IDEA-B (Individuals with Disabilities Education Act, Part B) requires states to ensure that a free appropriate public education (FAPE) is available to all eligible children with disabilities residing in that state.

In addition to the provision of benefits and services to children with disabilities enrolled in public schools, school districts are also required to provide eligible children with disabilities, ages 3-21, enrolled by their parents in private nonpublic schools, an opportunity to participate in equitable services (proportionate share services).

The IDEA-B regulations 34 §§ CFR 300.130 – 300.144 describe the requirements for the provision of equitable services to parentally-placed private school children with disabilities. These requirements for equitable services are not applicable to Open-Enrollment Charter Schools.

**What are Equitable Services?**

Equitable services are services provided to eligible parentally-placed private school children with disabilities.

ISDs have an obligation to provide these students with an opportunity for equitable participation in the services funded with IDEA-B.

The amount of IDEA-B funds available for these services is based on a proportionate share calculation, which is automatically calculated in the PS3502 Private Nonprofit schedule associated with the special education grant application.

Equitable services must be provided in accordance with a services plan that describes the specific special education and related services that will be provided to the parentally-placed private school child with a disability who has been designated to receive services.

**Which ISD is Responsible for Implementing the Equitable Services Requirements?**

The ISD where the private nonprofit school is located is responsible for conducting child find for parentally-placed private school children with disabilities. After timely and meaningful consultation with private school representatives, the ISD must conduct a thorough and complete child find process to determine the number of parentally-placed private school children with disabilities attending elementary and secondary private nonprofit schools located within the jurisdiction of the ISD.

In Texas, this includes home schools.
The child find process must be completed in a time period comparable to that for students attending public schools. Child find is an ongoing process.

If a parentally-placed private school child with a disability also resides within that ISD’s jurisdiction, that ISD is responsible for making FAPE available to that child, unless the parent makes clear their intent to keep the child enrolled in the private, nonprofit elementary or secondary school.

Summary:

- The ISD where the private nonprofit school is located is responsible for child find and the opportunity for equitable services to the eligible children attending the private school.
- The ISD where the child resides is responsible for offering FAPE to the child.
  - If the parents accept the offer of FAPE and enroll their child in the ISD, the ISD where the child resides provides FAPE.
  - If the parents do not accept the offer of FAPE and choose to keep their child enrolled in the private school, the ISD where the private school is located is responsible for providing an opportunity for equitable services for that child.

What are the Requirements for the Provision of Equitable Services?

Timely and meaningful must occur before any decisions are made that will affect the participation of parentally-placed private school children with disabilities. Thus, decisions about services may not be made in advance or in the absence of timely and meaningful consultation.

Depending on the discussions during the consultation process, local circumstances, and the amount of proportionate share funds available, the ISD is responsible for making final decisions about all the aspects of the services to be provided, including but not limited to:

- Which parentally placed private school children with disabilities are served
- The type of services to be provided (direct instructional services, related services, consultative services, equipment, materials, etc.)
- The time and location of services to be provided

There are no particular kinds of services or specified amounts of services that must be provided to parentally-placed private school children with disabilities. Decisions are made during the consultation process and are based on the needs of children designated to receive services.

These children have no individual entitlement to receive some or all of the special education and related services they would receive if enrolled in a public school.

Sample Organizational Chart for Consultation

The Office of Non-Public Education (ONPE) designed a sample chart for implementing the consultation requirements of 34 CFR §300.134.
Please note: This chart is not an official U.S. Department of Education document. It is provided as a sample to assist ISDs in developing a timeframe for consultation with private school representatives.

Resources and Citations

IDEA Booklet – Provisions Related to Children With Disabilities Enrolled by Their Parents in Private Schools


USDE FAQ April 2011