

Keep Calm...It's STILL Just Equitable Services

SELDA
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Georgia Department of Education
Special Education Services and Supports Division
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Agenda

- Equitable services regulations and related terms
- Equitable services obligation
- Local educational agency (LEA) requirements
- Resources



Question to Ask

What

Would a

Compliance-Driven

Director Do?



#1 Be Familiar with Federal Regulations and Related Terms

Definition of Equitable Services

- Special education and related services provided to **parentally-placed private school children with disabilities** in accordance with the provision in the IDEA and its implementing regulations in [34 C.F.R. §§ 300.130 - 300.144](#).
- Equitable services requirements do not apply to charter local educational agencies (LEAs).

Eligible Students for Equitable Services

- Students with disabilities (ages 3-21) who are **parentally placed** in a private elementary or secondary school ([34 C.F.R. § 300.130](#)).
- Homeschool students in Georgia are treated as private school students in regard to special education ([Georgia Rule 160-4-7-.13\(3\)\(a\)\(1\)](#)).



Definition of Parentally-Placed Private School Children with Disabilities

[34 C.F.R. § 300.130](#)

- Defines parentally-placed private school children with disabilities
 - Children with disabilities enrolled by their parents in private, including religious, schools or facilities that meet the definition of elementary school in [34 C.F.R. § 300.13](#) or secondary school in [34 C.F.R. § 300.36](#), other than children with disabilities covered under [34 C.F.R. §§ 300.145 – 300.147](#).
 - The definitions of elementary school in [34 C.F.R. § 300.13](#) and secondary school in [34 C.F.R. § 300.36](#) specify that the school must be [nonprofit](#).

Definition of Elementary School

34 C.F.R. § 300.13

Elementary School

- 1) A **nonprofit** institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under State law.
- 2) In Georgia, that includes any private school that meets the definition of elementary school to include having a **kindergarten program**.

Definition of Secondary School

34 C.F.R. § 300.36

Secondary School

- 1) 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.
- 2) In Georgia, that includes any private school that meets the definition of secondary school. State law defines middle school as a school which contains no grade below grade four and no grade above eight. High school is defined as a school which contains any grade above grade eight.
([Georgia Rule 160-4-7-.21\(38\)](#)).

Private School Location and the LEA Responsible

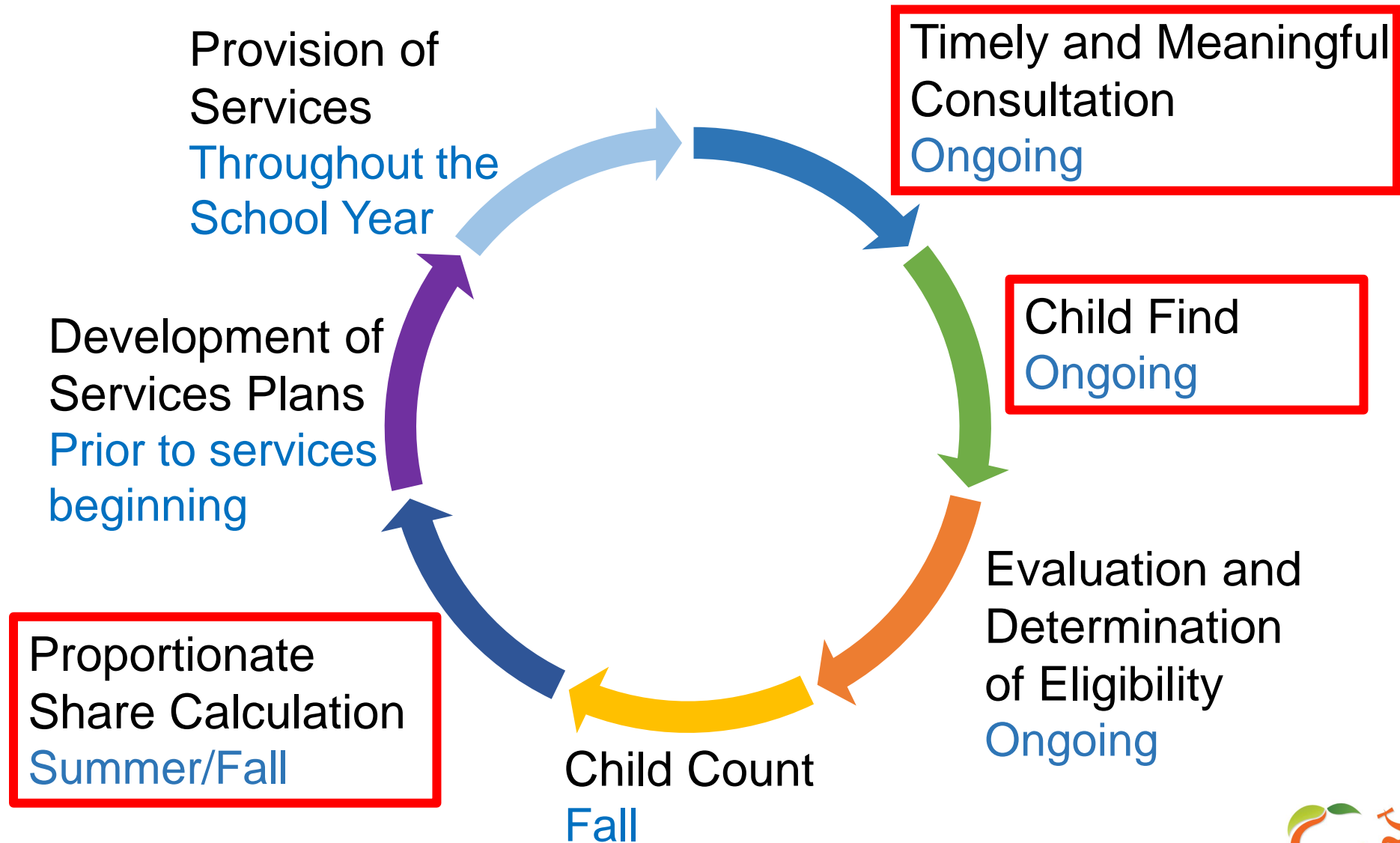
- Obligation to provide equitable services rests with the LEA where the student's private/home school is located ([34 C.F.R. § 300.131\(a\)](#))
- Requirement does not apply if there are no private/home schools in the LEA's jurisdiction





#2 Be Aware of and Adhere to LEA Requirements

Equitable Services Requirements



Timely and Meaningful Consultation

34 C.F.R. § 300.134

To ensure **timely and meaningful consultation**, an LEA, or, if appropriate, an SEA, **must consult** with private school representatives and representatives of parents of parentally-placed private school children with disabilities during the **design and development** of special education and related services for the children...

What is Consultation?

Mandatory Process	Ongoing Process	Collaborative Process
<ul style="list-style-type: none">• Occurs prior to other required activities• Involves discussions between the LEA and stakeholders	<ul style="list-style-type: none">• Not solely an annual meeting• May occur as many times as needed	<ul style="list-style-type: none">• Opportunity for all parties to express their views and consider others' views• Decisions about services may not be made in advance

Timely and Meaningful Consultation

Required Topics #1-2

34 C.F.R. § 300.134

1. Child find process including:
 - How parentally-placed private school children suspected of having a disability can participate equitably in child find
 - How parents, teachers, and private school officials will be informed of the process
2. The proportionate share amount available to serve parentally-placed private school children with disabilities and how it was calculated.

Timely and Meaningful Consultation

Required Topics #3-4

[34 C.F.R. § 300.134](#)

3. Consultation process, methodology and schedule for the year
4. How, where and by whom special education and related services will be provided for parentally-placed private/home school children with disabilities, including a discussion of the types and amounts of services that will be provided
 - The LEA must make the final decisions on services to be provided after receiving views from the participants ([34 C.F.R. § 300.137\(b\)\(2\)](#)).

Timely and Meaningful Consultation

Required Topic #5

[34 C.F.R. § 300.134](#)

5. How, if the LEA disagrees with the views of the private schools on services, it will provide a written explanation of why it chose not to follow the views of the private schools.

Written Affirmation

The LEA must obtain a signed written affirmation from participating private school and homeschool representatives ([34 C.F.R. § 300.135](#)).



Documentation to Keep

Documentation

- a. Emails and letters to find eligible students
- b. Copies of all notices such as letters, emails, website and newspaper notifications, etc.
- c. Outreach attempts for consultation, nature of attempts, and outcomes of attempts
- d. Sign-in sheets
- e. Meeting agendas, PowerPoints and all consultation materials
- f. Signed written affirmation forms and consultation notes

Child Find

Per [34 C.F.R. § 300.131](#), an LEA must conduct child find activities for parentally-placed private school children with disabilities.



Child Find for Parentally-Placed Private School Children with Disabilities

34 C.F.R. § 300.131

(a) *General.* Each LEA must locate, identify, and evaluate **all children with disabilities who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district served by the LEA**, in accordance with paragraphs (b) through (e) of this section, and §§300.111 and 300.201.

(b) *Child find design.* The child find process must be designed to ensure-

(1) The equitable participation of parentally-placed private school children; and

(2) An accurate count of those children.

Proportionate Share

An LEA **must expend** a **proportionate share** of IDEA funds on equitable services for **parentally-placed private school children with disabilities**

(34 C.F.R. § 300.133).



Proportionate Share Calculation

An LEA must **calculate** the proportionate share amount of IDEA Part B funds to be provided for parentally-placed private school children with disabilities ([34 C.F.R. § 300.133\(b\)](#)).



Proportionate Share Expenditures

34 C.F.R. § 300.133

An LEA ...

- Determines the services to provide **certain** parentally-placed private school children with disabilities **after timely and meaningful consultation**
- Must carry over any unexpended proportionate share funds for one year (34 C.F.R. § 300.133(a)(3))
- May use state and local funds to supplement, but not supplant, the proportionate share funds

Eligible Expenditures

Eligible Expenditures

- Benefit only eligible students
- Direct services
- Equitable services providers:
 - LEA employees
 - Contractors
 - Private school employees only if performing services outside of regular hours of duty and the employee is under the supervision and control of the LEA

Eligible Expenditures (cont.)

Eligible Expenditures

- Indirect services
 - Consultative services
 - Equipment and materials
 - Training for private school personnel
- Transportation
 - If necessary for the child to benefit from or receive services
 - Mileage reimbursement

Non-Eligible Expenditures

Non-Eligible Expenditures

- Administrative costs – clerical, director, etc.
- Child find activities
 - Evaluations
 - Re-evaluations
- Separate classes if classes are at the same site and the classes include public and private school students

Non-Eligible Expenditures (cont.)

Non-Eligible Expenditures

- Remodeling or repairs of private school facilities
- Paying salaries of private school staff for part of regular duties
- Funds used to benefit a private school
 - Meeting the needs of a private school or the general needs of its students
 - Turning over proportionate share funds to the private school to use at its discretion

Provision of Services for Parentally-Placed Private School Children with Disabilities

[34 C.R.F. § 300.132](#)

- The LEA where the student's private/homeschool is located has the obligation to provide equitable services.
- The LEA must develop and implement a services plan for each child designated to receive services.
- Each LEA must maintain records and provide information to the state education agency (SEA).
 - (1) The number of children evaluated;
 - (2) The number of children determined to be children with disabilities; and
 - (3) The number of children served.

Equitable Services Determined

34 C.F.R. § 300.137

- No parentally-placed private school child with a disability has an individual right to special education and related services.
- Decisions about services may not be made in advance or in the absence of timely and meaningful consultation.
 - The LEA must make the final decisions about all aspects of the services to be provided.
- The LEA must initiate and conduct meetings to develop, review, and revise a services plan for the child.



**We know.
That's a lot of info.**

**Let's see how
you're doing!**

Scenario #1

Student A is a parentally-placed private school student with a disability.

Student A resides in the Beachwood School District.

Student A attends a non-profit private school located in the Pepper Pike School District.

Which district is responsible for providing equitable services?

Scenario #1

Which district is responsible for providing equitable services?

- a. Beachwood School District
- b. Pepper Pike School District

Scenario #2

Student B is a parentally-placed private school student with a disability.

Student B resides in the Lyndhurst School District.

Student B attends a for-profit private school located in the Richmond Heights School District.

Which district is responsible for providing equitable services?

Scenario #2

Which district is responsible for providing equitable services?

- a. Lyndhurst School District
- b. Richmond Heights School District
- c. Neither school district

Scenario #3

The Solon School District must set aside \$10,000 in IDEA 611 Flowthrough funds for equitable services. The district has four private schools. There are 10 students with disabilities enrolled in those schools and are all on services plans. Of those students, nine students need speech and language services but one student needs orientation and mobility services.

If the district expends all \$10,000 on speech and language, is the district required to provide orientation and mobility services to the 10th student?

Scenario #3

If the district expends all \$10,000 on speech and language, is the district required to provide orientation and mobility services to the 10th student?

a. Yes

b. No

Scenario #4

The Solon School District must set aside \$10,000 in IDEA 611 Flowthrough funds for equitable services. The district has four private schools. There are 10 students with disabilities enrolled in those schools and are all on services plans. Of those students, nine students need speech and language services but one student needs orientation and mobility services.

If the district expends only \$7,000 on speech and language and opts to carry over the remaining \$3,000, is the LEA in compliance?

Scenario #4


If the district expends only \$7,000 on speech and language and opts to carry over the remaining \$3,000, is the district in compliance?

- a. Yes
- b. No



#3 Be Resourceful

Non-Regulatory Guidance FAQs



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES
OFFICE OF SPECIAL EDUCATION PROGRAMS

OSEP QA 22-01

QUESTIONS AND ANSWERS ON SERVING CHILDREN WITH DISABILITIES PLACED BY THEIR PARENTS IN PRIVATE SCHOOLS
Revised February 2022

Part B of the Individuals with Disabilities Education Act (IDEA Part B) at Section 612(a)(10)(A) and its implementing regulations at 34 C.F.R. §§ 300.130 through 300.144 contain specific requirements regarding State and local responsibilities for equitable services for parentally-placed private school children with disabilities.¹ The U.S. Department of Education (Department), Office of Special Education and Rehabilitative Services (OSERS) issues this Questions and Answers (Q&A) document to provide State educational agencies (SEAs), local educational agencies (LEAs), parents, private school officials, advocacy organizations, and other interested parties with information regarding these requirements.²

Children with disabilities attending private schools will generally fall into one of three categories: (1) those placed by their parents, who are not enrolled in the LEA, and for whom the provision of a free appropriate public education (FAPE) is not at issue; (2) those placed by their parents and who are, or previously were, enrolled in the LEA and the provision of FAPE is at issue; and (3) those placed by the LEA as the means of ensuring that FAPE is made available. As used in this document, the phrase "FAPE is not at issue" means there is no disagreement between the parent and LEA about the availability of a program to provide FAPE to the child, and the parent has placed the child in a private school and is not seeking financial reimbursement for the private school placement.

¹ This Q&A document only addresses requirements under the IDEA related to equitable services for parentally-placed private school children with disabilities, including home-schooled children with disabilities as determined by State law. Children with disabilities also have rights under two civil rights laws that prohibit discrimination on the basis of disability—Section 504 of the Rehabilitation Act of 1973 (Section 504) and Title II of the Americans with Disabilities Act (Title II). Section 504 prohibits disability discrimination by recipients of Federal financial assistance, such as SEAs and LEAs. Title II prohibits discrimination by public entities, including SEAs and LEAs, regardless of receipt of Federal financial assistance. The Office for Civil Rights (OCR) in the U.S. Department of Education enforces Section 504 in public elementary and secondary schools. Also, in this context, OCR shares in the enforcement of Title II with the U.S. Department of Justice (DOJ). DOJ also provides technical assistance on the requirements of Title II. More information about these laws is available at: www.ed.gov/ocr and www.ada.gov.

² This Q&A document does not address requirements under the IDEA related to children with disabilities who are or have been placed in or referred to a private school or facility by a public agency as a means of providing special education and related services under 34 C.F.R. §§ 300.145 through 300.147. Further, this Q&A document does not address placement of children by their parents in private schools when there is a disagreement between the parents and a public agency about provision of a free appropriate public education (FAPE) to the child and the parent is seeking financial reimbursement for private school placement under 34 C.F.R. § 300.148.

QUESTIONS AND ANSWERS ON SERVING CHILDREN WITH DISABILITIES PLACED BY THEIR PARENTS IN PRIVATE SCHOOLS

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Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools (Revised February 2022)



GaDOE Resources

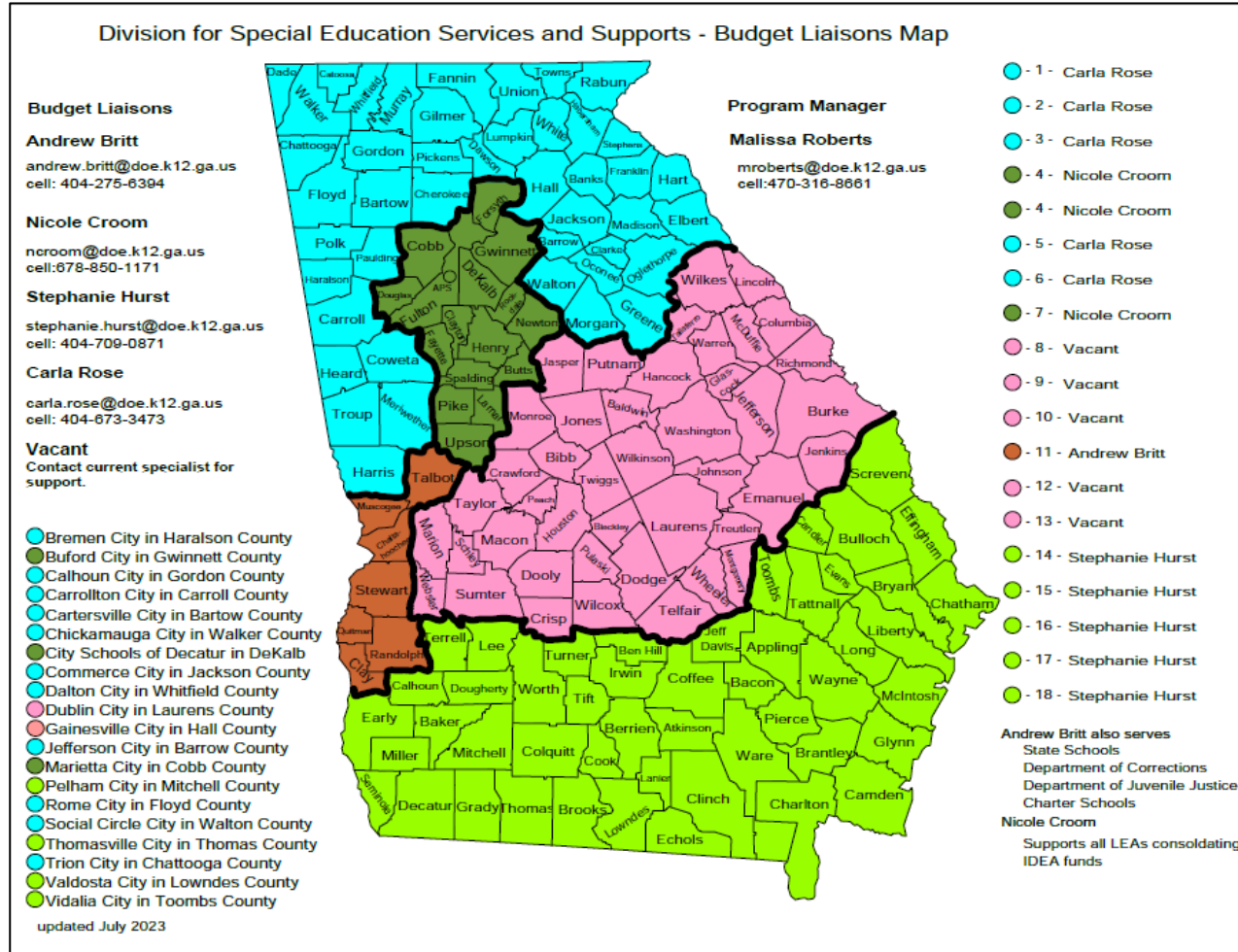
Special Education Webpages

- [Implementation Manual - Private Schools Chapter](#)
- [Special Education Budget webpage - Resources for Guidance section](#)
- [Sample affirmation forms](#)
 - Individual form
 - Group form

Questions



Budget Liaisons Map



Contact Us

We're Here to Help!

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