

2015 Joint Federal Programs Summit

*Special Education
Services*

**Charter/Virtual Schools and
Equitable Participation Provisions
for Private School Students**



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Charter and Virtual Schools



DEFINITION OF CHARTER SCHOOL

DEFINITION

Charter School. A publicly funded, nonprofit, nonsectarian public school that is created by a formal agreement (charter) between a group of individuals and the board of trustees of the local school district and operates independently within the district. It is governed by the conditions of its approved charter and federal and State laws.



RESPONSIBILITIES CHARTER SCHOOL

- ✓ Provision of a free and appropriate public education (FAPE) for students with disabilities who attend public charter schools must be in accordance with Oklahoma State law and federal requirements under the Individuals with Disabilities Education Act (IDEA).
- ✓ The Oklahoma Charter Schools Act requires that students served in charter schools or virtual charter schools must be protected by the same State and federal laws as local education agency (LEA)s for the education of students with disabilities.
- ✓ A charter school or virtual charter school sponsored by an LEA are considered an LEA for purposes of federal funding.



RESPONSIBILITIES CHARTER SCHOOL

- ✓ Students, and their parents, retain all the rights given to them in the public school under the IDEA.
- ✓ Charter schools or virtual charter schools must make available the services needed to provide an education for students with IEPs.
- ✓ The charter that is part of an LEA has, as part of its resources, the full continuum of services and supports within the LEA. At times, a student's IEP may determine that specific services are needed to offer a FAPE and are not available at the charter school, therefore these services should be provided through the LEA at no cost to the parent(s).
- ✓ The charter that is part of the LEA may not, however, decline to serve students with IEPs.

RESPONSIBILITIES CHARTER SCHOOL

✓ The following can permit the creation of a charter or virtual charter school that operates as an LEA:

- Board of education of a technology center school district
- Higher education institution
- Federally recognized Indian tribe
- Oklahoma State Board of Education (OSBE)
- Statewide Virtual Charter School Board (SVCSB)



RESPONSIBILITIES CHARTER SCHOOL

- ✓ The *Oklahoma Charter Schools Act* requires each charter school to comply with all federal and State laws relating to the education of students with disabilities in the same manner as a public school district.
- ✓ The charter school must have in effect:
 - policies, procedures, and practices that are consistent with State policies, procedures, and practices in special education.
 - Provisions to employ special education and related services professionals who are appropriately licensed and/or certificated for the duties they are assigned and highly qualified.



RESPONSIBILITIES CHARTER SCHOOL

- A **professional development plan** for the training needs of special education personnel, as well as, general education teachers.
- A plan that ensures **access to charter school programs**, as required by the *Americans with Disabilities Act* (ADA). This plan may include the actual location of within the classrooms to permit access by students with disabilities.
- A **transportation plan** for students with disabilities, who may, because of the nature of the disabilities, be entitled to specialized transportation, as a related service.
- Provisions for notifying the LEA of the charter school in the event that a **formal complaint or due process hearing request** is filed by or on behalf of a charter school student.

RESPONSIBILITIES CHARTER SCHOOL

✓ State Funds

- The Charter or Virtual Charter School will receive an apportionment of State allocations **based on attendance** figures. These fund will be paid directly to charter schools using the funding formula described in State law.

✓ Federal Funds

- In accordance with the IDEA Part B, **federal flow-through funds** will be disbursed to all LEAs, including charter schools.
- Federal allocations and payments for charter schools sponsored by a university will be computed as if the charter was an LEA, but payments will be made to the sponsoring university.



RESPONSIBILITIES CHARTER SCHOOL

New charter or virtual charter schools must make available information needed by the State Education Agency (SEA) to meet the requirements of the IDEA, including information regarding the eligibility of the LEA for the IDEA Part B funds.



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Children with Disabilities Enrolled in Private Schools



DEFINITION OF PRIVATE SCHOOL

Elementary school means a nonprofit institutional day or residential school, including a public elementary charter school, which provides elementary education, as determined under State law.

Secondary school means a nonprofit institutional day or residential school, including a public secondary charter school that provides secondary education, as determined under State law, except that it does not include any education beyond grade 12.

DEFINITION OF PRIVATE SCHOOL

Children **ages 3 through 5** are considered to be parentally-placed private school children with disabilities enrolled by their parents in private, including religious, elementary schools, if they are enrolled in a private school that meets the definition of elementary school.



PRIVATE SCHOOL PLACEMENT

A child may be placed

- By an individual education program (IEP) team
- By the parent
 - Unilateral Placement
- *Lindsey Nicole Henry Scholarship for Students with Disabilities Act*

DIFFERENT RESULTS



PRIVATE SCHOOL PLACEMENT BY PUBLIC SCHOOL



- Sometimes a FAPE may require private school placement.
- The student will be placed by the **IEP team**.
- The student will be **enrolled** in the public school for funding purposes, but served at the private school.



PRIVATE SCHOOL PLACEMENT BY THE PARENT

- **Voluntary enrollment:** A parent may choose to enroll the student in a private school for personal reasons, which could include **unilateral placement** (parent believes the public school is not providing a Free and Appropriate Public Education (FAPE)).
- The student will be placed by the **parent**.
- The student **will not** be enrolled in the public school or have a public school IEP.



LINDSEY NICOLE HENRY SCHOLARSHIP FOR STUDENTS WITH DISABILITIES ACT

- A parent may **voluntarily enroll** their child in a private school if the parent is not satisfied with the special education and related services provided by the public school.
- The student **will not** be enrolled in the public school or have a public school IEP.



LINDSEY NICOLE HENRY SCHOLARSHIP FOR STUDENTS WITH DISABILITIES ACT

- ✓ The parent must **revoke** their right for a FAPE in exchange for scholarship funds
- ✓ The student **cannot participate** in any special education or related services, including Child Find or proportionate share activities.



EQUITABLE SERVICES FOR STUDENTS ATTENDING A PRIVATE SCHOOL

- ✓ The LEA must spend a proportionate share of IDEA Part B funds.
- ✓ The LEA must provide special education and related services.
- ✓ Students who are voluntarily enrolled in private schools are not entitled to all of the same services as public school students .

PROPORTIONATE SHARE FOR STUDENTS ATTENDING A PRIVATE SCHOOL

- ✓ IDEA funds must be made available to serve parentally placed private school students with disabilities.
- ✓ Funds are determined by a specific calculation rubric.

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IDENTIFYING AND SERVING CHILDREN IN A PRIVATE SCHOOL



IDENTIFYING STUDENTS

- ✓ The LEA is responsible for Child Find Activities
 - Locating
 - Identifying
 - Evaluating
 - Reevaluating
- ✓ Exception
 - Students receiving the Lindsey Nicole Henry Scholarship



SERVING STUDENTS

- ✓ The LEA where the **private school is located** is responsible for **equitable participation**, according to the consultation between the public and private schools, and **reevaluation** of the student.
- ✓ The LEA where the **child resides** is responsible for **offering** a FAPE.
- ✓ **Exception**
 - Students receiving the Lindsey Nicole Henry Scholarship



ANNUAL ELIGIBILITY COUNT

- ✓ Number eligible to receive services
- ✓ Must be conducted on a State-determined date between October 1 and December 1, of each year (**Child Count**).
- ✓ Used to determine amount LEA must spend on providing services to parentally-placed private school children with disabilities in the next fiscal year.

34 CFR § 300.133(c)



CALCULATIONS

Number of eligible children with disabilities

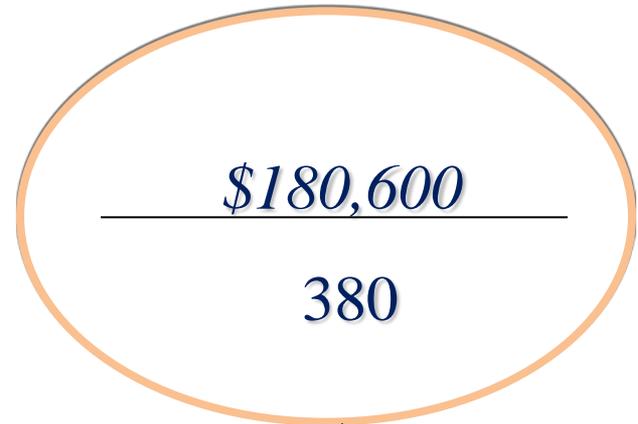
In public schools 350

In private schools + 30

380

Federal Part B Flow-Through \$\$
LEA receives

\$180,600



\$475.26 per student

x 30 students

\$14,257.89

for proportionate share



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USE OF FUNDS



USE OF PERSONNEL

- ✓ IDEA funds may be used for public school personnel to implement services plans
- ✓ IDEA funds may be used for private school personnel to implement services plans
 - outside of normal duty hours and
 - under public supervision and control
- ✓ Highly qualified teachers (HQT) provisions do not apply to teachers hired in private schools, but they do apply to teachers hired in the LEA to serve students in the private school.



PROPERTY, EQUIPMENT AND SUPPLIES

- ✓ Public agency may place equipment and supplies in a private school for the period of time needed for the IDEA program
- ✓ The public agency must ensure that the equipment and supplies placed in the private schools are used only for IDEA purposes
- ✓ Can be removed from the private school without remodeling the private school facility

34 CFR § 300.144



Enhancing Education Through Technology

- ✓ Funds may be used for innovative activities that improve technology literacy and integrate technology into teaching and learning to improve student achievement.
- ✓ Activities may include professional development, using technology hardware, software and online tools to deliver educational content, enhance parental, technology mentoring and coaching.



OPTIONS

- **Options** for using the proportionate share, in addition to providing direct services:
 - Lending libraries for technology or information/literature
 - Consultation to private-school classroom teachers serving children with disabilities
 - In-service training for private-school teachers serving children with disabilities
 - **NOT FOR Administrative Costs**



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Equitable Participation of Private School Students, Teachers, and Other Educational Personnel — **CONSULTATION**



Equitable Participation Consultation

Timely and meaningful consultation during the design and development of the programs is required on issues:

- ✓ How the children's needs will be identified?
- ✓ What services will be offered?
- ✓ How and where the services will be provided?
- ✓ How the services will be assessed and how the results of the assessment will be used to improve those services?
- ✓ What service delivery mechanisms will be used to provide equitable services?
- ✓ Who will provide the services?



Equitable Participation Consultation

- ✓ The amount of funds available to serve private school students;
- ✓ The size and scope of the services to be provided;
- ✓ How and when the agency will make decisions about the delivery of services;

§ 9501(c)(1) of ESEA

Equitable Participation Consultation

- ✓ Consultation must continue **throughout** the implementation and assessment of services.
- ✓ Such consultation must occur **before** the LEA makes any decision that affects the opportunities to participate of eligible private school children, teachers, and other education personnel.



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- ✓ The **LEA must maintain documentation** that the consultation has occurred, including a written affirmation signed by the representatives of the private school.
- ✓ If consultation **does not occur**, send the OSDE detailed documentation of attempts made by the LEA.

§ 9501(c)(3) of ESEA

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PROGRAM IMPLEMENTATION AND LEA RESPONSIBILITY



PROGRAM IMPLEMENTATION



- ✓ The program implemented by the LEA should address the needs of the private school students and teachers and does not have to be identical to the program offered to public school students and teachers.
- ✓ The LEA has the final decision.



THE LEA'S RESPONSIBILITY

- ✓ The **LEA remains in control of the federal funds** and maintains ownership of materials, equipment and property purchased with such funds.
- ✓ The LEA cannot make direct payments to the private school.
- ✓ The LEA cannot use Part B equitable service funds for repairs, minor remodeling, or construction.
- ✓ Services, materials and equipment must be secular, neutral and non-ideological.

§ 9501(d)(1) of ESEA



HIGHLIGHTS

- ✓ No **individual** right to special education and related services
- ✓ Equitable services based on a process that includes **timely and meaningful** consultation.
 - Consultation requires written affirmation by the representatives of the participating private schools.
 - Disagreements on provision of services or the types of services must be provided in writing by the LEA.

HIGHLIGHTS

- ✓ The **cost of Child Find may not be considered in** proportionate share obligation (34 CFR § 300.131(d))
- ✓ The **parent may request** an evaluation from the LEA where the parent/child resides and/or the LEA where the private school is located.
 - If the parent disagrees with the evaluation, the parent may request an **independent education evaluation (IEE)** from the LEA where the private school is located.



HIGHLIGHTS

- ✓ The LEA must **keep records** and provide to SEA:
 - Number evaluated
 - Number determined eligible
 - Number served



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Questions

