IDEA Part B

Parentally-Placed Private School Proportionate Share

NEW MEXICO

Public Education Department

Table of Contents

Purpose and Authority ..... **- 2 -**

Parentally-placed Private School Students Definition ..... **- 2 -**

LEA General Requirements for Private Schools ..... **- 3 -**

Timely and Meaningful Consultation ..... *- 3 -*

Written Affirmation Following Consultation ..... *- 4 -*

Child Find ..... *- 5 -*

Evaluation and Determination of Eligibility ..... *- 5 -*

LEA Fiscal Requirements for Private Schools ..... **- 5 -**

Child Count and Proportionate Share Calculation ..... *- 5 -*

Proportionate Share Expenditure and Allowable Use of Funds ..... *- 7 -*

Provision of Services and Use of Personnel ..... *- 8 -*

Proportionate Share Carryover ..... *- 9 -*

NMPED Private Schools Reporting and Monitoring ..... **- 9 -**

Reporting ..... *- 9 -*

Monitoring ..... *- 10 -*

Timeline and Due Dates ..... **- 11 -**

Appendices ..... **- 12 -**

Purpose and Authority

In accordance with Part B of the Individuals with Disabilities Education Act (IDEA), local education agencies (LEAs) are required to spend a specific portion of their federal IDEA Part B funding to serve students with disabilities placed by their parents in private schools as outlined in 34 CFR §§ 300.129 through 300.144 and Appendix B to Part 300 of the Code of Federal Regulations (CFR). This amount set aside, known as the private school proportionate share, is to be used exclusively for students with disabilities who are enrolled by their parents in private schools within the LEA's geographic boundaries, without regard to the student's place of residence.

The child find responsibility obligates LEAs to locate and evaluate students with disabilities enrolled by their parents in private schools within the LEA's jurisdiction. The LEA must use the count of eligible students in private schools to calculate the proportionate share of IDEA grant funds expenditures to provide equitable services for those students (see 34 § CFR 300.131).

LEAs are required to engage in a consultative process with representatives from private schools and families of private school students. Following this consultation, LEAs determine the types of services to be provided through the development of a service plan. This plan outlines the specific special education and related services that the student will receive. The responsibility for developing and administering these service plans lies with the LEA where the private school is located.

Parentally-Placed Private School Students Definition

Under 34 CFR § 300.130, parentally-placed private school children with disabilities are children with disabilities enrolled by their parents in private, nonprofit schools, including religious schools or facilities that meet the definition of elementary school or secondary school, as outlined in state and federal regulations, excluding children with disabilities placed or referred by public agencies.

In New Mexico a *private school* means a school, other than a home school, that offers on-site programs of instruction and that is not under the control, supervision, or management of a local school board (see § 22-1-2. Definitions, NM ST § 22-1-2).

When calculating proportionate share, LEAs must use the following public school classifications as defined in the Public School Code included in state law at NMSA 1978 § 22-1-3.

- "Elementary school" means a public school providing instruction for grades kindergarten through eight, unless there is a junior high school program approved by the state board

[department], in which case it means a public school providing instruction for grades kindergarten through six.

- "Secondary school" means a public school providing instruction for grades nine through twelve, unless there is a junior high school program approved by the state board [department], in which case it means a public school providing instruction for grades seven through twelve.

Preschool students cannot be included in the proportionate share count, as preschool is not defined as an elementary school.

LEA General Requirements for Private Schools

Timely and Meaningful Consultation

Each year, LEAs must hold a consultation meeting, extending invitations both to representatives of private schools and to representatives of parents with children who are eligible and enrolled in private elementary and secondary schools located within the LEA's geographical boundaries. IDEA does not preclude staff from the private school to represent student interests should parent representatives be unavailable.

The agenda for this meeting should cover

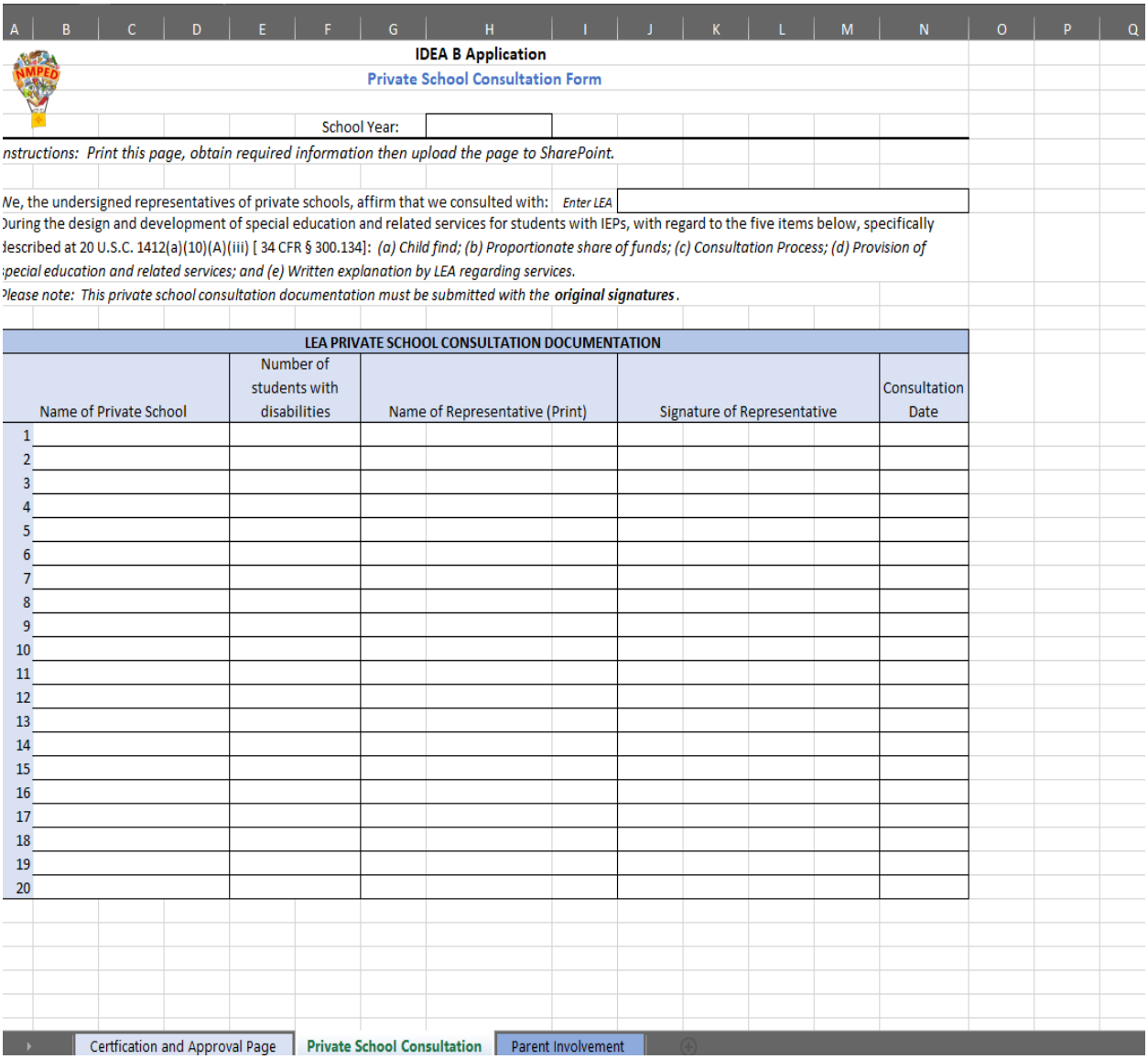
- the procedures for identifying students in need of services (child find),
- the calculation of funds allocated for services to private school students (proportionate share),
- the process of consultation,
- the delivery of special education and related services, and
- the issuance of a written explanation by the LEA in instances where there is a disagreement with private school officials regarding the provision of services.

The initial consultation must occur prior to other required activities, with additional consultation taking place as needed with individuals or groups of private school representatives (see 34 CFR § 300.134). Additional consultation should occur as needed or requested.

If a private school does not engage in the required consultation with an LEA, the LEA should document all efforts made to involve the private school, including any written communications exchanged. Private schools are entitled to file a complaint with the NMPED if timely and meaningful consultation was not provided by the LEA. State complaints may also be filed either by private schools or by parents who allege that the LEA failed to carry out the regulations related to the consideration and provision of equitable services under IDEA (NMAC 6.31.2.11(N)(1)(g)).

Written Affirmation Following Consultation

Following the annual meeting, each LEA is required to obtain written affirmation including the private school representative's signature confirming that timely and meaningful consultation with the private school has occurred. This form can be found in the SharePoint system (shown on the following page) within the IDEA Resources section of the application. The form should be downloaded for signatures and uploaded back into the SharePoint system in the IDEA Part B Application. This written affirmation is to confirm only that consultation occurred; it does not represent an agreement among meeting participants regarding any parentally-placed student with disabilities provisions (34 CFR § 300.135).



IDEA B Application

Private School Consultation Form

School Year:

nstructions: Print this page, obtain required information then upload the page to SharePoint.

Ne, the undersigned representatives of private schools, affirm that we consulted with: *Enter LEA*

*)*uring the design and development of special education and related services for students with IEPs, with regard to the five items below, specifically *!*escribed at 20 U.S.C. 1412(a)(10)(A)(iii) [34 CFR § 300.134]: *(a) Child find; (b) Proportionate share of funds; (c) Consultation Process; (d) Provision of ;pecial education and related services; and (e) Written explanation by LEA regarding services.*

?lease note: This private school consultation documentation must be submitted with the ***original signatures****.*

LEA PRIVATE SCHOOL CONSULTATION DOCUMENTATION

	Name of Private School	Number of students with disabilities	Name of Representative (Print)	Signature of Representative	Consultation Date
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
16					
17					
18					
19					
20					

Certfication and Approval Page | Private School Consultation | Parent Involvement

Child Find

Under 34 CFR § 300.131, the NMPED has the responsibility to ensure that all students who reside within the state, including students enrolled in private schools, and require special education and related services be located, identified, and evaluated.

- The LEA has the responsibility for child find for all students receiving instruction within the LEA's geographical boundaries, including those children who do not reside within the LEA's jurisdiction.
- Child find timelines and activities for private school students must be comparable to activities for public school students.
- Funds spent on child find may not be counted toward the LEA's proportionate share expenditures.
- Child find data must be used to ensure equitable services are provided to children who are identified with a disability.

Evaluation and Determination of Eligibility

LEAs are required to evaluate and determine if privately enrolled students are eligible for special education services. As part of that process, LEAs may accept prior evaluation information if it is determined to be comprehensive and current. The LEA must maintain records of the number of children evaluated, determined to be children with disabilities, and served each year.

LEA Fiscal Requirements for Private Schools

Child Count and Proportionate Share Calculation

LEAs are required to determine the number of students with disabilities enrolled by their parents in elementary and secondary private schools located within the jurisdiction of the LEA. Preschool students are not included in this count, as they are not included in the definition of an elementary school. The child count is the number of eligible students, not the number of students who are receiving services (see 34 CFR § 300.133 and Appendix B to Part 300 of the Regulations).

As part of the LEA's annual subgrant application under objective seven, the LEA must include the following information for each of the private schools within the LEA's educational jurisdiction:

- determination of who receives equitable participation services;
- determination of equitable participation services to be provided;

- documentation of private school consultation; and
- the number of private school evaluations completed, the number of children determined to have disabilities, and the number of children served in the previous year.

In addition to completing objective seven in the LEAs annual subgrant application, LEAs are also required to submit a budget including a budget narrative detailing how they intend to use the private school proportionate share amount to ensure anticipated activities are approved up front.

The following images show the components of the LEA subgrant application within SharePoint that the LEAs would need to complete regarding the private school proportionate share calculation.

Objective 7-Private Schools 24109 - Section 1 & 2 (Age 5 in Kindergarten as of the 40 day reporting period)

Edit	LEA Name	24106 Basic Allocation	Total number of Eligible Children	Average Allocation per child	Total Allocation to be distributed to dependent/local charter(s)
	_PED TEST	168.07	0		

Objective 7-Private Schools Budgeting Funds 24109 (Age 5 in Kindergarten as of the 40 day reporting period)

Edit	PrivateSchoolName	Enter the number of parentally-placed eligible children with disabilities in this private school	Total Amount to be Expended for Parentally-Placed Children with Disabilities at this school	TotalBudget must Equal total Amount to be Expended	Amount Left to Budget
	__We are Private	1,223,232	0.00	0.00	0.00

Enter Private Schools - Budgeting 24109

Objective 7-Private Schools - Section 1 & 2 - 24106

Edit	LEA Name	24106 Basic Allocation	Total number of Eligible Children	Average Allocation per child	Total Allocation to be distributed to dependent/local charter(s)
	_PED TEST	0.00	11	0.00	0.00

Objective 7-Private Schools Budgeting Funds - 24106

Edit	PrivateSchoolName	Enter the number of parentally-placed eligible children with disabilities in this private school	Total Amount to be Expended for Parentally-Placed Children with Disabilities at this school	TotalBudget must Equal total Amount to be Expended	Amount Left to Budget
	__We are Private	3,243	0.00	0.00	0.00

Enter Private Schools- Budgeting 24106

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Section 1 - Parentally-Placed Private (PPP) School Student Information		
Please report the following information for parentally-placed private school students		
Number of PPP School students who were evaluated	Number of PPP School students who were found to be eligible for IDEA B	Number of PPP School students who were served
6	16	15
* If there is a difference between the number of students found to be eligible for IDEA B and the number of students who were served a written justification must be submitted to the SEB.		

Section 2 - Determining Proportionate Share for Private Schools, Basic Allocation (24106)					
Please enter a, b below		c, d, e, f are Calculated automatically after you enter a, b and save the form.			
a	b	c	d	e	f
Enter total number of children with disabilities in public schools in the LEA	Enter Number of parentally-placed eligible children with disabilities in all private schools located in the LEA	Total number of eligible children (a + b = c)	IDEA B Allocation (24106 - Basic)	Average Allocation per child (d / c = e)	Total Allocation to be distributed to dependent/local charter(s)
6	5	11	0.00	0.00	0.00
All numbers above should exclude students who are gifted only.					

LEAs utilize the number of children with disabilities enrolled by their parents in a private school from the annual child count taken on the second Wednesday in October. The private school proportionate share is entered into the Operating Budget Management System (OBMS) and tracked utilizing the specific funding code (24115) exclusive to private schools.

Proportionate Share Expenditure and Allowable Use of Funds

Following the consultation with representatives of the private school and parent representatives of eligible private school students, LEAs determine which services to provide to the student.

- Property, equipment, and supplies, including technology and supplementary materials, may be provided to the private school as equitable services for children with disabilities.
- It is required that these items only be used for Part B activities, and once those services are no longer required, the property, equipment, and supplies must be returned to the LEA.
- If transportation is necessary for the student to benefit or participate in the services

outlined by the services plan, the LEA may include the cost of the transportation towards the proportionate share of IDEA Part B funds.

If the LEA plans to purchase equipment, the LEA must submit a request to the NMPED Office of Special Education for prior approval of the purchase (Appendix A).

IDEA allowability rules apply to proportionate share funds, and LEAs must document expenditures and other activities related to IDEA and proportionate share (see 34 § CFR 300.133(c)(2)). Requests for reimbursement (RFR) from the LEA are submitted and tracked through the OMBS. Funds that are not expended during the fiscal year are carried over into the next fiscal year in the same private school fund code.

Provision of Services and Use of Personnel

LEAs have the responsibility to ensure that each parentally-placed private school student with a disability who has been designated to receive proportionate share services has a services plan describing what special education services the LEA will provide, as well as where and when the LEA will provide those services (see 34 CFR § 300.138).

A free appropriate public education (FAPE) is not guaranteed for parentally-placed private school students with disabilities. These students do not have an individual right to receive some or all of the special education and related services they would receive if they were enrolled in a public school. The LEA has the final authority to make decisions, following consultation, concerning the equitable services provided to eligible students (see 34 CFR § 300.137).

In expending federal IDEA Part B funds, the LEA may provide services

- at the private school,
- at a public or neutral site convenient to the private school,
- on public school grounds, or
- at an appropriate site where the LEA contracts for the provision of services that would include transportation for the student to that site.

Under 34 CFR § 300.141, IDEA funds may not be used to pay the private school directly and may not be used to meet the general needs of students.

LEAs may use a proportionate share of funds to pay public school personnel to provide services in private schools if the following requirements, as outlined in 34 CFR § 300.142, are met.

- Any personnel providing services to students must meet the same standards as LEA personnel with the exception that they do not need to meet special education teacher qualification requirements.
- LEAs may use proportionate share funds to pay for services of an employee of a private school to provide services only if the employee performs the services outside of their

regular hours of duty.

- Should an LEA pay for the services of a private school employee, they would also need to perform those services under the LEA supervision and control.

Proportionate Share Carryover

If an LEA is in compliance with child find, consultation, and other requirements related to parentally-placed private school children with disabilities outlined in 34 CFR 300.129 through 300.144 and is unable to expend the entire proportionate share amount, the LEA may use the unexpended funds to pay for Part B expenditures for that same LEA moving these funds from fund code 24115 to 24106. This may only occur at the end of the period during which the funds may be spent on parentally-placed private school children. If an LEA is not in compliance with the requirements outlined above and has not expended the funds on parentally-placed private school children, the LEA is required to return the funds to the NMPED.

It is the responsibility of the NMPED to ensure that LEAs comply with these requirements (see 34 CFR § 300.149(a) and § 300.600(b)(2).

- If an LEA has not expended the proportionate share by June 30 of the carryover period (24th month of the period of performance), the NMPED will monitor the LEA to ensure that it is meeting requirements, including the requirement outlined in 34 CFR § 300.135 that the LEA obtain written affirmation signed by representatives of participating private schools that meaningful and timely consultation occurred.
- There is no authority that permits the LEA to return the funds to the NMPED for state-level activities or reallocate to another LEA.
- The NMPED will work with the LEA to determine if there is a need to repurpose the funds to use for other IDEA services or activities of the LEA.

NMPED Private Schools Reporting and Monitoring

Reporting

LEAs must submit students with disabilities counts to the NMPED through the annual LEA subgrant application on SharePoint. The count is used to calculate the LEA's required proportionate share. LEAs must also submit an end-of-year IDEA expenditures report that includes parentally-placed private school expenditures. This reporting supports the NMPED in determining if there is a parentally-placed private school proportionate share carryover balance that must be tracked for the following year.

Monitoring

The submitted expenditure report is used by the NMPED to monitor the timely obligation of the parentally-placed proportionate share funds.

During the IDEA budget submission:

- If the LEA determines that the needs for private school students with disabilities exceed the maximum proportionate share amount, the LEAs must reach out to the NMPED for approval to use more regular IDEA allocation for private school services.
- If the LEA determines that the needs for private school students with disabilities is less than the proportionate share amount, the LEAs must submit a request to the NMPED to repurpose those funds for other IDEA Part B activities with justification and a budget adjustment request (BAR).
- Before approving the repurpose of funds, the NMPED fiscal team must confirm that the LEA is in compliance with child find, consultation, and other requirements related to parentally-placed private school children with disabilities as outlined in 34 CFR §§ 300.129 through 300.144.

The NMPED maintains a list of existing private schools and updates the list with new private schools within the state annually, if necessary. That list is compared to the list of private schools reported by LEAs in SharePoint during the application submission. This process will ensure each LEA includes all private schools located within their geographic boundaries and that all children with disabilities enrolled in a private school are receiving services with the proportionate share amount that must be set aside to support them.

Parentally-placed private school proportionate share requirements are also included in the NMPED fiscal monitoring procedures. The LEA may be required to submit detailed expenditure reports and supporting documents to the NMPED for review to assess compliance with IDEA requirements.

Timeline and Due Dates

Activity	Lead Staff	Due Date
Reporting of private school students by grade level	LEA staff	October
Private school consultation	LEA staff	ongoing
Reporting of parentally-placed students with disabilities child count to the NMPED	LEA staff	October
End-of-Year Report including private school expenditures report	LEA staff	July 1–September 30
Request to repurpose private school carryover funds to the IDEA public school budget	LEA staff	June 30
Review of parentally-placed private school proportionate share calculation data	NMPED fiscal team	July 1–September 30

Should there be unexpected circumstances requiring an adjustment to the time frames outlined above that would result in changes for LEAs, NMPED will notify LEAs within a reasonable amount of time to inform LEA administration of the changes to the time frame.

Appendix

Prior Approval for Equipment Purchase Form

https://webnew.ped.state.nm.us/wp-content/uploads/2023/07/2023-2024-IDEA-B-Equipment-Approval-Form.xlsx