



Frequently Asked Questions Re: Annual Notice of a Parentally Placed Private School Child with Disabilities

FEDERAL IDEA Part B FUNDING

The IDEA Part B is a federal funding law that assists states with the costs of educating children with disabilities. States receive IDEA funds in exchange for the assurances they are complying with the requirements of IDEA. The obligations to children vary based upon whether a child is considered a public school child with a disability or a parentally placed private school child with disabilities.

For a public school child with disabilities, IDEA requires that a free appropriate public education (FAPE) is made available. 34 CFR 300.101. FAPE is defined as, special education and related services that:

- Are provided at public expense, under public supervision and direction, and without charge;
- Meet the standards of the OPI including the requirements of Part B of the IDEA;
- Include an appropriate preschool, elementary school, or secondary school education; and
- Are provided in conformity with an individualized education program (IEP).

34 CFR 300.17.

For a parentally placed private school child with disabilities, there is no individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school. 34 CFR 300.137(a). The IDEA requires that each public school district spend a proportionate share of its IDEA funding on providing parentally placed private school children with disabilities attending private schools located in the boundaries of the public school district an opportunity for equitable participation in services funded by the IDEA. 34 CFR. 300.133.

In order to calculate a school district's proportionate share of IDEA funding, a calculation, set out in [Appendix B to Part 300](#), compares the total number of children with disabilities enrolled in public and private schools located in the school district eligible to receive special education and related services compared with the total number of eligible parentally placed private school children with disabilities enrolled in private schools located in the school district. In making this calculation, children must be counted as either public school children or parentally placed private school children with disabilities.

STATE FUNDING

State educational funding is calculated in part based on enrollment count, which takes into consideration aggregate hours of pupil instruction per school year to determine the fractional level of enrollment in the school district in calculating the Average Number Belonging (ANB). Montana law allows a child *who is enrolled in a nonpublic or home school* to also be enrolled as a part-time enrollee (emphasis added). MCA 20-5-101(8). A “part-time enrollee” means a qualifying pupil who is enrolled and admitted at one of the fractional levels set out in Montana Code Annotated 20-9-311(4)(a) or (4)(d). MCA 20-5-101(9).

The Montana Advanced Opportunity Act provides for an Educational Savings Account (ESA) which is a reimbursement program of allowable educational resources for “qualified students” with a disability. This program is funded with State funding. MCA 20-7-1709. A child participating in the ESA may not be a part-time enrollee, because the parent has released the school district from all obligations to educate the child (MCA 20-7-1705). Further, parents are receiving reimbursements from the State funding that is allotted for their child. Children participating in this program are considered parentally placed private school children for IDEA purposes (MCA 20-7-1706(2)) and may receive equitable services under a private school services plan.

Q. If I have chosen to homeschool or enroll my child with a disability in a nonpublic school, is my child considered a parentally placed private school child or a public school child?

A. If a parent chooses to enroll a child in a nonpublic or home school, the nonpublic school or parent, in the case of home school, is responsible for their child’s education¹. The IDEA defines parentally placed private school children with disabilities as “...children with disabilities enrolled by their parents in private, including religious schools or facilities...” 34 CFR 300.130. Whether a home school child is considered a parentally placed private school child is determined under State law. [OSEP Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools](#), Q I-1 (Revised February 2022).

Montana law recognizes a parent’s right to enroll their children in nonpublic schools and home schools. MCA 20-5-109. Montana’s compulsory attendance law requires parents to have their children aged 7 or older prior to the first day of school in any fiscal year instructed in a program prescribed by the Board of Public Education until the child’s 16th birthday or the date of completion of the eighth grade. However, there are exemptions to the compulsory attendance requirement. This includes enrollment “...in a nonpublic or home school that complies with the provisions in MCA 20-5-109. For the purposes of this [exemption], a home school is the instruction by a parent of the parent’s child, stepchild, or ward in the parent’s residence and a nonpublic school includes a parochial, church, religious, or private school. MCA 20-5-102(2)(e).”

¹ The responsibilities and rights of a parent who provides home school are set out in MCA 20-5-111.

Pursuant to Montana law, parents may choose to enroll their child with a disability in a nonpublic or homeschool, and if so, the child is considered a parentally placed private school child under the IDEA.

Q. What if I want my child to receive a free appropriate public education (FAPE) pursuant to the IDEA?

A. You should enroll your child full time in the public school district and request to schedule an IEP team meeting. On the bottom of the Annual Notice to a Parentally Placed Child with Disabilities in a Private School, you will find a contact to reach out to with questions.

Q. Can my child receive FAPE on a shortened school day?

A. Typically, a child with disabilities attends a school day that is the same length as all other children. "School day" means any day, including a partial day that children are in attendance at school for instructional purposes and has the same meaning for all children in school, including children with and without disabilities. 34 CFR 300.11(c).

One purpose of IDEA is "[t]o ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services *designed to meet their unique needs* and prepare them for further education, employment and independent living." 34 CFR 300.1(a) (emphasis added). If a child with a disability needs a shortened school day to address unique disability related needs, this is a decision that can only be made by the child's IEP team and must be documented in the IEP. In these limited cases, a child may be able to receive FAPE while attending a shortened school day.

Q. If I participate in the Montana special needs opportunity education savings account (ESA) program, is my child able to receive equitable services?

A. A child participating in the ESA program is considered a parentally placed private school child for IDEA purposes (MCA 20-7-1706(2)). Parentally placed private school children are not entitled to receive some or all of the special education and related services that the child would receive if enrolled in the public school. 34 CFR 300.137(a). The IDEA requires that each public school district spend a proportionate share of its IDEA funding on providing parentally placed private school children with disabilities attending private schools located in the boundaries of the public school district, an opportunity for equitable participation in services funded by the IDEA. 34 CFR. 300.133.

Therefore, a child participating in the ESA may receive equitable services pursuant to a private school services plan. On the bottom of the Annual Notice to a Parentally Placed Child with Disabilities in a Private School, you will find a contact for the school district where your child's private school is located to contact with questions about equitable services.

Q. If I enroll my child with disabilities part time in the public school district, are they considered a parentally placed private school child under IDEA?

A. Montana law allows parents that have enrolled their child in a nonpublic or home school the opportunity for partial enrollment in a public school district. Trustees of the public school district are required to assign and admit a child who is:

- *Enrolled in a nonpublic or home school as a part time enrollee* and who is 5 years of age or older on or before September 10 in the year in which the child is to enroll but not yet 19 years of age;
- A resident of the district; and
- Otherwise qualified under the provisions of Montana education law to be admitted to the school.

MCA 20-5-101(8) (emphasis added).

This means the parent is still choosing to have the nonpublic or home school be responsible for their child's education but would also like to enroll their child part time in the public school district. Therefore, with partial enrollment, if the child is a child with a disability under IDEA, the child is still considered a parentally placed private school child and considered for equitable services.

If a child is participating in the ESA, they are not entitled to be enrolled part time in the public school. When participating in the ESA, parents release the resident school district from all obligations to educate the child with disabilities. MCA 20-7-1705. The ESA program reimburses parents for allowable educational resources (MCA 20-7-1704) with the state funding the school district receives for their child (MCA 20-7-1709). When participating in the ESA, the child is considered a parentally placed private school child with a disability (MCA 20-7-1706(2)) and therefore, may be considered for equitable services under the IDEA.

A parent may choose to enroll their child with disabilities full time in the resident school district at any time. If parents have questions regarding what full time enrollment or FAPE would look like for their child, they should reach out to their resident school district. The contact information is provided on the bottom of the Annual Notice to a Parentally Placed Child with Disabilities in a Public School.

Q. Does the resident school district need to hold annual IEP meetings for my parentally placed child with a disability?

A. The resident school district of a child with a disability must make FAPE available to the child. If *the parent makes it clear that they intend to keep the child placed in a private school*, then the school district is not obligated to contact the parent and develop an IEP for the following year and annually thereafter. However, if the parent enrolls the child in the resident school district, the district must make FAPE available and be

prepared to develop an IEP. [OSEP Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools](#), Q A-6 (Revised February 2022).

If a parent enrolls their child with a disability in a public school district and the child is also enrolled in a nonpublic or home school part time pursuant to MCA 20-5-101(8), the child is still considered a parentally placed private school child under IDEA. If there are questions regarding what FAPE would look like if the child was enrolled full time, the school district may need to convene an IEP team meeting so the parent can make a decision as to whether they want to keep their child a parentally placed private school child or if they want the resident school district to be in charge of the child's education.

For more information on the IDEA and serving children with disabilities placed in private school please see [OPI's Montana Special Education Guide](#) and [OSEP's Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private School](#) (revised February 2022).