

# Equitable Services: Proportionate Share and Recoding

October 2022

Michigan Department of Education Office of Special Education



# Proportionate Share

# Proportionate Share Overview

- Expenditures
- Annual Count
- Proportionate Share Calculation Examples
- Supplement not Supplant
- Responsibility of ISDs
- Responsibility of ISDs and Member Districts

# Expenditures – 34 CFR §300.133(a)

The LEA\* where the private schools are located must expend:

- A proportionate share of the LEA's total subgrant under §611(f) of IDEA on services for parentally placed children aged 3-21 in accordance with a required formula; and
- A proportionate share of the LEA's total subgrant under §619(g) of IDEA for services for parentally placed children aged 3-5 in accordance with a required formula.

\*Note: IDEA defines an Educational Service Agency as an LEA. Therefore, in Michigan, an ISD, RESA or ESD is an LEA.

# Annual Count – 34 CFR §300.133(c)

Each ISD must:

- Determine the total number of children with disabilities within the ISD.
  - Public School Count (Appendix B)
  - Private School Count (34 CFR §300.133(c))
- Ensure the count is conducted between Oct. 1 and Dec 1 of each year. (Official Fall Count)
- Use the prior year count.
  - Example: Flowthrough 2022-23 (230450 grant) uses the Fall 2021 Count.

# Public School Count

The number of eligible children with disabilities in  
public schools within the ISD

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The number of children with an IEP in public  
schools within the ISD

# Private School Count

- Based on the total number of parentally placed private school children **determined eligible** to receive special education and related services, **not just those served**.
- The Michigan School Data System (MSDS) may **not** be a reliable source to determine this count.
  - This may require the ISD to have an internal tracking system in place for this count. 34 CFR §300.132(c)

# Approved Nonpublic and Home Schools

- Only registered and approved nonpublic schools and homeschools should be included in:
  - Proportionate Share Allocation Calculation
  - Receiving equitable services
  - Charging the proportionate share allocation

# Approved Nonpublic and Home Schools (Cont'd)

- Approved Nonpublic School Listing
  - [MDE Nonpublic and Home Schools Webpage](#)
    - Updated annually around January and July
  - E-mailed to ISD Superintendents typically in January and July
- Approved Home Schools
  - E-mailed to ISD Superintendents typically in January and July
  - Not Available on the MDE Nonpublic and Home Schools Webpage

# Proportionate Share Calculation Example – Flowthrough Grant (3-21) – See Appendix B

- School Year: 2022-2023
- Program Number (formerly Grant Number): 230450
- Count: Official Fall 2021 Count

Description	Counts/Calculation
Number of eligible children (3-21) with disabilities in public schools within the ISD (Students with IEPs)	475
Number of parentally placed children (3-21) <b>determined eligible</b> in private elementary and secondary schools within the ISD	25
<b>Total number of eligible children (3-21)</b>	<b>500</b>
IDEA Flowthrough (Section 611) funds allocated to the ISD	\$1,000,000
<b>Average allocation per eligible child (3-21)</b>	<b>\$2,000</b> (\$1,000,000/500)
Number of parentally placed children (3-21) <b>determined eligible</b> in private elementary and secondary schools within the ISD	25
<b>Total Flowthrough Proportionate Share Requirement</b>	<b>\$50,000</b> (\$2,000 x 25)

# Proportionate Share Calculation Example – Preschool Grant (3-5) – Refer to OGS

- School Year: 2022-2023
- Program Number (formerly Grant Number): 230460
- Count: Official Fall 2021 Count

Description	Counts/Calculation
Number of eligible children (3-5) with disabilities in public schools within the ISD (Students with IEPs)	95
Number of parentally placed children (3-5) <b>determined eligible</b> in private elementary schools within the ISD	5
<b>Total number of eligible children (3-5)</b>	<b>100</b>
IDEA Preschool (Section 619) funds allocated to the ISD	\$50,000
<b>Average allocation per eligible child (3-5)</b>	<b>\$500</b> (\$50,000/100)
Number of parentally placed children (3-5) <b>determined eligible</b> in private elementary schools within the ISD	5
<b>Total Preschool Proportionate Share Requirement</b>	<b>\$2,500</b> (\$500 x 5)

# Supplement Not Supplant – 34 CFR §300.133(d)

- State and local funds may supplement and, in no case, supplant the proportionate amount of Federal funds required to be expended for parentally placed private school children with disabilities under this part.

**Always spend federal funds first for proportionate share**

# Fiscal Responsibilities of ISDs

- Calculate overall requirement for §611 (Flowthrough) and §619 (Preschool) separately.
- Budget in NexSys the amounts the ISD and/or member districts will spend using function code 371 for §611 (Flowthrough) and §619 (Preschool) separately.
- Upload calculation into NexSys application.
- Determine how fiscal requirement will be met in coordination with member districts.
- Ensure the proportionate share requirement is met in the aggregate.

# Additional Responsibilities of ISDs and Member Districts

- Ensure costs charged are actual, not budget estimates
- Ensure documentation supports charges to the grant.
- Charge the grant for allowable expenditures before using other funds.
- Identify service providers and ensure sufficient supporting documentation is maintained.
- Other Responsibilities
  - Child Find
  - Timely and Meaningful Consultation
  - Data Collection

# Proportionate Share Recoding

# Proportionate Share Recoding Overview

- History
- Recoding Review Process
- Primary Components of a Recoding Review
- Allowable Expenditures
- Unallowable Expenditures
- Supporting Documentation
- Federal and State Requirements

# History

- OSEP Policy Letter: [June 1, 2010 to Michigan Department of Education Office of Special Education and Early Intervention Services official John Andrejack](#)
- OSEP Guidance: [February 2022 Q&A on Serving Children with Disabilities Placed by Their Parents in Private Schools](#)
  - Question O-6

# February 2022 Q&A Question O-6

- If an LEA does not expend its entire proportionate share of IDEA Part B funds on children with disabilities placed by their parents in private schools by the end of the carry-over period, may the LEA return the unexpended funds to the SEA to be spent by the SEA or reallocated to another LEA?

# February 2022 Q&A Question O-6 (Cont'd)

- No. If, after the carry-over period, the LEA is unable to expend the entire proportionate share and assuming the LEA is in compliance with the child find, consultation, and other requirements related to parentally placed private school children with disabilities in 34 C.F.R. §§ 300.129 through 300.144, the LEA may use the unexpended funds—at the end of the period during which the funds may be spent on parentally-placed private school children—to pay for other allowable IDEA Part B expenditures for that same LEA. This situation should be the exception. We emphasize that it is the clear intent of the Act that LEAs spend these funds on providing special education and related services to parentally placed private school children with disabilities, as provided in 34 C.F.R. §§ 300.129 through 300.144. Therefore, if the LEA is not in compliance with these requirements and has not expended the funds on parentally placed private school children, the LEA must return the funds to the Department.

# What Happens if an ISD does not fully spend the Proportionate Share Allocation?

- **Option 1:** Request a proportionate share recoding review with MDE OSE.
- **Option 2:** Return unspent funds to the United States Department of Education
  - Unexpended funds on the Final Expenditure Report must be at least the amount of unspent proportionate share funds.
  - ISD will need to explain why funds are being returned.

# What is Proportionate Share Recoding?

- If an LEA is unable to spend the entire proportionate share allocation on equitable services for parentally placed private school children with disabilities by the end of the 27-month grant period, the ISD may recode the unspent portion to be used to pay for other allowable IDEA Part B expenditures for the same period of availability.
- MDE OSE approval to recode is **required**.

# Recoding Review Process

- ISD Submits Request to Recode to MDE OSE by May of the carryover period.
- ISD Submits Required Information and Documentation
- Approval to Recode
  - Final Reconciliation
  - Final Report Submission
- Final MDE OSE Approval

# Primary Components of a Recoding Review

- Child Find
- Timely and Meaningful Consultation
- Fiscal

# Child Find – 34 CFR §300.131

- 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 school located in the school district served by the LEA.
- Activities must be similar to activities performed for public school children.

# Consultation – 34 CFR §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 children.

# Required Consultation Topics – 34 CFR §§300.134(a)- 300.134(e)

- Child Find
- Explanation of Proportionate Share Calculation
- Consultation Process
- Provision of Special Education and Related Services
- How, if the LEA disagrees with the views of the private school officials on the provision or types of services, the LEA will provide to the private school officials a written explanation of the reasons why the LEA chose not to adopt the recommendations of the private school officials.

# Written Affirmation of Consultation – 34 CFR §300.135(a)

- When timely and meaningful consultation, as required by 34 CFR §300.134, has occurred, the LEA must obtain a written affirmation signed by the representatives of participating private schools.
- Written affirmation is obtained **after** consultation has occurred, not before.

# Fiscal – 34 CFR §300.133(a)

The LEA where the private schools are located must expend:

- A proportionate share of the LEA's total subgrant under §611(f) of IDEA on services for parentally placed children aged 3-21 in accordance with a required formula; and
- A proportionate share of the LEA's total subgrant under §619(g) of IDEA for services for parentally placed children aged 3-5 in accordance with a required formula.

# Allowable Expenditures

- Special education instructional services (34 CFR §300.142)
- Transportation if necessary to access services (34 CFR §300.139)
- Related services
- Supplies and equipment (34 CFR §300.144)
  - Must remain property of the ISD/member district
  - MDE prior approval required for capital outlay
- Professional development/training (Q&A Question D-6)
- Direct service documentation time
- Direct service preparation time

# Allowable Expenditures (Cont'd)

- Service plan meeting
- Mileage
- Travel time
- Fringe benefits (2 CFR §200.431)
  - (paid holidays, sick leave, etc)

# Unallowable Expenditures

- Child find activities
- Evaluations and re-evaluations
- Determination of eligibility
- Timely and meaningful consultation
- Administrative costs
- Direct payments to a private school
- Repairs, minor remodeling, or construction of private school facilities

# Supporting Documentation

Supporting documentation must:

- Be transparent
- Clearly show how time charged is related to providing equitable services to parentally placed private school children with disabilities.
- Clearly identify time related to providing equitable services to parentally placed private school children with disabilities ages of 3 to 5.

# Draft Parentally Placed Private School Service Log Template

- Shared to MDE OSE by an ISD
- May be used and modified as needed.
- Not to be considered the only approach to tracking time related to providing services to parentally placed private school children with disabilities.
- Contact Nicole Licht at ([LichtN@michigan.gov](mailto:LichtN@michigan.gov)) if interested in receiving a copy.

# Federal and State Requirements

Equitable Services provided using proportionate share funds must follow the federal requirements under IDEA.

- 34 CFR §§300.129-300.144

Auxiliary services provided using non federal funds follow the Auxiliary Services Act

- Michigan Administrative Code R 340.291-340.295
- The Revised School Code Section 380.1296

# Contact Information

- For questions related to the IDEA Flowthrough application:
  - Shelby Zenk ([ZenkS@michigan.gov](mailto:ZenkS@michigan.gov))
- For questions related to equitable services requirements:
  - John Andrejack ([AndrejackJ@michigan.gov](mailto:AndrejackJ@michigan.gov))
  - Nicole Licht ([LichtN@michigan.gov](mailto:LichtN@michigan.gov))