



# **Children With Disabilities Enrolled by Their Parents in Private Schools**

**34 CFR §§ 300.130-300.144**

- **Equitable Participation (EP)**
- **Child Find**
- **Free and Appropriate Public  
Education (FAPE)**

October 19, 2006



# The Mandate

- IDEA 20 U.S.C. §1412(a)(10)(A)
- 34 CFR §§300.130-300.144, Children with Disabilities Enrolled By Their Parents in Private Schools



# Equitable Participation

- Background
- Who is responsible?
- Who receives services?
- What is required?
- Resources



# Equitable Participation

## Who is Responsible?

### State level

- Department of Education
- General Supervision

### Local level

- Local Education Agency (LEA)
- The LEA is the Intermediate Unit

# Who Receives Services?

- Children with disabilities who are enrolled by their parents in private elementary schools and secondary schools in the school district served by a local education agency
- Students must meet a two-pronged requirement:
  1. Have one of the 13 disabilities; AND
  2. Be in need of specially designed instruction

# **Children with Disabilities Enrolled by Their Parents in Private Schools**

## **Requirements**

- **Child Find/Evaluation**
- **Consultation**
- **Written Affirmation**
- **Complaint Measures**
- **Provision of Services**

# Requirements-Child Find & Record Keeping

- IU may be asked to complete an evaluation to determine the eligibility of a student for special education.
- Completed in the time period comparable to other students attending public schools.
- **Cost of evaluation shall not be charged to EP allocation**
- IU shall maintain records of numbers of students evaluated, determined eligible and served

# Requirements-Child Find Evaluation by IU

- A parent may ask the IU in which the private school is located to evaluate their child.
- An IU can evaluate a child for eligibility for the purpose of counting the child in the EP child count and including the child in EP services.
- The IU would **not** offer the child a Free and Appropriate Public Education (FAPE)





# Requirements-Child Find Evaluation by IU

- In addition, the IU must collect data to determine the number of parentally placed children with disabilities attending private elementary and secondary schools located in their geographic region.

# Requirements-Child Find Evaluation by School District of Residence

- Parent may also request that their child be evaluated for special education by **their district of residence.**
- The district of residence would conduct the evaluation. If the child is deemed eligible for special education, the IEP team would develop an IEP to offer FAPE to the student in the public school.
- **FAPE is a Free and Appropriate Public Education.**



# Requirements-Consultation

IU must consult with private school and parent representatives on:

- Child find activities
- Determination of the proportionate amount of federal funds and how the amount was calculated
- How the process will operate throughout the year

# Requirements-Consultation (cont.)

- How, where and by whom special education and related services will be provided
- How services will be apportioned if funds are insufficient to serve all children and how and why these decisions will be made.

***If an IU disagrees with the views of the private school officials, the IU shall provide a written explanation of why the IU chose not to provide services directly or through contract.***

# Requirements-Written Affirmation

- When consultation has occurred, the IU shall obtain a written affirmation signed by the representatives of participating private schools and send to the SEA
- If the representatives do not provide affirmation within a reasonable time, the LEA must forward to the state documentation of the consultation process (300.135 (b))

# Requirements-Complaint

- Private school officials have the right to file a complaint with the Bureau of Special Education if the IU did not engage in consultation that was meaningful and timely or did not give due consideration to the views of the private school officials.
- Private school official also may submit a complaint to the Office of Special Education Programs (OSEP) if it doesn't agree with the complaint investigation determination of Bureau of Special Education

# Requirements-Provision of Services

- IU's must expend an amount of funds on services for students with disabilities enrolled by their parents in non-public schools.
- Federal funds (the “proportionate share”) cannot be supplanted by state or local funds.
- These services may include:  
consultation with teacher, training, personnel development, direct services to students and transportation when necessary

# Requirements-Provision of Services (cont.)

- Services may be provided by an employee of a public agency; or through contract with another public agency, individual, association, agency, organization or other entity
- Special education and related services provided, including materials and equipment shall be secular, neutral and nonideological



# Requirements-Provision of Services (cont.)

- Students receiving direct services need those services outlined in an **EP Services Plan** (This is not a Chapter 15 Service Agreement)
- If funds are exhausted before the end of the school year, no additional services would be required to be provided
- Unexpended funds may be carried over for one school year.

# Considerations

- 34 CFR §300.137 makes clear that students with disabilities enrolled by their parents in non-public schools do **not** have an individual right to receive the services they would have received in public schools
- EP is **not** an entitlement to FAPE.

# Considerations (cont.)

- Equitable participation has evolved from IDEA '97 to IDEA '04.
- Pennsylvania has a legacy of support to non-public schools.
- We will need to work together!!

# Resources

- Topic brief “Children Enrolled by Their Parents in Private Schools”  
<http://IDEA.ed.gov>
- PennLink --July 13, 2006  
“IDEA 2006 Child Find Duties for Students Enrolled by Parents in Private Schools”
- 34 CFR §§300.130-300.144  
“Children With Disabilities Enrolled by Their Parents in Private Schools”