementation of the Proportionate Share Services Plan**

Should the District decide to provide services through an ISP, such services may be provided at the private school, including religious schools, either by District Special Education Personnel or through a contract with an individual, association, agency, organization, or other entity. Such services will be implemented in accordance with proportionate share funding and equipment rules. See [PROPORTIONATE SHARE FUNDING FOR CHILDREN PARENTALLY PLACED IN PRIVATE SCHOOLS] and [ADMINISTRATION OF EQUIPMENT]. The District may use special education funds to make Campus Special Education Personnel or District Special Education Personnel available to the extent necessary to provide services to a parentally placed private school student so long as those services are not normally provided by the private school. The District may also use Part B funding to pay for services provided by a private school employee if the services are performed outside of the employee’s regular hours of duty and under public supervision and control. See [USE OF IDEA PART B FORMULA AMOUNTS IN GENERAL].

### **Transportation Services**

Where transportation is necessary for the parentally-placed private school student to benefit from or participate in the services offered by the District, the District will provide transportation (a) from the student’s school or the student’s home to a site other than the private school; and (b) from the service site to the private school, or to the student’s home,

depending on the timing of the services. The District is not required to provide transportation from the private school to the student's home.

### **Right of Private School Official to Submit a Complaint**

A private school official has the right to submit a TEA complaint that the District did not engage in consultation that was meaningful and timely or did not give due considerations to the views of the private school official. The complaining private school official must provide the basis of the complaint to TEA and the District Special Education Administration will provide appropriate documentation in response. If the private school official is dissatisfied with the response, the official may submit a complaint to the United States Secretary of Education.

### **Dual Enrollment**

The parent of an eligible student ages 3 or 4 may dually enroll their student in both public and private school beginning on the student's third birthday until either: (1) the end of the school year in which the student turns 5 or when the student is eligible to attend the District's kindergarten program. For more information on Dual Enrollment, see [AGES 0-5].

### **Private School Placement When FAPE Is An Issue**

If a parent elects to place a student with a disability in a private school or facility due to disagreements about FAPE, the parent has additional protections set out in the *Notice of Procedural Safeguards*.

### **Definitions**

"Parentally placed private school students with disabilities" includes students with disabilities enrolled by their parents in private, including religious, schools or facilities.

"Private school" is a private elementary or secondary school, including any pre-school, religious school, and instructional day or residential school that:

- Is a nonprofit entity; and
- Provides elementary and secondary education that incorporates an adopted curriculum designed to meet basic educational goals, including scope and sequence of courses, and formal review and documentation of students' progress.

"Individual Services Plan" or "ISP" means a written statement that describes the special education and related services the district will provide to a student with a disability parentally placed in a private school who has been designated to receive services, including the location of the services and any transportation necessary.

## **Additional Procedures**

The District is responsible for identifying and locating students with disabilities attending private schools within the District's boundaries even if the student does not live within the District. The District is not responsible for serving district resident students who attend a private school outside of District boundaries, but is still responsible for identifying, locating, and, with parent consent, evaluating those students. Preschool students ages 3 to 4 are still covered under dual enrollment, served under an IEP, and are not considered private school students unless the parent has rejected dual enrollment. In that case, the student may have a service plan instead of an IEP.

At the start of each school year, District Special Education Administration will, to the extent possible, contact the parents of students with disabilities parentally placed in private schools to notify them of the opportunity to receive an evaluation and possible special education services, including proportionate share services, for students who meet eligibility criteria.

Parents of students enrolled in a private school, or a representative or other individual otherwise qualified to make a referral, may contact the District Special Education Administration to initiate a referral for special education services. See [REFERRAL FOR POSSIBLE SPECIAL EDUCATION SERVICES]. The District Special Education Administration may request that the parent provide documentation related to the student's area of suspected disability, including, but not limited to, classwork, assessments, benchmark testing, health records, and information from the private school regarding the student's progress.

## **Proportionate Share Services**

The District will use a portion of the federal money it receives each year under the IDEA for participation in the District's special education and related services by eligible private school students. If the parent chooses to voluntarily enroll the student in a private school, the student has no individual right or guarantee to special education and related services provided by the District. Instead, the student will be considered for participation in the District's special education services along with all eligible private school students.

The District will develop a District-wide plan for use of the proportionate share amount that identifies the type of service, or range of services, to be provided. If an eligible private school student is designated to participate in the District's special education services in a specific school year, Special Education Personnel will hold a meeting to develop, review, and revise an ISP for the student. Representatives of both the private school and District Special Education Personnel, as well as the parent or representative of the parent, may be present at this meeting, and the parent should be given a meaningful and timely opportunity to express their views before developing the plan. The ISP will include the specific special education and/or related services that the District will offer to the student,



including the location of the service and whether transportation will be provided. The ISP may provide for direct services or indirect services such as equipment, instructional materials, or consultation and training. The content of the ISP will vary from student to student and may contain one or more of the components included in an IEP.

The ISP will be implemented as soon as possible after the services plan meeting and will be available to any District staff and/or private school staff who implement any portion of it. The ISP will be reviewed at least annually by the services plan team. An eligible private school student with an ISP in one school year has no right to a services plan in a subsequent school year.

The District will maintain documentation requirements of compliance associated with Texas Student Data System (TSDS), Public Education Information Management System (PEIMS), and State Performance Plan (SPP). District staff will provide training, with follow up, to ensure the documentation required is in place and compliant.

### **Evidence of Implementation**

- Private School Contact Database
- Database of Private School Students Evaluated and Identified as Students with Disabilities and Services Currently Received, if Any
- Child Find Documentation Provided to Private Schools or Parents
- Proportionate Share Amount Calculation
- District-wide Plan for Proportionate Share Amount
- A Record of all Private School Contacts and Response
- Consultation Agenda and Minutes
- Record of Disagreement and District Response
- Written Affirmation Statement
- Consent for FIE
- FIE
- ISP or ARD/IEP for Private School Student
- Documentation for the state in TSDS, PEIMS, and SPP

### **Resources**

**[The Texas Legal Framework for the Child-Centered Special Education Process: Children in Private Schools - Region 18](#)**

[Guidance on Parentally Placed Private School Children with Disabilities - Texas Education Agency](#)

[Special Education in Nonpublic Schools - Texas Education Agency](#)

[FAQ: Parentally Placed School Children with Disabilities - TEA](#)

[ESSA Private School Equitable Services - Texas Education Agency](#)

[Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools \(Apr. 2011\) - U.S. Department of Education](#)

[OSERS Letter to Sarzynski \(July 6, 2015\) - U.S. Department of Education](#)

[OSERS Letter to Apostle \(Aug. 8, 2012\) - U.S. Department of Education](#)

[OSERS Letter to Corwell \(Feb. 4, 2013\) - U.S. Department of Education](#)

[OSERS Letter to Luger and Weinberg \(Dec. 6, 2011\) - U.S. Department of Education](#)

[OSERS Letter to Eig \(Jan. 28, 2009\) - U.S. Department of Education](#)

## **Citations**

Board Policy EHBA; 20 USC 1412; 34 CFR 77.1, 300.13, 300.36, 300.37, 300.130, 300.131(a), 300.132(a),(c), 300.133(b), 300.134, 300.135, 300.136, 300.137(a)-(c), 300.138, 300.139, 300.142, 300.148; 19 TAC 89.1096