

Special Education Services To  
Children With Disabilities  
(Ages 3-21)  
Parentally Placed In Approved  
and/or Accredited Nonpublic  
Schools Including Exempt Home  
Schools  
(FAPE Is Not At Issue)



**Technical Assistance Document**  
Nebraska Department of Education  
Special Populations  
*(Revised April 2015)*



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The Nebraska Department of Education, Special Population Office, gratefully acknowledges the work of the stakeholder members in developing a plan for the provision of special education services to parentally-placed nonpublic school students.

**Special Education Services To Children With Disabilities  
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# INTRODUCTION

## Background

The final regulations for the reauthorized Individual with Disabilities Education Act (IDEA) 2004 were published in the Federal Register on August 14, 2006, and became effective on October 13, 2006. These regulations contain a number of significant changes from the existing law and regulations.

The regulations now require that public school districts, after timely and meaningful consultation with nonpublic school representatives and nonpublic school parent representatives, conduct a thorough and complete child find process to determine the number of parentally-placed children with disabilities attending nonpublic schools located is within the public school district's boundaries. The requirements make clear the obligation to spend a proportionate amount of IDEA Part B funds to provide special education services to children with disabilities enrolled by their parents in nonpublic schools. Additionally, the regulations require that children with disabilities parentally-placed in a nonpublic school be served by the public school district within which the nonpublic school is located. Other key changes relate to a consultation process, calculation of the proportionate share, and standards applicable to personnel providing equitable services.

In response to the requirements of IDEA 2004 the Nebraska Department of Education, Special Populations Office formed a stakeholders taskforce to discuss and make recommendations on how best to merge the requirements of federal laws, and Nebraska's state law. The stakeholders engaged in extensive discussions around the pros and cons of three service delivery models. These models were: 1) change Nebraska state statute from FAPE to equitable services for all children with disabilities parentally-placed in a nonpublic school; 2) revise Nebraska state statute definition of residency for nonpublic school children and provide FAPE for all children with disabilities parentally-placed in nonpublic schools; 3) provide a dual delivery system in which resident children with disabilities parentally-placed in a nonpublic school within their school district boundaries receive FAPE; and nonresident children with disabilities parentally-placed in a nonpublic school would be eligible to receive equitable services from the school district within which the nonpublic school is located, **or** parents may request the provision of FAPE from the child's school district of residence.

The dual delivery system was recommended by the stakeholders, as this system provided harmonization of both federal law and state law and provided flexibility for nonresident children with disabilities parentally-placed in a nonpublic school. Nonresident parentally-placed nonpublic school children with disabilities have two choices: 1) receive equitable services from the public school district within which the nonpublic school is located; **or** 2) request the provision of a free and appropriate public education (FAPE) from the child's resident public school district. Resident children with disabilities parentally-placed in a nonpublic school continue to be eligible for the provision of a free and appropriate public education (FAPE) from the school district where the child resides.

This dual delivery system aligns with Nebraska statute which requires public school districts to make the provision of a free appropriate public education (FAPE) available for all resident children.

## **Purpose**

The purpose of this technical assistance document is to provide guidance and interpretation of the requirements of IDEA 2004 and 92 NAC 51- 015.03.

It is not intended to be a replacement for careful study of IDEA 2004 and 92 NAC- 51 or Rule 51 (Regulations and Rules for Special Education Programs).

## **For Additional Information**

For more information, or if you have questions about the provision of special education services for children with disabilities parentally-placed in nonpublic schools, please contact your district's regional representative at the Office of Special Education in the Nebraska Department of Education.

<http://www.education.ne.gov/sped/contact.html>

This document is also available on the Nebraska Department of Education, Office of Special Education website:

[www.education.ne.gov/sped/technicalassist/ServicesNonpublicSchools.pdf](http://www.education.ne.gov/sped/technicalassist/ServicesNonpublicSchools.pdf)

## **Overview**

### **Children With Disabilities Parentally-Placed In Nonpublic Schools (Ages 3-21), Free Appropriate Public Education (FAPE) Is Not At Issue**

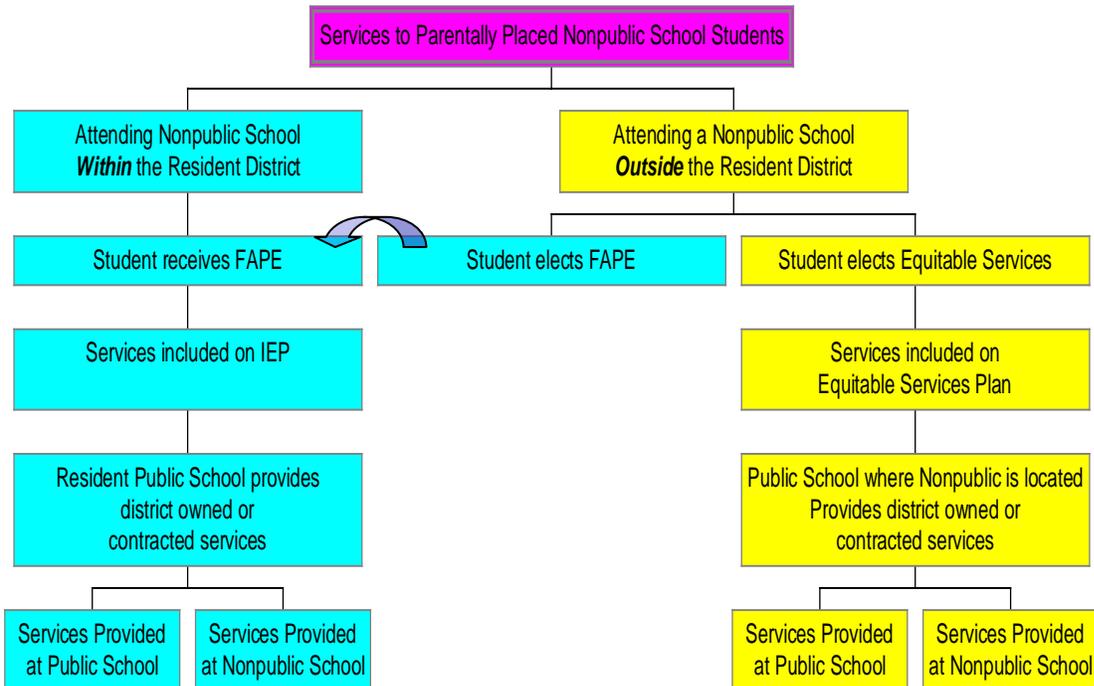
The final IDEA 2004 regulations clarify eligible children with disabilities parentally-placed in a nonpublic school means “children with disabilities placed by their parents in a nonpublic, including religious schools, home schools, and schools or facilities, which meet the definition of “elementary school” or “secondary school”. “Elementary school” is defined as a nonprofit institutional day or residential school, including a public elementary school that provides elementary education, as determined by state law. “Secondary school” is defined as a nonprofit institutional day or residential school, including a secondary school that provides secondary education, as determined by state law. Preschool children (ages 3-5) attending preschools which are part of an approved and/or accredited elementary school are also included under IDEA 2004 regulations of eligible children with disabilities parentally-placed in nonpublic schools.

This document refers only to eligible children (ages 3-21) with disabilities **parentally-placed** in an approved and/or accredited Rule 12 and Rule 13 Nonpublic schools, including religious schools; Exempt Home schools Parents may educate their child at home by electing not to meet State approval or accreditation requirements (Section 79-1601 R.R.S.). In Nebraska, "home schools" are referred to as exempt schools and are considered non-approved and non-accredited nonpublic schools, or facilities that meet the definition of elementary school or secondary school, and **FAPE is not** at issue.

#### **The public school district within which the nonpublic school is located is responsible for:**

- Child Find
- Taking a (October 1) child count of eligible: public school, approved and/or accredited nonpublic school, and exempt home children with disabilities
- Calculation of proportionate share
- Consultations with Nonpublic schools and determination of equitable services
- Provision of FAPE for Resident children (ages 3-21) with disabilities parentally-placed in a nonpublic school
- Provision of equitable services as determined through the consultation process for Nonresident children (ages 3-21) with disabilities parentally-placed in an approved and/or accredited nonpublic school or exempt home school.

# What Does It Look Like



Parentally-placed children with disabilities attending an approved and/or accredited nonpublic school which is located outside of his/her resident district:

- ◆ May elect to receive equitable services from the public school within which the nonpublic school is located (services plan)

**OR**

- ◆ May elect to receive FAPE from the public school district of which they are a resident (IEP)

Parentally-placed children with disabilities attending an approved and/or accredited nonpublic school or an exempt home school which is located within his/her resident district:

- ◆ Are only entitled to receive the provision of FAPE from his/her resident public school district

# Consultation

Public school districts must at least annually conduct a timely and meaningful consultation meeting with parent representatives and officials of approved and/or accredited nonpublic schools, including exempt home schools, which are within their district's jurisdiction. The purpose of the consultation meeting is to provide an opportunity for nonpublic school representatives and parents to participate in meaningful discussions and provide input into the design and development of special education and related services for children with disabilities attending nonpublic schools, including exempt home schools. This consultation meeting should not be confused with Title consultation meetings with nonpublic schools.

Timely and meaningful consultation is an ongoing process. In some cases, additional consultation meetings may be needed throughout the year to discuss changes in the provision of special education and related services, expenditures and carry over funds, and should address the following topics:

- a. The child find process (3- 21 yr. olds), including how parentally-placed nonpublic school children suspected of having a disability can participate equitably; and how parents, teachers, and nonpublic school officials will be informed of the process; and gathering the October 1 child count.
- b. The determination of the proportionate share of federal funds available to serve children with disabilities parentally-placed in nonpublic schools including the determination of how the proportionate share of those funds was calculated; and any carry-over funds.
- c. The consultation process among the public school district, nonpublic school officials, and nonpublic school parent representatives, including how the process will operate throughout the school year to ensure that these children with disabilities can meaningfully participate in special education services. It may be necessary for a district to hold additional consultation meetings in order to address changes in services (equitable) service(s), expenditures, and unspent carry-over proportionate share funds.
- d. A discussion of how, where, and by whom special education services will be provided, including a discussion of: 1) the types of services, including direct services and alternative service delivery mechanisms; 2) how special education services will be apportioned if the proportionate share federal funds are insufficient to serve all eligible children with disabilities parentally-placed in nonpublic schools; and 3) how and when those decisions will be made. A unilateral offer of services by the school district with no opportunity for discussion is not adequate consultation; as such an offer does not meet the basic requirements of the consultation process. Only after the discussion of key issues relating to the provision of special education and related services with all representatives may the school district make its final decision with respect to the special education and related services to be provided.

- e. How, if the school district disagrees with the views of the nonpublic school officials on the provision of services or the types of services (whether provided directly or through a contract) the school district will provide to the nonpublic school officials a written explanation of the reasons why the public school district chooses not to provide services directly or through a contract.

Upon conclusion of a consultation meeting with nonpublic school representatives and parent representatives, the school district must obtain written affirmation signed by the representatives of the participating nonpublic schools and is uploaded on the Portal GMS 4412 program information.

If representatives of the nonpublic schools do not provide written affirmation within a reasonable period of time, the school district must forward documentation of the consultation process to Nebraska Department of Education, Special Populations.

A nonpublic school official has the right to submit a complaint to the Nebraska Department of Education that the school district did not engage in consultation that was meaningful and timely, or did not give due consideration to the views of the nonpublic school official.

## **Questions and Answers-Consultation**

**1. Which nonpublic schools should the public schools include in the consultation process?**

The consultation process should include all approved and/or accredited nonpublic schools which meet the definition of an elementary or secondary school, and exempt home schools which are within the jurisdiction of the public school district.

**2. Must representatives of home schools and preschools be invited to participate in the consultation process?**

Yes.

**3. Can a school district decide only to provide services for resident children with disabilities parentally-placed in a nonpublic school?**

The proportionate share of federal funds must include the provision of special education services for all children with disabilities parentally-placed in nonpublic schools located within the district. However, through the consultation process it may be decided that only certain services will be available, and some nonresident children with disabilities may not receive some or any of the services he/she would receive if services were being provided by the resident school district.

The school district must make available a free appropriate public education (FAPE) for all resident children with disabilities parentally-placed in a nonpublic school.

**4. Is it possible that a nonresident child with disabilities parentally-placed in a nonpublic school will not receive any services?**

Yes, based on the consultation process, and in light of available proportionate share funding, it could be determined that only certain special education services are available to nonresident nonpublic parentally-placed children. As a result, some nonresident children with disabilities parentally-placed in a nonpublic school may not receive the services necessary to meet their special education needs.

If the services for a nonresident child are not available, a services plan would not be written for the child. Parents of a nonresident child have the option to request a free appropriate public education (FAPE) from the child's resident public school district.

**5. When should the public school district conduct the consultation meeting?**

The consultation meeting should be held no later than August 1st. The consultation meeting must be held prior to the district's design and development of special education services for the next school year. Schools districts may combine the consultation meeting with other NCLB and Title consultation meetings as long as the required topics of the Parentally Placed Nonpublic Consultation meeting are included (*i.e. Public notice of meeting, Written Affirmation etc. (see Consultation section).*)

**6. What are some ways for public school districts to invite parents to consultation meetings?**

The district should follow the district’s Public Notice policy and procedures. Additional methods may, include, but are not limited to: send letters to known parents; place a public meeting notice in the newspaper; request nonpublic schools to include consultation meeting information in their school/parent newsletter; meeting flyers; posters; local radio station announcements, etc.

**7. Who makes the final decision on what services will be available for children with disabilities parentally-placed in nonpublic schools?**

After timely and meaningful consultation with nonpublic schools representatives and representatives of parents, the school district is responsible for making final decisions about all aspects of the services to be provided to children with disabilities parentally-placed in nonpublic schools.

However, if the school district disagrees with the views of the nonpublic school officials on the provision of services or the types of services, whether provided directly or through a contract, the school district must provide the nonpublic school officials a written explanation of the reasons why the district chose not to accept the recommendations of the nonpublic school officials.

**8. Are there any further requirements of the public school district if no nonpublic school representative or nonpublic parent representatives attend the consultation meeting?**

No, as long as the public school has made reasonable efforts to inform representatives of nonpublic schools and parent representation of the consultation meeting and has documentation of its efforts to provide a timely and meaningful consultation meeting, there are no further requirements. Sample consultation meeting notices are provided in this document.

**9. What are some suggestions for documentation that the district has provided timely and meaningful consultation?**

Districts should keep: copies of invitation letters, newspaper notices, Written Affirmation signed by meeting participants and other documentation of meeting agendas, notes describing each of the topics or issues discussed at the meeting. Establishing a timeline for consultation can help ensure that timely and meaningful consultation occurs as needed throughout the school year. The timeline can include meeting dates and times as well as topics to be discussed and how the October 1 child count will be collected.

**10. What documentation of the consultation process is required?**

After consulting with representatives of nonpublic schools, the school district must obtain a written affirmation of meaningful participation, signed by nonpublic school representatives and public school representatives who attended the meeting. In addition, a copy of the signed Written Affirmation of meaningful consultation must be uploaded on the NDE Portal -IDEA Consolidated Grant Applications.

However, if nonpublic school representatives, do not provide signed affirmation within a reasonable period of time, the school district must upload documentation of the district’s efforts to consult with

the representatives of nonpublic schools, and consultation process on the Nebraska Department of Education Portal, IDEA Consolidated Grant application.

**11. Is a sign-in sheet of attendance sufficient documentation for a consultation meeting?**

No. A sign in sheet alone provides an accounting of who attended, and does not provide evidence that ongoing consultation has occurred.

**12. Once the consultation plan is completed does the plan need to be submitted to the state?**

No, school districts should maintain documentation of the consultation meeting and the plan. School districts are not required to submit the documentation to Nebraska Department of Education, Special Populations Office unless the district is unable to obtain written affirmation from nonpublic representatives.

**13. If a district needs to change how services will be apportioned (*funds are insufficient or overly sufficient*) must the district hold a consultation meeting?**

It would depend on whether or not during the previous consultation meeting there was discussion and a plan for what would be done if there needed to be changes. A consultation meeting should be held to discuss unspent carry over funds which cannot be spent over the carry over maximum two-year period. Documentation of the discussion and decision should be recorded in the consultation meeting summary notes.

**14. Must the proportionate amount of Part B funds be used only for direct services to parentally placed nonpublic school children with disabilities? Is it permissible to use funds for this population on other services, such as consultative services, materials, equipment, or training?**

Through the consultation process, a determination must be made about how the available amount of funds will be utilized so that the parentally placed nonpublic school children with disabilities designated to receive services can benefit from the services offered. Depending on the discussions during the consultation process, local circumstances, and the amount of funds available to expend on services for this population of children, a school district could determine, after timely and meaningful consultation, that it will provide its population of parentally placed nonpublic school children with disabilities with indirect services. These services could include consultative services, equipment, or materials for eligible parentally placed children with disabilities or training for nonpublic school teachers and other nonpublic school personnel. Special education and related services provided to parentally placed nonpublic school children with disabilities, including materials and equipment, must be secular, neutral, and nonideological.

**15. Must the Written Affirmation of meaningful consultation be submitted to the state?**

Yes, a copy of Written Affirmation of meaningful consultation with participant signatures must be uploaded on the Portal, GMS IDEA Consolidated grants, Nonpublic application.

**Sample Letter**

**Nonpublic School Consultation Meeting Invitation**

Dear (NAME):

In accordance with the requirements of 92 NAC 51, this letter is to invite you to a meeting where you will have an opportunity to participate in the discussion of a plan for child find and the provision of special education services to children with disabilities who attend your nonpublic school during the 200X-XXXX school year. This meeting will take place at (LOCATION) starting at (TIME) on (DATE).

As you may know, a public school district is required to utilize a portion of its Federal Part B special education funds in order to provide children with disabilities parentally-placed in nonpublic schools which are within the school district’s jurisdiction the opportunity to participate in special education services offered by the public school district. As part of this process, the public school district will consult with nonpublic school representatives regarding special education services for the coming school year and to afford you the opportunity to offer ideas and input.

In addition to meeting with representatives of nonpublic schools within the district, we would appreciate your assistance in identifying parents who may wish to attend this meeting and offer their input. In order to provide reasonable advance notice to such parents, we would appreciate receiving names and contact numbers for such parents by no later than (DATE \_\_\_\_\_).

We thank you for your willingness to participate in this process. If you have any questions or concerns pertaining this meeting please feel free to call (CONTACT NAME AND NUMBER).

Sincerely,

(Public School Official)

## **SAMPLE PUBLIC NOTICE**

On (DATE) at (TIME), a meeting conducted by (DISTRICT NAME) will take place at (LOCATION). The purpose of the meeting will be to provide an opportunity for parents who have parentally placed their child in an approved and/or accredited nonpublic school or exempt home school and representatives of nonpublic schools to participate in the development of a plan for providing special education services to children with disabilities who attend an approved and/or accredited nonpublic schools and exempt home schools which are within the \_\_\_\_\_ district for the 201x-201x school year. Parents of a home-schooled child or a child attending a nonpublic school who has been or may be identified with a disability and attend an approved and/or accredited nonpublic school within the boundaries of (DISTRICT NAME), are urged to attend. If you have further questions pertaining to this meeting, please contact (CONTACT NAME) at (NUMBER).

## **Consultation Plan Checklist**

### **Requirements for Consultation under the Individuals with Disabilities Education Act as reauthorized in 2004.**

The public school district shall consult with nonpublic school representatives and representatives of parents of children with disabilities parentally-placed in an approved and/or accredited nonpublic school, or exempt home school during the design and development of special education and related services for the children regarding:

\_\_\_\_\_ **Child Find:** How parentally-placed nonpublic school children suspected of having a disability can participate equitably, including how parents, teachers, and nonpublic school officials will be informed of the process; restrictions on sharing information; parent election of equitable or FAPE.

\_\_\_\_\_ **Proportionate Share Calculation:** \$\_\_\_\_\_ How the proportionate share of IDEA Part B and IDEA Preschool federal funds is calculated including the amount of the proportionate share funds available for the ensuing school year; and any carry-over funds.

\_\_\_\_\_ **Consultation Process:** How the consultation process will operate throughout the school year to ensure that eligible children (ages 3-21) with disabilities parentally-placed in nonpublic schools identified through the Child Find process can meaningfully participate in special education and related services; and how the October 1 child count will be collected.

\_\_\_\_\_ **Special Education and Related Services:** How, where, and by whom special education and related services will be provided for children (ages 3-21) with disabilities parentally-placed, including a discussion of types of services, including direct services and alternate service delivery mechanisms, how such equitable services will be apportioned if funds are insufficient or overly sufficient to serve all children, and how and when these decisions will be made; (resident children-FAPE, nonresident children equitable services); and

\_\_\_\_\_ **Disagreement:** How, if the public school district disagrees with the views of the nonpublic school officials on the provision of services or the types of services, whether provided directly or through a contract, the public school district shall provide to the nonpublic school officials a written explanation of the reasons why the district chose not to provide services directly or through a contract.

**Documentation Required:** Each school district shall maintain in the district's records: public notices of consultation meetings, summary of discussion and decisions, and Written Affirmation signed by officials of each participating nonpublic school and the school district representatives that consultation regarding the provision of special education and related services has occurred. Records of discussion and decisions of Child find, the services to be provided and those services will be provided and further consultation meetings.

If nonpublic school officials do not provide such affirmation within a reasonable time, the public school district shall upload the documentation that such consultation has taken place on the Portal, GMS IDEA Consolidated grants, Nonpublic 4412 application to the Special Education Office, Nebraska Department of Education.



6. Where will special education services be provided to children with disabilities parentally-placed in nonpublic schools?
  
  
  
  
  
  
  
  
  
  
7. By whom will special education services be provided to children with disabilities parentally-placed in a nonpublic school?
  
  
  
  
  
  
  
  
  
  
8. How will the annual October 1 count of the number of eligible children with disabilities parentally-placed in nonpublic schools and exempt home schools be conducted? This includes all eligible children **attending an approved/accredited and or nonpublic school or exempt home school** within the jurisdiction of the Public school boundaries. This child count is not the same as the NSSRS count
  
  
  
  
  
  
  
  
  
  
9. How will special education services be apportioned if funds are insufficient or over sufficient to serve all children? How and when will these decisions be made? (I.e. *additional consultation meetings etc.*)
  
  
  
  
  
  
  
  
  
  
10. Do the public school district and all nonpublic school officials and home schools agree on the provision of special education services or types of services?       yes       no  
If no, describe below how the public school district will provide a written explanation to the nonpublic school officials of the reasons why the public school chose not to provide services directly or through a contract. Attach a copy of the dated, written explanation.
  
  
  
  
  
  
  
  
  
  
11. Other topics of discussion

**Consultation Plan Summary:**

**Signatures of participants in attendance:**

Name	Role	Nonpublic School	Date

# Sample

(School District Name)  
Special Education Services

## WRITTEN AFFIRMATION OF CONSULTATION

Date of Consultation \_\_\_\_\_

It is affirmed that the nonpublic school consultation process included discussion of:

- The child find process and how children (ages 3-21) with disabilities parentally-placed in nonpublic schools suspected of having a disability can participate equitably, including how parents, teachers, and nonpublic school officials will be informed of the process;
- The determination of the proportionate amount of federal funds available to serve eligible children (ages 3-21) with disabilities parentally-placed in a nonpublic school, including the determination of how the amount was calculated, and any carry-over funds;
- How the consultation process will operate throughout the school year to ensure that children (ages 3-21) with disabilities parentally-placed in nonpublic schools identified through the child find process can meaningfully participate in special education services;

How, where, and by whom special education services will be provided for eligible children with disabilities (ages 3-21) parentally-placed in approved and/or accredited nonpublic schools and exempt home schools, including a discussion of types of services, including direct services and alternate service delivery mechanisms, how such equitable services will be apportioned if funds are insufficient and/or overly sufficient to serve all eligible children how and when these decisions will be made; and how the **October 1** child count of children attending a nonpublic school will be collected.

- How, if the public school district disagrees with the views of the nonpublic school officials on the provision of equitable services or the types of equitable services, whether provided directly or through a contract, the public school district shall provide to the nonpublic school officials a written explanation of the reasons why the school district chose not to provide equitable services directly or through a contract.

Signatures of Nonpublic School Representatives/ Public School Officials and Parents in attendance:

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Signature	Parent/ Nonpublic School/ Public School	Date
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**Continued on page 2**



## **Child Find**

The school district must locate, identify, and evaluate all children with disabilities (ages 3-21) who are parentally-placed in nonpublic schools, home schools, including religious, elementary schools and secondary schools or approved and/or accredited cooperatives which are within the school district's jurisdiction.

The child find process must be designed to: 1) ensure the equitable participation of children parentally-placed in a nonpublic schools; 2) result in an accurate count of these children; 3) consist of similar activities as those undertaken for public school children; 4) be conducted in a time period that is comparable to that for children attending the public school; and 5) must include out of state children attending a nonpublic school within the district; 6)parent election of FAPE or equitable services.

The school district must consult with appropriate representatives of nonpublic schools on how the child find activities will be conducted. The costs of carrying out the child find process, including individual evaluations, cannot be included in the proportionate share expenditures.

## **Questions and Answers- Child Find**

### **1. To which children do the IDEA requirements for children with disabilities parentally-placed in nonpublic schools apply?**

IDEA provisions relating to children (ages 3-21) with disabilities parentally-placed in nonpublic schools apply to all children with disabilities parentally-placed in nonpublic elementary and secondary schools, including religious schools. A "nonpublic school" is considered an elementary school or secondary school if it meets the definition of elementary school or secondary school in Section 602(6) of the Act. The Act defines an elementary school or secondary school as a nonprofit institutional day or residential school, that provides elementary or secondary education, as determined under state law. *(See the Early Childhood section for preschool children)*

### **2. Which school district is responsible for child find activities in nonpublic schools?**

The school district within which the nonpublic school is located is responsible.

### **3. Can the school district which has evaluated a nonresident child, share information with the child's resident school district?**

Not unless the parent gives written consent. A parent must give written consent before any personally identifiable information about the child is released between the school district within which the nonpublic school is located and the school district of the child's residence. If sharing information would facilitate identifying and serving the child, it may be appropriate to seek parental consent, but the school district cannot require the parent to provide consent.

**4. Do these requirements apply to children who are home schooled?**

Yes. If the child attends an exempt school under 92 NAC 12 or 92 NAC 13 the child with disabilities is considered to be parentally-placed in a nonpublic school. Therefore, the IDEA provisions relating to children with disabilities parentally-placed in a nonpublic school apply to children in home schools.

**5. Are children who reside out-of-state the responsibility of the school district within which the nonpublic school is located?**

Yes. The school district within which the nonpublic school is located is responsible for child find, evaluation, and provision of services for children with disabilities who reside out-of-state. Out-of-state residents must be included in the group of children with disabilities parentally-placed in nonpublic schools whose needs are considered in determining the types and amounts of services to be provided.

**6. How does a school district meet its child find responsibilities to children with disabilities parentally-placed in a nonpublic school?**

The school district within which the nonpublic school is located has options as to how it ensures that child find responsibilities are met. For example, the school district may assume the responsibility itself, or contract with another school district or agency. The school district should determine its child find procedures through the consultation process and plan.

**7. Do these requirements apply to children parentally-placed in residential care centers for other than educational reasons?**

No, these children are covered by Nebraska Revised Statute 79-215 (8).

**8. What are the required child find activities in nonpublic schools?**

The school district within which the nonpublic school is located must conduct similar child find activities to those undertaken in the public school. The child find process must be designed to ensure the identification and evaluation of all children parentally-placed in nonpublic schools, who are suspected of having a disability. Additionally, the child find process must be designed to allow for the equitable participation of such children, and result in an accurate count of children with disabilities, ages 3-21.

Child find activities for nonpublic school children must be similar to those for public school children. This generally includes such things as distribution of informational brochures, public service announcements, staffing exhibits at health fairs and community activities, and creating direct liaisons with nonpublic schools. The activities must be completed in a time period comparable to that for children attending the public schools. The school district cannot wait until child find activities for the public schools are completed before conducting child find activities in nonpublic schools. Each school district must consult with nonpublic school representatives and representatives of parents of nonpublic school children with disabilities about the child find process.

**9. Can the district require a nonpublic school to implement a Nebraska Multi-Tiered System of Supports (MTSS)/Response to Intervention (RtI) or process before conducting an evaluation?**

No. Although IDEA permits the use of NeMTSS/RtI in the evaluation of children suspected of having learning disabilities, it does not require a district to use NeMTSS/RtI for nonpublic children. It would be inconsistent with the IDEA provisions for a district to delay the initial evaluation because a nonpublic school has not implemented a NeMTSS/RtI process.

**10. In conducting evaluations of children suspected of having disabilities parentally-placed in nonpublic schools, may a school district exclude children suspected of having certain disabilities, such as those with specific learning disabilities?**

No, the school district must identify and evaluate all nonpublic school children suspected of having a disability. School districts may not exclude from their child find activities children suspected of having certain disabilities, such as those with specific learning disabilities.

**11. What if the parent of a child parentally-placed in a nonpublic school refuses to consent for an initial evaluation?**

If the parent does not provide written consent for an initial evaluation or reevaluation, or fails to respond to a request to provide consent, the school district cannot use due process procedures to challenge a parent's refusal.

**12. Is it possible that a child could be evaluated at the same time by the child's school district of residence and school district within which the child's nonpublic school is located?**

Yes. There is nothing to prohibit parents from requesting an evaluation from the child's resident school district, which is responsible for FAPE, at the same time that the parents have requested that the district within which the nonpublic school is located evaluate their child.

This is not encouraged, and may not be in the best interest of the child. Simultaneous evaluations may not ensure that the evaluation is a meaningful measure of whether a child has a disability nor provides an appropriate assessment of the child's educational needs. Unless a parent chooses to inform the school district that their child is being evaluated by another school district, the two school districts may not know the child is being evaluated by both school districts.

School districts must obtain parental consent before any personally identifiable information about the child is released between officials in the school district within which the nonpublic school is located and officials in the school district in which the child resides.

**13. Who is responsible for paying for an evaluation of a nonpublic school child?**

The school district within which the nonpublic school is located is responsible for conducting and paying for an evaluation of a child with a suspected disability.

**14. Can the school district within which the nonpublic school is located request reimbursement from the school district where the child resides for the cost of evaluations?**

No, the school district within which the nonpublic school is located is responsible for the costs of child find activities and evaluation. However, the district within which the nonpublic school is located has options as to how it meets evaluation responsibilities. For example, the school district may assume the responsibility itself, contract with another district, or make other arrangements.

**15. Can the costs expended for child find, including individual evaluations, be included in the required amount of funds to be expended on services for parentally-placed children?**

No. There is a distinction under the Act between the obligation to conduct child find activities and the obligation to expend a proportionate share for the provision of special education services to nonpublic school students. Child find and evaluation expenditures cannot be included in the proportionate share expenditures.

**16. Is the school district where the parentally-placed child attends a nonpublic school required to reevaluate the child?**

Yes. Reevaluation is part of a school district's child find obligation. The child find requirements apply to children with disabilities parentally-placed in nonpublic schools. Therefore, a school district must initiate a reevaluation of a nonpublic school child at least once every three years. If the parent does not consent for reevaluation, or fails to respond to a request to provide consent, the school district may not use override procedures, and is not required to consider the child as eligible for services.

**17. Which district is responsible for a child's three year reevaluation?**

The school district who is responsible for the special education services to the child:

	<b>Child is receiving:</b>	<b>School District Responsible for 3yr. Evaluation:</b>
Child is a resident of Blue School district in which the nonpublic school is located	FAPE (IEP) from Blue School district	Blue School district ( <i>resident school district</i> )
Child is a resident of Blue School district and is attending a nonpublic school in Yellow School district	Elected FAPE (IEP) from resident Blue School district	Blue School district ( <i>School district who is responsible for services</i> )
Child is a resident of Blue School district and is attending a nonpublic school which is located within the Yellow School district	Equitable Service Plan (SP) from Yellow School district	Yellow School district ( <i>School district who is responsible for equitable services</i> )
Child is eligible, but not receiving services from either Blue (resident district) or Yellow School (nonresident) district and is attending a nonpublic school which is located within the Yellow School district	None	Yellow School ( <i>District in which the nonpublic school is located</i> ) or the Parent can request an evaluation from the resident school district

**18. If the school district conducts an individual evaluation, and the parents disagree with the evaluation and want to request an independent educational evaluation (IEE), to which school district must the parents bring their request: the school district within which the nonpublic school is located; or the school district where the child resides?**

Parents should file the request for an IEE with the school district that conducted the evaluation with which the parent disagrees.

**19. Must a child with disabilities parentally-placed in a nonpublic school who is identified during the school year wait until the next school year to participate in special education services?**

No, if the child is a resident of the school district within which the nonpublic is located, the school district is responsible for the provision of FAPE in accordance with 92 NAC 51.

If the child is identified during the school year and is not a resident of the district within which the nonpublic is located, the school district should consider providing special education services during the same school year. Whether the child receives services in the same school year will depend upon such factors as the services the child needs, the equitable services the school district has determined to provide, and whether the school district already has expended its proportionate share of IDEA funds. The parent may elect to request FAPE from the child's public school district of residence.

**20. Following the evaluation, are the eligibility determination requirements the same for a nonresident child with disabilities parentally-placed in a nonpublic school as for a resident child with disabilities parentally-placed in a nonpublic school?**

Yes. Following the initial evaluation, an eligibility determination must be made by the Multidisciplinary Team and the child's parents, and the team must determine whether the child is a child with a disability. The school district must provide the parent with a copy of the evaluation report and documentation of the eligibility determination. For children with disabilities, the parent must give prior consent to developing an Individualized Education Program (IEP) (*resident child*) or equitable services plan (*nonresident parentally-placed child*).

**21. Which school district is responsible for informing parents of their options to receive FAPE from the resident school district or equitable services from the nonresident school district?**

How and by whom parents will be informed of their options (*FAPE or Equitable*) should be discussed and determined within the topic of Child Find at the Consultation Plan meeting. The school district in which the nonpublic school is located is responsible for child find, evaluation, and provision of equitable services; and the child's resident school district must make FAPE available to all resident children whose parent's elect for their child to receive FAPE.

**22. If a nonresident child is evaluated, determined to be a child with disabilities, should the nonresident school district explain to the parent what services the child would receive from the resident school district?**

No. It is the responsibility of the child's resident school district's IEP team to develop an Individualized Education Program, and it is the IEP team who determines the type and amount of special education that will be provided.

The school district must explain to the parent of the nonresident child what equitable services are available, as determined through the Consultation Plan; and available services which are appropriate for the child, a Service Plan would be written for the child.

The school district should inform the parent that they may elect to receive FAPE from their resident school district. Information sharing between the school districts does require the parent to give signed written consent to release information.

**23. Do all of these same requirements apply to a child who is a resident of another state attending a nonpublic school located within the district's boundaries?**

Yes

# **Provision of Equitable Services**

## **Equitable Services - Nonresident Children (ages 3-21)**

Equitable Services are provided to nonresident children whose parents have elected not to receive FAPE from the resident district. Equitable services are those special education services which will be provided as determined through the consultation process.

The public school district within which the nonpublic school is located is responsible for the development of a services plan for nonresident children with disabilities parentally-placed in a nonpublic school. The services plan does not entitle children with disabilities to a free and appropriate public education (FAPE). Therefore, the services plan may not include the same services the nonresident parentally-placed child with disabilities would receive from the resident school district.

The services plan must describe the specific special education services, that the school or approved cooperative will provide to the child in light of the equitable services that the school district has determined through the consultation process it will make available to nonresident children with disabilities parentally-placed in a nonpublic school.

The services plan, to the extent appropriate, must be developed, reviewed, and revised in the same manner as an IEP. Similarly, the services plan must to the extent appropriate include present levels of performance, goals, and equitable services.

The school district must initiate and conduct meetings to develop, review, and revise a services plan and ensure the participation of a nonpublic school representative. If the representative of the nonpublic school cannot attend, the school district shall use other methods to ensure participation by the nonpublic school representative, including individual or conference telephone calls.

Equitable special education services provided to nonresident children with disabilities parentally-placed in a nonpublic school must be provided by personnel meeting the same standards as personnel providing services in the public schools, except that nonpublic elementary school and secondary school teachers who are providing equitable services to children with disabilities parentally-placed in a nonpublic school do not have to meet the highly qualified special education teacher requirements. The school district may contract with an individual, association, agency, organization, or other entity to provide special education services. The school district may use Part B funds to pay an employee of the nonpublic school to provide equitable services if the employee performs the services outside of his/her regular hours of duty and the employee performs the services under public supervision and control.

## **Questions and Answers - Equitable Services Nonresident (ages 3-21)**

### **1. What are equitable services?**

A nonresident child with disabilities parentally-placed in a nonpublic school, which is located outside of his or her public school district of residence, has no individual entitlement to receive some or all of the special education and related services he or she would receive from his or her resident school district. The school district only must provide for the equitable participation of nonresident children with disabilities parentally-placed in a nonpublic school.

IDEA requires that annually a school district spend a proportionate share of IDEA funds on special education services for nonpublic school children with disabilities as a group. The services that will be made available are identified during the consultation process with nonpublic school officials and representatives of parents of children with disabilities parentally-placed in a nonpublic school.

### **2. How are equitable services for nonresident children with disabilities parentally-placed in a nonpublic school determined?**

No child with a disability parentally-placed in a nonpublic school or home school which is located outside the public school district where the child resides, has an individual right to receive some or all of the special education and related services that he or she would receive from his or her resident school district. Decisions about how the proportionate share will be expended and what equitable services will be provided to children with disabilities parentally-placed in a nonpublic school or exempt home school are made through the district's consultation plan.

### **3. Who decides what equitable services the district will provide?**

The school district through a timely and meaningful consultation meeting with nonpublic school officials and representatives of parents of children with disabilities parentally-placed in nonpublic schools makes the final determination of what special education services will be available.

### **4. What services must a school district provide to a child with disabilities parentally-placed in a nonpublic school?**

Children with disabilities parentally-placed children in a nonpublic school or home school who are residents of the district within which the nonpublic school is located are eligible to receive FAPE from their resident school district and have an IEP.

Children with disabilities parentally-placed in a nonpublic school or home school who are not residents of the district within which the nonpublic school is located are eligible to receive equitable services. Decisions about the type, amount, and location of where equitable services will be available, are made in the consultation process. A nonresident child with disabilities may or may not have a services plan depending on whether the child will be receiving equitable services as determined through the consultation process. The child's services plan describes the specific special education and related services that the school district or approved cooperative will provide. The amount of services could be different from what the child may receive from their resident school district.

**5. Who decides if a nonresident child with disabilities will receive Equitable services or FAPE services?**

The parent decides. After determination of the child's eligibility for special education the school district should explain to the parents what equitable services are available and that a services plan for the child may be developed.

The school district should also inform the parents that the child's resident school district is responsible for the provision of FAPE and the parent may contact the resident school district to request FAPE.

If the parent makes clear his or her intention not to request FAPE from the child's resident school district, the school district within which the nonpublic school is located would develop a services plan depending on the availability of equitable services as determined in the consultation process.

**6. Must school district employed teachers who are providing special education services in a nonpublic school meet Highly Qualified Teacher requirements?**

Yes. Any public elementary or secondary school teacher must meet the HQT requirements.

# Services plan

## Questions and Answers -Services plan Nonresident children (Ages 3-21)

### **1. What must a services plan include?**

Nonresident children with disabilities parentally-placed in a nonpublic school designated by the school district to receive special education services must have a services plan in place before the child can receive services. A services plan describes the specific special education the child will receive from the school district in light of the services the school district has determined will be available to nonpublic school children. To the extent appropriate, the services plan includes IEP elements. The elements in each child's services plan may vary depending on the services to be provided as determined in the consultation plan.

### **2. What should an equitable services plan include?**

As appropriate, the services plan should include:

- (a) the child's present levels of academic achievement and functional performance in the areas targeted for services by the school district (i.e., speech, reading, social skills, etc.);
- (b) annual goals specific to the services to be provided;
- (c) the type, amount, frequency, location, and duration of the services to be provided.

### **3. Is a services plan required for a nonresident child who is eligible for services, but those services do not fall within the array of services the public school is offering as determined through the consultation process?**

No. There is no requirement that a services plan be written for a child in this instance.

### **4. How often must a services plan be written?**

Services plans must be reviewed and revised at least annually, and be revised as appropriate.

### **5. Must the parent of a child with disabilities parentally-placed in a nonpublic school participate in the development of a services plan?**

Parents of the child are necessary participants and should participate in the meeting to develop the services plan for their child. If neither parent can attend the services plan meeting the school district shall use other methods to ensure parent participation, such as conference phone calls.

### **6. What is the difference between an individualized education program (IEP) and a services plan (SP)?**

A services plan (*nonresident children*) will reflect only available special education services the child with disabilities is designated to receive, and must, to the extent appropriate, meet the IEP content

requirements or when appropriate, for children ages three through five, the Individual Family Services plan (IFSP) requirements.

The services plan will describe the specific special education services that the school or approved cooperative will provide to the child in light of the services that the school district has determined through the consultation process that it will make available to nonresident children parentally-placed in a nonpublic school.

**7. Can the school district's IEP form serve as a services plan for a nonresident child with disabilities parentally-placed in a nonpublic school?**

It is not recommended. Using an IEP form in lieu of a services plan form may not be appropriate, as an IEP form generally includes more information and services than a nonresident child with disabilities parentally-placed in a nonpublic school will receive. There is nothing however, in the regulations that would prevent a district from using their IEP form in lieu of a services plan form.

**8. Can a services plan be revised?**

Yes, a services plan can be revised using appropriate team members and the same procedures for revising an IEP. Since services to children with disabilities parentally-placed in a nonpublic school are determined based on funding, when services costs unexpectedly exceed the proportionate share of funds available for nonpublic school children, the public school district may convene another meeting to revise the services plan.

**9. Are progress reports required for children who have a service plan?**

Yes. Child progress reporting must follow the same requirements as IEPs.

**10. What if a parent is not satisfied with the special education services the public school district will provide pursuant of the child's services plan?**

Parents who wish to access a greater level of support for their child than what is offered through the consultation plan and included on the child's services plan, may elect to receive a free appropriate public education (FAPE) from the child's resident (*where the child resides*) public school district.

**11. Can a parent, whose child is receiving equitable services, at any time request FAPE from the resident school district?**

Yes, at any time a parent may request FAPE from the district where the child resides.

**12. Can a child with disabilities parentally-placed in a nonpublic school have both an individualized education plan and a services plan at the same time?**

No.

**13. Who should provide equitable special education services to nonresident children with disabilities parentally-placed in a nonpublic school?**

Equitable services may be provided by personnel of a public school district or may be provided by individuals or agencies that are contracted by the public school district. The school district may use Part B funds to make public school personnel available, to the extent necessary to provide equitable services for nonpublic school children with disabilities.

The public school district may contract with employees of the nonpublic schools if the employee performs the services outside of his or her regular hours of duty and the public school contracted employee performs the services under public school supervision and control.

**14. Where can special education and related services be provided to children with disabilities parentally-placed in a nonpublic school?**

Services offered to children with disabilities parentally-placed in nonpublic schools may be provided on-site at the child's nonpublic school, including religious schools, at the public school, or at another location.

**15. How is the location where services will be provided to children with disabilities parentally-placed in a nonpublic school determined?**

The location of services is discussed during the consultation process with representatives of the nonpublic school. The public school makes the final decision, using input through the consultation process.

**16. Must the district provide transportation in order for a child to benefit from or participate in the services provided under nonpublic school provisions?**

If it is necessary for the child to benefit from or participate in the services provided, the district must provide transportation from the child's school or the child's home to a site other than the nonpublic school; and from the service site to the nonpublic school, or to the child's home, depending on the timing of the services. IDEA does not require school districts to provide transportation from the child's home to the nonpublic school. The school district may include the cost of the transportation in calculating whether it has spent the proportionate share on the provision of nonpublic school children with disabilities.

**17. Do parents sign a placement form if their child is only eligible for equitable special education services (services plan)?**

No. Documentation of placement and the placement decision-making process is not a required procedure.

			<b>SERVICES PLAN NONRESIDENT CHILD PARENTALLY-PLACED IN A NONPUBLIC SCHOOL</b>		
Student Name	DOB	Age	M F	Grade	Today's Date
Parent(s) Name	Parent(s) Address		Home Phone		
			Work Phone/Cell Phone		
			Email Address		
Nonpublic School	Child's Resident School District		Public School District Providing Services		
Parent concerns					
Present Levels of Education Performance					
<b>Service Delivery Plan Schedule</b>					
<b>Date of Initiation of Services:</b>		<b>Anticipated Duration of Services:</b>			
<b>Description of Service(s) to be Provided by the Public School</b>		<b>Hours Per Week</b>	<b>Location</b>		
Direct Service					
Consultation					
Teacher Training					
Instructional Materials					
Equipment					
Transportation					

**Measurable Annual Goal(s) for Direct Service(s)**

**Documentation Of Participation In Meeting**

The following individuals, as indicated by their signatures, participated in the development of this Services plan.

Parent/Guardian /Surrogate	Date	Parent/Guardian/Surrogate	Date
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Nonpublic School Representative	Date	Signature/Position	Date
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Signature/Position	Date	Signature/Position	Date
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Other	Date	Other	Date
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**Notice To Parent Regarding Availability Of A Free Appropriate Public Education (FAPE)**

Nonresident children with disabilities parentally-placed in a nonpublic school have no right to receive some or all of the special education and related services that would be available if the child was receiving special education services from their resident public school. The district in which your child resides will provide free appropriate public education in accordance with the Individuals with Disabilities Education Act (IDEA). Please contact - \_\_\_\_\_ at the \_\_\_\_\_ public school district if you elect for your child to have an Individualized Education Program (IEP) and the provision of a free and appropriate special education and related services.

**NOTIFICATION OF  
SERVICES PLAN MEETING**

Date \_\_\_\_\_

To: \_\_\_\_\_  
Parent/Address

(Child's name)

A equitable services plan meeting has been scheduled for: *(proposed meeting date, time and place)*

\_\_\_\_\_ date

\_\_\_\_\_ time

\_\_\_\_\_ place

We must meet with you, if appropriate your child who is 16 yr. old or will be turning 16 during to develop your child's education services plan. It is very important that you attend this meeting. With your input, we can develop an education services plan describing the specific services the district will provide in light of the services the school district will provide as determined through the consultation plan with nonpublic school representatives. If you would like, you may review your child's education records prior to the meeting. At this services plan meeting we will be discussing:

1. Your child's present levels of performance and educational needs;
2. Annual goal/s;
3. Services your child will receive.

In addition to you, the following people will be in attendance at the equitable Services plan meeting:

1. \_\_\_\_\_, a special education teacher;
2. \_\_\_\_\_, a public school representative;
3. \_\_\_\_\_, a nonpublic school representative;
4. The following individuals who can help explain the evaluation results or who have special knowledge or expertise regarding your child or services that may be needed; \_\_\_\_\_

# **Proportionate Share and Expenditures**

## **Child Count, Expenditures, and Finance**

The Individuals with Disabilities Education Improvement Act of 2004 (IDEA 2004) and 92 NAC require that each school district determine the proportionate amount of federal funds to be expended on special education services (including indirect services) for children with disabilities parentally-placed in an approved and/or accredited nonpublic schools and exempt homeschools which are located within the public school district's boundaries.

### **Child Count**

For eligible children aged three through twenty one, an amount that is the same proportion of the nonpublic school district's total sub grant under section 611(f) of the Act as the number of school children with disabilities aged three through twenty one who are enrolled by their parents in an approved and/or accredited nonpublic, including religious, exempt home schools, elementary schools and secondary schools which are located within the school district's boundaries, is to the total number of children with disabilities within its jurisdiction, ages 3-21. The child count is the total number of eligible children placed by their parents and attending a nonpublic school or home school within the district's boundaries regardless of which district is providing the special education services.

For eligible children aged three through five, an amount that is the same proportion of the school district's total sub grant under section 619(g) of the Act as the number of nonpublic school children with disabilities aged three through twenty one who are parentally-placed in an approved and/or accredited nonpublic, including religious, elementary schools which are within the school district's boundaries, is to the total number of eligible children with disabilities within its jurisdiction age three through five. Children ages three through five are those children parentally-placed in an approved nonpublic preschool that is a part of an approved and/or accredited elementary school. *(See also Preschool section in this document)*

Each school district, after timely and meaningful consultation with representatives of parentally-placed nonpublic school children, must conduct a thorough and complete child find process to determine the number of eligible parentally-placed children with disabilities attending nonpublic schools, including exempt home schools which are located within the school district's boundaries. This annual October 1 Proportionate Share child count includes both eligible children with disabilities who have been determined to be eligible and receiving services, and those who are eligible and are NOT receiving services.

**The annual NSSRS child count and Proportionate Share child count are two separate child counts taken October 1.** The Proportionate Share child count is an attendance head count of all eligible children parentally placed in an approved and/or accredited nonpublic school or exempt home school, and **does not** consider which school district is providing special education services. *(FAPE or Equitable)*

The NSSRS child count is the total number of eligible Public School children and may not accurately reflect the proportionate share child count, as NSSRS includes all of the children who are being served by the district in both the public and nonpublic schools, and outside of the district. The NSSRS count also may include resident nonpublic school children; and nonresident children who are receiving contracted services from the nonresident school district. Simply using the NSSRS count to report the total number of eligible Public School children may not be accurate.

### **October 1 Child Count**

#### **Eligible Parentally Placed Non-Public School Children attending an accredited and/or approved non-public school or Exempt Home School within the District's Boundaries**

A. Non-public school and children eligible and served ages 3-21 attending an approved and/or accredited nonpublic school located within district boundaries to include:

- resident children receiving FAPE
- nonresident children receiving Equitable services
- nonresident children receiving FAPE from the resident district
- nonresident children out-of-state receiving Equitable services
- nonresident children 3-5yr. olds receiving services attending a nonpublic preschool (which is a part of an approved and/or accredited elementary school)

B. Non-public school children eligible but **not** served ages 3-21 attending an approved and/or accredited nonpublic school within district boundaries to include:

- resident children not receiving FAPE
- nonresident children not receiving Equitable services
- nonresident out-of-state children not receiving Equitable services
- nonresident children 3-5yr. olds receiving services attending a nonpublic preschool (which is a part of an approved and/or accredited elementary school)

C. Home schooled children eligible both served and not served ages 5-21 attending an exempt home school within district boundaries to include:

- resident children receiving FAPE
- resident children not receiving FAPE
- nonresident children not receiving Equitable services
- nonresident children not receiving FAPE from the resident district

#### **Eligible Public School Children**

A. Public school children eligible and served ages 3-21 attending the school district public school to include:

- resident children attending the Public school receiving FAPE, including eligible preschool children
- resident children placed by the Public school receiving FAPE in a contracted program
- Not to include parentally placed children attending an approved and/or accredited nonpublic or Exempt home school outside of the district's boundaries who are receiving FAPE services

B. Public school children eligible but not served Ages 3-21 attending district public school including district preschool  
-resident children eligible for FAPE (parent refused services)

The following NDE Special Education Office- Proportionate Share Worksheet For Non Public Schools can be found the Nebraska Department of Education website.

<http://viewspedws.education.ne.gov/>

Portal; tab Viewer Links; VIEWSPEDWS View Proportionate Share Worksheet for Non-Public Schools

District enters information in highlighted cells  
 Numbers in non-highlighted cells are calculated by the application.  
 County District Number: 00-0000 District Name: ABC COMMUNITY SCHOOLS

List Non-Public School(s) in District, Select Non-Public Schools from left list box and click [Add to the right list box] button to Add:

I. Eligible Parentally Placed Non-Public School Children attending a Non-Public School or Exempt Home School within the District's Boundaries			
Data		Child Count Reported On: 10/1/14	Possible Data Sources and Information <a href="http://www.education.na.gov/sped/technicalassist/ServicesNonpublicSchools.pdf">http://www.education.na.gov/sped/technicalassist/ServicesNonpublicSchools.pdf</a>
		10/1/14	
A. Non-public school children eligible and served ages 3-21 attending an approved and/or accredited nonpublic school located within district boundaries to include: -resident children receiving FAPE -nonresident children receiving Equitable services -nonresident children receiving FAPE from the resident district -nonresident children out-of-state receiving Equitable services -nonresident children 3-5yr. olds receiving services attending a nonpublic preschool (which is a part of an approved accredited not-for profit nonpublic elementary school)	Enter number:	<input type="text" value="1"/>	District data collections, consultation meetings with approved and/or accredited non-public schools located within the district boundaries and other methods employed to obtain <b>October 1</b> count of eligible children attending a nonpublic school within the district boundaries. (Not to include children reported in Section II, below)
B. Non-public school children eligible but not served ages 3-21 attending an approved and/or accredited nonpublic school within district boundaries to include: -resident children not receiving FAPE -nonresident children receiving FAPE from the child's resident district -nonresident children not receiving Equitable services -nonresident out-of-state children not receiving Equitable services -nonresident children 3-5yr. olds not receiving services attending a nonpublic preschool (which is a part of an approved accredited not-for profit elementary school)	Enter number:	<input type="text" value="0"/>	District data collections, Consultation meetings with approved and/or accredited non-public schools located within the district boundaries and other methods employed to obtain <b>October 1</b> count of eligible children attending a nonpublic school within the district boundaries. (Not to include children reported in Section II, below)
C. Home schooled children eligible both served and not served ages 5-21 attending an exempt home school within district boundaries to include: -resident children receiving FAPE -resident children not receiving FAPE their district -nonresident children not receiving Equitable services -nonresident children receiving FAPE from their resident district	Enter number:	<input type="text" value="0"/> Required Field	District data collections, Consultation meetings with exempt home schools located within the district boundaries and other methods employed to obtain <b>October 1</b> count of eligible children attending an exempt home school within the district boundaries. (Not to include children reported in Section II, below)
<b>Total- Eligible Non-public/home school children ages 3-21 within district boundaries)</b>		<b>1</b>	<b>Calculated Total</b> (Total eligible Non-public/home school children ages 3-21 within district boundaries -Section I. A+B+C)

II. Eligible Public School Children			
A. Public school children eligible and served ages 3-21 attending the school district public school to include: -resident children attending the Public school receiving FAPE, including eligible preschool children -resident children placed by the Public school receiving FAPE in a contracted program -Not to include parentally placed children attending a nonpublic or Exempt home school outside of the district's boundaries who are receiving FAPE services	Enter number:	<input type="text" value="62"/>	Total count of eligible children attending the district's public school who are served, ages 3-21-(Not to include children reported in Section I, above)
B. Public school children eligible but not served Ages 3-21 attending district public school including district preschool -resident children eligible for FAPE (parent refused services)	Enter number:	<input type="text" value="0"/>	District data collection Total count of public school children not served, ages 3-21 (Not to include children reported in Section I, above)
<b>Total eligible public school children Ages 3-21)</b>		<b>62</b>	<b>Calculated Total</b> (Total eligible public school children ages 3-21 Section II. A+B)

III. Eligible Public and Non-Public/Exempt Home School Children			
A. Total eligible public and non-public school children Ages 3-21		63	<b>Calculated Total</b> (Total Section I. + Total Section II.)
B. Percentage of Non-Public School Children		1.59%	<b>Calculated Percentage</b> (Section I. Total eligible non-public school children and exempt home school children Ages 3-21; divided by Section III. A. Total eligible public and nonpublic exempt home school children)

Total Part B Flow-Through Allocation			
Applicable Federal Funds-Final document will have this figure provided by NDE Ages 3-21		101719	Part B flow-through allocation (IDEA Base and Enrollment/Poverty Part B Grant ("611" and "619" funds)
<b>PROPORTIONATE SHARE</b>		1615	<b>Calculated Proportionate Share</b> - Applicable Federal funds available to the district multiplied by the calculated percentage of nonpublic school and exempt home school children to be expended on eligible Parentally Placed non-public and exempt home school children

The calculated proportionate share is the total amount of funds required to be expended on eligible parentally placed non-public school and exempt home school children ages 3-21 yr. Proportionate Share funds can NOT be used for child find or evaluations.

**Assurance**

As the authorized representative for the school district, I hereby certify that this application is a true and accurate count of both public school children ages 3-21 attending the public school who are eligible to receive special education services; and eligible parentally placed children 3-21 yr. attending an approved and/or accredited non-public schools, preschool children ages 3-5 yr. attending a nonpublic preschool which is a part of an approved accredited elementary school, and exempt home school children within the district's boundaries.

I further assure that the identified proportionate share allocation will be expended by the district for services to eligible parentally placed non-public school children and that the district will maintain financial records available for audit to document the child counts and program expenditures.

Ready to Submit:  
 Yes  No

<b>Authorized School District Official:</b>		
Name: Mrs. Supt.	Title: Supt.	County District: 00-0000

**Finance/Expenditures**

The proportionate share is calculated based on the district’s annual October 1 proportionate share child count of eligible (*being served and not being served*) children with disabilities parentally-placed in attending an approved and/or accredited nonpublic schools and exempt home schools. The proportionate share must be calculated by July 31<sup>st</sup> of each year and represents the amount of federal funds that must be spent on eligible children with disabilities parentally-placed in an approved and/or accredited nonpublic schools and exempt home schools during the next fiscal year. (*See Proportionate Share Calculation Worksheet, included in this section of Technical Assistance document, and can also be found on NDE, Special Education website <http://viewspedws.education.ne.gov/>*).

Through the consultation process, a determination must be made about how the available amount of funds will be utilized so that the parentally placed non-public school children and exempt home school children with disabilities designated to receive services can benefit from the services offered. Depending on the discussions during the consultation process, local circumstances, and the amount of funds available to expend on services for this population of children, the school district could determine, after timely and meaningful consultation, that it will provide its population of parentally placed nonpublic school children with disabilities with direct and indirect services. These services could include transportation, consultative services, equipment, or materials for eligible parentally placed children with disabilities or training for nonpublic school teachers and other nonpublic school personnel. Special education and related services provided to parentally placed nonpublic school children with disabilities, including materials and equipment, must be secular, neutral, and non-ideological Child find and individual evaluation costs cannot be included in the proportionate share expenditures.

**Proportionate Share Calculation** (Ages 3-21)

Number of children with disabilities within in the Public School District	300
Number of eligible parentally-placed nonpublic school with disabilities within the district boundaries	20
Total number of eligible children within disabilities in the district	320
Total federal flow through funds to the district	\$152,500.00
Total federal flow through funds divided by total number of children with disabilities in the district (320) equals the average allocation per child	\$476.56
Average allocation per child multiplied by the number of parentally-placed nonpublic school children with disabilities (20) equals the amount which must be expended on parentally-placed nonpublic children with disabilities	\$9,531.20

### **Carry Over Funds**

Proportionate share funds are a portion of a district's IDEA Part B funds that must be reserved and spent over a maximum two-year period to provide Special Education services to children within the district's boundaries who are parentally placed in either an approved and/or accredited nonpublic school or exempt home school. If the public school district cannot expend the entire proportionate share by the end of the fiscal year, the district must obligate the remaining funds for special education and related services to parentally-placed children with disabilities during a carry-over period of one additional year. NAC-51 012.08B

If, near the end of the carry over period, it is apparent that all the carry-over proportionate share funds will not be expended, having met all requirements of NAC-51-012.08; and 015.03 the district should request that the Nebraska Department of Education release any unspent funds for other allowable costs for children with disabilities in the public schools. This situation should be the exception. It is the clear intent of the Act that school districts spend these proportionate share funds on providing special education and related services to parentally placed nonpublic school children with disabilities.

The school district must be very diligent in its consultation process to ensure that every effort is made to use the proportionate share funds for special education and related services for parentally placed nonpublic school students with disabilities. The school district must have documentation of consultation meeting(s) were conducted to discuss services, expenditures and changes to how the proportionate share funds will be expended. Consultation meeting documentation includes the following:

- Public notice of meeting(s), attendance records
- How and where the proportionate share funds are being expended
- Available proportionate share funds; carry over funds; and remaining estimated expenditures
- Possible reasons for unexpended funds
  - 1) Children no longer attend nonpublic school or home school within district boundaries
  - 2) Student(s) age-out/graduated from nonpublic school or home school
  - 3) Nonpublic schools refused services
  - 4) Parents refused services
  - 5) Proportionate Share Carryover funds exceeded the amount needed for services provided
  - 6) Other

The particular circumstances of the school district will determine how soon the district may use the remaining carry-over proportionate share funds for the public school students with disabilities. School districts should take into consideration that the grant year does not end until **September 30**.

If the current year estimated expenditure for proportionate share are greater than the carryover amount as shown in Example A, the districts is not eligible to release any funds since older funds must be expended first. However, if the estimated expenditure of proportionate

share are less than the carryover amount as shown in Example B, then the district may release the difference. Any funds remaining from the current year obligation will roll over into the next year as carryover funds.

<b>Example A</b>		<b>Example B</b>	
Carryover Amount (from previous year)	\$ 5,000	Carryover Amount (from previous year)	\$ 5,000
Current Year Obligation (from current year)	\$ 7,000	Current Year Obligation (from current year)	\$ 7,000
Total Available for Proportionate Share	\$12,000	Total Available for Proportionate Share	\$12,000
Estimated Expenditures for Current Year	\$ 6,000	Estimated Expenditures for Current Year	\$ 4,000
Amount Available for Release	\$0	Amount Available for Release	\$ 1,000

If every effort was made to expend the carry-over proportionate share funds from the previous year for services to parentally placed nonpublic school children with disabilities, the school district should at the end of the grant year, adjust its internal accounting records to transfer the unused, carry-over proportionate share funds for expenditures for children with disabilities in the public schools. If the carry-over proportionate share funds are not used or transferred by the end of the carry-over year, the carry-over proportionate share funds will be returned to the U. S. Department of Education

**Procedures To Transfer Unspent Carry-over Funds Within The Maximum Two Year Obligation Period**

School districts who are unable to expend their proportionate share funds by the end of the carry over period (second year) must document their efforts through the Grant Management System (GMS).

Annually in July, the NDE Special Education Office will notify those districts that have yet to expend their previous year carry over funds. If school districts believe they will be unable to expend the previous years carry over funds they must hold a Consultation meeting(s), and upload documentation of the following within the Program Information Section of GMS 4412:

- Provide documentation that the requirements of NAC-51 012.08 and 015.02 have been met, which includes upload of:
  - Public Notice of Consultation Meeting(s); and
  - Written Affirmation – *in addition, must also include the rationale for unexpended second year proportionate share (carryover) funds*
- Submit Amendment to release unspent carry over funds for approval by NDE.

**Assurances**

The district amendment submission assures that the district to the best of their knowledge has complied with the requirements in NAC 51 -012.08 and 015.02 in regard to identifying,

evaluation, and serving eligible children with disabilities parentally placed in approved and/or accredited nonpublic schools and exempt home schools, and the district has consulted with nonpublic school representatives and representatives of parents of parentally-placed nonpublic school children with disabilities.

In addition, the district certifies the district will spend less proportionate share funds in the current school year than the proportionate share carryover amount from the prior school year and requests a release of those unexpended funds.

Upon amendment approval by Nebraska Department of Education, the district is eligible to receive through their Final Claim to financial services, expenditures of those funds for public school student with disabilities. Within this final claim, the district must indicate within the Comment Section, they have successfully completed the requirements of NAC -51 012.08 and 015.02 and have included accounting records indicating the transfer of carry over funds and expenditures of those funds for public children with disabilities.

*See Flow Chart this section page 43- **PROPRTIONATE SHARE FUNDS NOT EXPENDED BY THE END OF THE CARRY-OVER PERIOD***

#### Administration of Funds

A school district or approved cooperative must administer the funds used to provide special education services, and hold title to and administer materials, equipment, and property purchased with that fund for those uses and purposes.

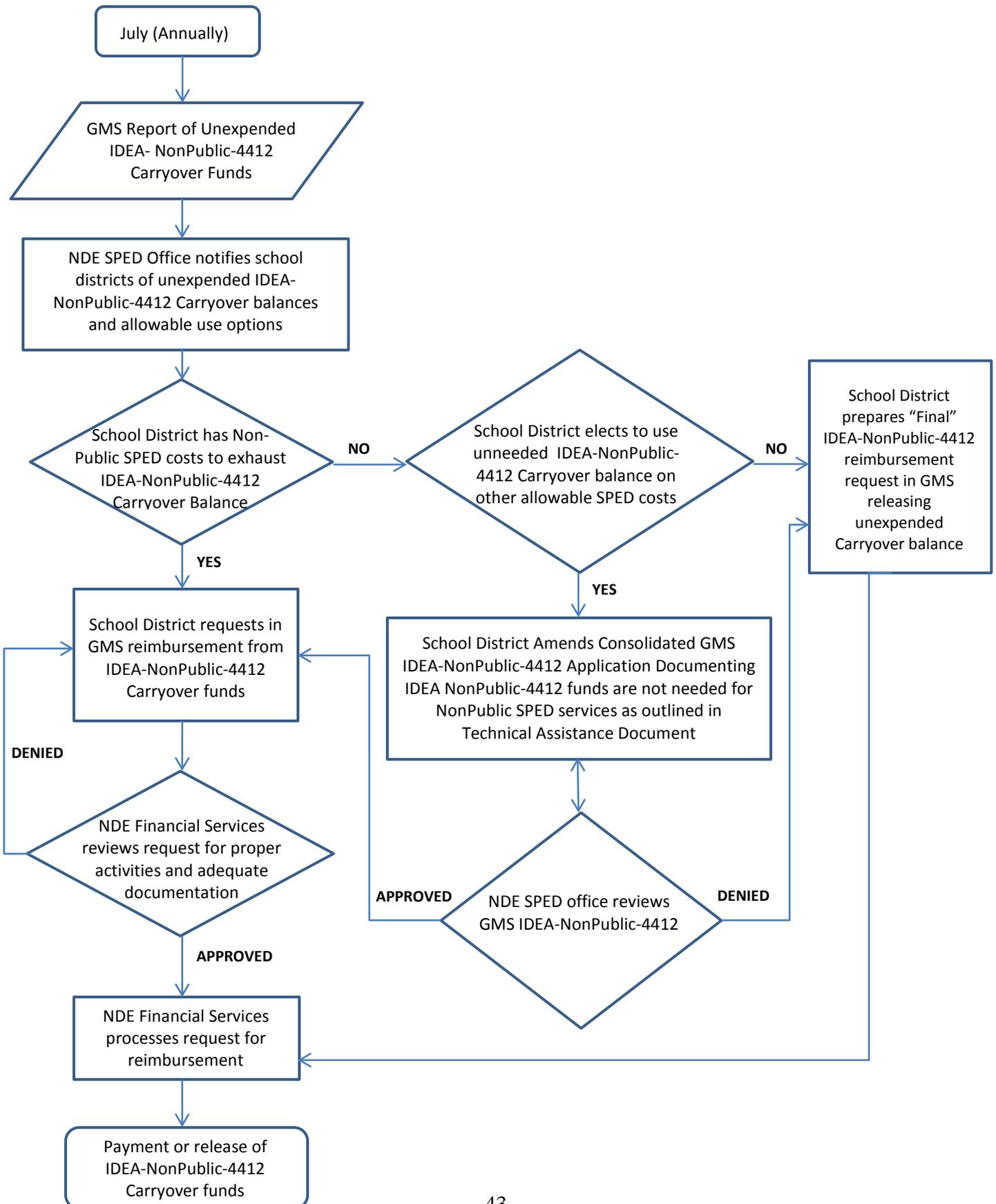
#### Public School Personnel

A school district or approved cooperative may use special education funds to make public school personnel available in other than public facilities: 1) to the extent necessary to provide services designed for children with disabilities parentally-placed in nonpublic schools, and 2) if those services are not normally provided by the nonpublic school.

#### Nonpublic School Personnel

A public school district or approved cooperative may use special education funds to pay for contracted services of a nonpublic school employee of a nonpublic school to provide special education and related services if: 1) the employee performs the services outside of his/her regular hours of duty; and 2) the employee performs the services under public school supervision and control. It is recommended that the school district keep clear records of contractual payments to document that the district is not reimbursing the nonpublic school for services.

**PROPORTIONATE SHARE FUNDS NOT EXPENDED  
BY THE END OF THE CARRY-OVER PERIOD**



# Questions and Answers - Proportionate Share Calculation Child Count, Expenditures, and Finance

## Child Count

- 1. Do all districts need to submit a Proportionate Share Worksheet for Nonpublic schools, even if no nonpublic schools exist within the district?**

Yes. A district who does not have an approved and/or accredited nonpublic school or exempt home school within its jurisdiction would submit "0's" in **Section I.** for number of Nonpublic school children.

- 2. When must the Proportionate Share Worksheet for Nonpublic schools be submitted?**

Submission must be submitted by July 31<sup>st</sup> prior to the beginning of the new school year.

- 3. Why is it important to identify the number of children with disabilities parentally-placed in nonpublic schools which are within the school district?**

An accurate count of the number of eligible children with disabilities parentally-placed who are **attending** an approved and/or accredited nonpublic schools and exempt home schools which are located within the school district's boundaries is needed to calculate the proportionate share of IDEA funds the school district must expend annually on services for eligible children with disabilities parentally-placed in nonpublic schools. The **NSSRS and Proportionate Share count are two different child counts.** The NSSRS child count should not be used to report the total number of Public school children without careful analysis, as the NSSRS count may include both public school children, nonpublic school children and contracted nonpublic school children. Remember the NSSRS is the total number of children being served by the district. The NSSRS does not always accurately reflect the total number eligible children with disabilities **attending** an approved and/or accredited non-public or exempt home school. Children counted in Section I, cannot also be counted in Section II of the Proportionate Share Worksheet.

See also- Question 5 and the Proportionate Share section of this document for more specific annual child count and calculation of a school district's proportionate share information.

- 4. Where can the Proportionate Share Worksheet be found?**

The Proportionate Share Worksheet for Nonpublic Schools is found on the NDE website Portal, Data Collections. <https://portal.education.ne.gov/site/DesktopDefault.aspx>

**5. How does the school district determine the number of children with disabilities to use in calculating the proportionate share of IDEA funds?**

When school districts do their annual October 1 NSSRS child count, they must also conduct a Proportionate Share child count. The NSSRS and Proportionate Share Child count are two separate child counts. The NSSRS count includes all children who are receiving special education services, both public and nonpublic children; contracted public and nonpublic school children. School districts must determine the number of eligible parentally placed resident and nonresident children with disabilities (ages 3-21) attending an approved and/or accredited nonpublic school, including exempt home schools which are within the school district's boundaries regardless of which district is providing services. This count also includes eligible children who are not receiving services.

An important topic of the consultation meeting with representatives of nonpublic schools is to decide how the school district will ensure an accurate October 1 child count of eligible parentally placed resident and nonresident nonpublic children within the district's boundaries, regardless of which district is providing services. The October 1 count is used to determine the amount of IDEA funds the school district must spend in the subsequent fiscal year.

**6. Which children must be included in the October 1 child count to calculate the proportionate share?**

Each school district must determine the total number of eligible children (*regardless of which district is providing special education services*), receiving or not receiving services, resident or non-resident, out-of-state attending an:

\*Approved and/or accredited nonpublic school and exempt home school children (3 yr.-21 yr.) with disabilities who are enrolled by their parents in nonpublic elementary schools and secondary schools. For preschool age children (3-5 yr. olds) attending a nonpublic preschool which is a part of an approved and/or accredited elementary school (*see also Preschool Section of this document*) located within the school district's boundaries ,and

\* Public school children with disabilities (3yr.-21yr.)

See page 38- Proportionate Share Worksheet For Non Public School

<http://viewspedws.education.ne.gov/>

**7. Must the school district within which the nonpublic school is located include in the proportionate share child count children whose parents have declined special education and related services?**

Yes, the school district within which the nonpublic school is located must include children who are eligible and not receiving services. This count also includes out-of-state parentally placed children attending a nonpublic located within the district's boundaries.

**8. How long must the district continue to include children whose parents have declined services in the child count?**

The child is included in the child count until the child is determined by the multidisciplinary team to be no longer eligible (NAC 51-006.05. If a parent of a public school or parentally placed approved and/or accredited nonpublic school or exempt home school child declines to consent to reevaluation (006.05B) the school district cannot use the consent override procedures to conduct the reevaluation, and child is removed from the child count.

**9. Which school district includes children attending nonpublic schools who are receiving FAPE in their child count?**

The school district in which the child's nonpublic school is located counts the child. Children receiving FAPE from the resident district but attending a nonpublic outside of their district of residence are counted in the district in which the nonpublic school is located.

**10. Which count (Public or Nonpublic) is a homeschooled child who is coming to the Public school to receive special education services counted in?**

The Nonpublic school count- Section I of the Proportionate Share work sheet.

**11. What is a proportionate share child count?**

The proportionate share child count is an **October 1** head count of all eligible children with disabilities who attend an approved and/or accredited nonpublic school, exempt home school, and public school located within the school district's boundaries. The count includes resident, non-resident, out-of-state parentally placed eligible children regardless of who is providing special education services, (FAPE/Equitable). This count also includes those children who are eligible and not receiving services. See Proportionate Share Worksheet

**12. Is the annual October 1 NSSRS child count the same as the required annual October 1 Proportionate share child count?**

No, the annual October 1 NSSRS and the annual October 1 Proportionate child count for calculation of proportionate share are two separate child counts. Simply using the NSSRS count to report the total number of eligible Public School children may not be accurate. The NSSRS count is a count of all the children the district serves, which includes: public school children; and may include: contracted public school children, resident nonpublic school children; nonresident nonpublic school children, and nonresident children receiving contracted services from the nonresident school district.

## **Expenditures and Finance**

- 1. May amounts expended for child find, including individual evaluations, be deducted from the required amount of Proportionate Share to be expended on services for parentally placed nonpublic school children with disabilities?**

No. There is a distinction under the IDEA between the obligation to conduct child find activities, including individual evaluations, for parentally placed nonpublic school children with disabilities, and the obligation to use an amount of funds equal to a proportionate amount of an district's sub grant to provide special education and related services to parentally placed nonpublic school children with disabilities. The obligation to conduct child find, including individual evaluations, exists independently from the obligation to provide equitable/FAPE services.

- 2. Can a school district decide to exclude eligible nonresident children with disabilities in the proportionate share expenditures?**

No, children with disabilities parentally-placed in nonpublic schools are considered a group and the proportionate share must be expended for the group. The school district's consultation plan determines the services that will be made available to children with disabilities parentally-placed in nonpublic schools. The consultation plan may have determined that not all and only some services will be available that a child would receive from their school district of residence.

- 3. How should a school district calculate the proportionate share of IDEA funds that must be spent on special education and related services?**

The NDE Proportionate Share calculation worksheet explains how the proportionate share is calculated <http://viewspedws.education.ne.gov/> also see page 38.

- 4. What expenditures can be considered when determining whether a school district has expended a proportionate share of its IDEA funds?**

Expenditures for special education services and related services, transportation consultative services, equipment, or materials, training for personnel of nonpublic children may be considered when determining whether the school district has expended the required proportionate share of IDEA funds. Non allowable expenditures are child find activities, including evaluations.

- 5. May nonpublic school officials order or purchase materials and supplies needed for the special education services and be reimbursed by the public school district?**

No, nonpublic school officials may not obligate or receive Part B funds. The school district must control and administer the funds used to provide special education services to children with disabilities parentally-placed in a nonpublic school, and maintain title to materials, equipment, and property purchased with those funds.

**6. Can the public school place equipment and supplies for services in a nonpublic school?**

Public schools may place equipment and supplies in a nonpublic school for the period of time needed for eligible children. The public school must ensure that equipment and supplies placed in a nonpublic school are used only for the purpose of providing special education services and can be removed from the nonpublic school without remodeling the nonpublic school facility.

The public school must remove equipment and supplies from a nonpublic school if the equipment and supplies are no longer needed for the purpose of providing special education services; or if removal is necessary to avoid unauthorized use of the equipment and supplies for other than special education purposes.

**7. May a school district provide additional services to children with disabilities parentally-placed in a nonpublic school in excess of the required IDEA proportionate share of equitable services?**

Yes. A school district may provide additional services, consistent with state law or local policy.

**8. May a school district meet the requirement to expend a proportionate share of funds on services to children with disabilities parentally-placed in a nonpublic by spending state and local funds?**

No, a school district is required to spend a proportionate share of its federal IDEA funds to satisfy this obligation. If a public school district uses state and local funds to provide special education services to children with disabilities parentally-placed in a nonpublic school, those funds can be used only to supplement and not supplant the proportionate share of federal funds.

**9. Can the local public school district turn over proportionate share funds to one or more nonpublic schools in its jurisdiction for the purpose of allowing the nonpublic schools to purchase services in keeping with the district's plan for spending proportionate share funds?**

No, IDEA makes clear that a public school district is required to maintain control over funds and property utilized for the purpose of providing proportionate support to children with disabilities parentally-placed in a nonpublic school.

**10. May Part B funds proportionate share funds be used for repairs, minor remodeling, or construction of nonpublic schools facilities?**

No, proportionate share funds cannot be used for repairs, minor remodeling, or construction of nonpublic schools facilities.

**11. Can administrative costs be included in proportionate share expenditures?**

No. Proportionate share funds are required to be expended on “special education and related services”, and therefore administrative costs cannot be included within these expenditures.

**12. If the district does not expend the entire proportionate share of Part B funds on children with disabilities placed by their parents in a nonpublic school that closes, what must the district do with those unexpended funds?**

The school district is required to spend a minimum amount of its sub grant under Part B of the IDEA on children with disabilities placed by their parents in nonpublic elementary and secondary schools. If the district has not expended all of the proportionate share of its Part B sub grant by the end of the fiscal year for which Congress appropriated the funds, the district must obligate the remaining funds for special education and related services to children with disabilities placed by their parents in nonpublic schools during a carry-over period of one additional year. A reduction in the number of children, for example, when a school closes after the start of the school year, does not excuse the district from spending its proportionate share to provide equitable services to children with disabilities placed by their parents in nonpublic schools. *(See also page 41 to release unspent funds at the end of the carry over period)*

**13. If the district cannot expend the entire proportionate share of Part B funds on children with disabilities placed by their parents in an approved and/or accredited nonpublic schools and exempt homeschoools, what must the district do with those unexpended funds?**

The school district is required to spend the minimum amount of its sub grant under Part B of the IDEA on 3-21 year old children with disabilities placed by their parents in an approved and/or accredited nonpublic elementary and secondary schools and exempt homeschoools. If the district has not expended all of the proportionate share of its Part B sub grant by the end of the fiscal year for which Congress appropriated the funds, the district must obligate the remaining funds for special education and related services to eligible children with disabilities placed by their parents in nonpublic schools and exempt home schools during a carry-over period of one additional year. A reduction in the number of children, for example, when a school closes after the start of the school year, does not excuse the district from spending its proportionate share to provide equitable services to children with disabilities placed by their parents in nonpublic schools and exempt home schools. Carry over funds must be expended first before any of the current year calculation is expended *(First in/First Out)*.

## Carryover Funds

### **14. What does the school district do if it is unable to spend its entire proportionate share of IDEA funds by the end of the fiscal year?**

If the school district has not expended the entire current year proportionate share of IDEA funds by the end of the fiscal year, the school district must obligate the remaining funds for services to children with disabilities parentally-placed in nonpublic schools during a carry-over period of one additional year. Carry over funds are budgeted in the following fiscal year's GMS Consolidated Grants 4412 Nonpublic application.

A reduction in the number of children, for example, when a school closes after the start of the school year, does not excuse the district from spending its proportionate share to provide services to nonpublic children.

### **15. What does the district do if carry over funds cannot be expended within the carry over period?**

If the district cannot completely spend the carryover funds during the carry over period (second year) having met all the requirements for children enrolled in a Nonpublic school by Parents (FAPE is Not At Issue) NAC 51-015.03, the district should conduct a meaningful Consultation meeting to discuss available proportionate share funds, carry over funds, estimated proportionate share expenditures, and why the carry over funds cannot be spent. Allowable reasons for unexpended funds may include: child(ren) no longer attend nonpublic school or home school within district boundaries; student(s) aged-out/graduated from nonpublic school or home school; parents refused services; nonpublic school(s) refused services; proportionate share carryover funds exceeded the amount needed for services provided; other- describe

If through the consultation meeting discussion a decision is made to transfer the unspent proportionate share carry over funds to be expended on allowable Part B expenditures for eligible public school children, the district would follow the Proportionate Share Funds Not Expended By the End of the Carry-over period Flow Chart procedures to amend nonpublic funds (4412) as outlined in this document. *(See flow chart page 43)*

### **16. What procedures must the district follow if the district is unable to expend the proportionate share allocation within the carry over period and would like to transfer proportionate share funds to pay for other allowable Part B expenditures?**

- a) The district should hold a meaningful Consultation meeting with representative of nonpublic schools to discuss the proportionate share amount, and why the proportionate share funds cannot be expended within the carry over period. Possible reasons for unexpended funds: student(s) no longer attends nonpublic school with the district boundaries; student(s) aged-out/graduated from nonpublic school;

- nonpublic school(s) refused services; parents refused services; proportionate share carryover funds exceeded the amount needed for services provided; other-describe
- b) Submit an Amendment 4412 for approval to transfer the unspent proportionate share funds to be spent on other allowable Part B expenditures. *(See flow Chart page 43)*

**17. How do districts maintain accounting records to document funds that are expended for nonpublic proportionate share services?**

School districts shall report all expenditures and claims for nonpublic proportionate share services within function code 4412 on the Grants Management System (GMS).

**18. If a school district cannot expend the entire proportionate share of Part B funds on children with disabilities placed by their parents in nonpublic schools by the end of the carry over period can the district return the unexpended carry over funds to the State to be spent by the State or reallocated to another district?**

If, after the carry-over period, the district is unable to expend the entire proportionate share and assuming the district is in compliance with the child find, consultation, and other requirements related to parentally placed nonpublic school children with disabilities in 34 CFR §§300.129 through 300.144, the district may use the unexpended funds - at the end of the period during which the funds may be spent on parentally placed nonpublic school children - to pay for other allowable Part B expenditures for that same school district. This situation should be the exception. We emphasize that it is the clear intent of the Act that school districts spend these funds on providing special education and related services to parentally placed nonpublic school children with disabilities, as provided in 34 CFR §§300.129 through 300.144. Therefore, if the school district is not in compliance with these requirements and has not expended the funds on parentally placed nonpublic school children, the funds must be returned to the U.S. Department of Education.

**19. If the district has not expended the proportionate share by the end of the carry-over period, will NDE monitor the school district?**

Yes, NDE is responsible for ensuring school districts are in compliance with requirements in 34 CFR 300.149(a) and 300.600(b)(2) including 34 CFR300.135, (Rule 51) NAC 51-015.03-015.09., that the district has obtained written affirmation signed by representatives of participating nonpublic schools that timely and meaningful consultation has occurred.

**20. Where can the public find out the Proportionate Share amount the school district must expend on eligible nonpublic children?**

21.

This information is readily available from the school district or on the Nebraska Department of Education at: <https://portal.education.ne.gov/site/DesktopDefault.aspx?tabindex=2&tabid=38>

# **Provision of Free Appropriate Public Education (FAPE)**

## **Questions and Answers**

**1. Can children enrolled in a nonpublic school receive a free appropriate education (FAPE)?**

Yes, children with disabilities parentally-placed in a nonpublic school are entitled to receive the provision of FAPE from the school district in which they reside.

**2. Can a parent of a nonresident child with disabilities who is parentally-placed in a nonpublic school whose child who is receiving equitable services request FAPE at any time from the resident school district?**

Yes, Nebraska state statute declares that the resident school district is responsible for the provision of FAPE for all children with disabilities. The resident school district would develop an IEP for the child.

**3. May a child receive both equitable services and FAPE services at the same time?**

No. The parent must choose either to receive FAPE from the resident school district or Equitable services from the nonresident district.

# **Complaint**

## **Questions and Answers- Complaints**

### **1. Can a representative of a nonpublic school file a complaint about the consultation process?**

Yes, a nonpublic school official has the right to submit a complaint to Nebraska Department of Education, Special Populations Office if the public school: 1) did not engage in consultation that was meaningful and timely; or 2) did not give due consideration to the views of the nonpublic official as described in 92 NAC 51-015.03F.

The nonpublic school official must provide to Nebraska Department of Education, Special Populations Office the basis of the noncompliance by the public school district with applicable nonpublic school provisions in this part; and the public school district must forward the appropriate documentation to Nebraska Department of Education, Special Populations Office.

If the nonpublic school official is dissatisfied with the decision of the Nebraska Department of Education, the nonpublic official may submit a complaint to the Secretary of the U.S. Department of Education. The Nebraska Department of Education must forward the appropriate documentation to the Secretary of the U. S. Department of Education.

### **2. Can a parent of a nonresident child with disabilities parentally-placed in a nonpublic school file a due process complaint?**

Yes, but only if the school district has failed to meet the child find requirements in 92 NAC 015.03B, or did not provide timely and meaningful consultation with representatives of the nonpublic schools and parent representatives as described in 92 NAC 51-015.03F.

However, parents are not able to request mediation or a due process hearing regarding the services the child is receiving, because there is no individual right to them under the law.

## **Preschool Children With Disabilities-**

### **Ages Three through Five**

Children with disabilities ages three through five are considered to be “parentally-placed in a nonpublic preschool” including religious preschools, home preschools, and elementary schools only if they are enrolled in a nonprofit nonpublic preschool or facility that is a part of an approved and/or accredited elementary school. Accordingly, if a nonprofit nonpublic preschool, day-care program, or other nonpublic early childhood program or facility, including home schools are a part of an approved and/or accredited elementary school, child find and equitable participation requirements apply to those children with disabilities enrolled by their parents in such programs.

Therefore, a school district is not responsible for child find activities and the provision of equitable services for nonresident children with disabilities parentally-placed in preschools which are within the school district that are not a part of an approved and/or accredited elementary school.

Many preschool children with disabilities parentally-placed in nonpublic preschools, because they attend a nonpublic preschool or a facility that is not a part of an approved and/or accredited elementary school, are the responsibility of the child’s resident school district for child find and the provision of a free and appropriate public education (FAPE).

Preschool children with disabilities parentally-placed in a nonpublic preschool, including home preschools who reside within the school district in which the nonpublic preschool is located, are eligible for the provision of FAPE from the public school district of residence and are counted in the Public School child count and not the nonpublic child count.

Nonresident preschool children with disabilities parentally-placed in preschool programs which are within the school district, and are a part of an approved and/or accredited elementary school, are included in child find activities and are eligible to receive equitable services (services plan); or may elect to receive FAPE from their school district of residence. These children are included in the nonpublic child count.

Nonresident preschool children with disabilities parentally-placed in preschool programs, including home preschools that are not a part of an approved and/or accredited elementary school are eligible to receive FAPE from the school district in which the child resides. The school district where the child resides is responsible for child find activities and evaluation. These children are included in the public school child count.

## Questions and Answers - Preschool

**1. Which children are considered parentally-placed nonpublic preschool children?**

Only those preschool children with disabilities parentally-placed in nonprofit nonpublic preschools including preschools that are a part of an approved and/or accredited elementary school are considered to parentally-placed in a nonpublic preschool.

**2. Do child find and equitable participation requirements apply to children with disabilities ages 3 through 5 parentally-placed in nonpublic preschool programs which are a part of an approved and/or accredited elementary school?**

The public school district within which the nonpublic preschool is located is responsible for:

- ◆ child find and equitable services for nonresident children attending nonpublic nonprofit preschools that are a part of an approved and/or accredited elementary school;
- ◆ child find and FAPE for resident children with disabilities parentally-placed in nonpublic preschool programs regardless of whether or not the preschool is a part of an approved and/or accredited elementary school.

**3. Which school district is responsible for children with disabilities parentally-placed in a nonpublic preschool that is not a part of an approved and/or accredited elementary school?**

The school district where the child resides is responsible for child find and the provision of free appropriate public education (FAPE) and would include the preschool child in the eligible public school count.

**4. How are preschool children, ages 3-5 yr. counted in the October 1 Proportionate Share Child Count worksheet?**

Eligible (*served and not served*) parentally placed children ages 3-5 yr. attending nonpublic nonprofit preschools which are a part of an approved and/or accredited elementary school located within the district boundaries are counted in Section I. Eligible Parentally Placed Non-Public School Children attending a Non-Public School or Exempt Home School within the District's Boundaries A. or B.

Eligible (*served and not served*) parentally placed children ages 3-5 yr. attending nonpublic nonprofit preschools which are **NOT** a part of an approved and/or accredited elementary school located within the district boundaries are counted in the child's resident public school child counted in Section II. Eligible Public School Children, Section A. or Section B.

Eligible resident children ages 3-5 yr. (*served and not served*) **placed by the public school** in a public school program are counted in Section II. Eligible Public School Children, Section A. or B.

**5. Are preschool programs which are in a church, home, or other buildings considered nonpublic schools?**

The determining factor is not the location; it is whether the preschool program is a part of an approved and/or accredited elementary school.

**6. Is a preschool child with disabilities parentally-placed in a nonpublic preschool program that is not a part of an approved and/or accredited elementary school entitled to FAPE?**

Yes, the preschool child with disabilities is eligible to receive FAPE from his/her public school district of residence, regardless of where the preschool program is located. The requirements of IDEA 2004 (children with disabilities parentally-placed in nonpublic schools) do not apply to preschools that are not a part of an approved and/or accredited elementary school. This child would be counted in the resident district's public school child count Section II. Eligible Public School Children Section A. or B.

# **Out-of-State Children with Disabilities**

## **Questions and Answers**

### **1. What is the responsibility of the school district to conduct child find activities for parentally-placed nonpublic school children who reside outside of the state?**

The school district within which the nonpublic approved and/or accredited school is located is responsible for conducting child find, including individual evaluations, of all parentally-placed nonpublic school children suspected of having a disability.

This includes nonresident children from other states parentally placed and attending:

- a nonpublic approved and/or accredited elementary schools and secondary schools within the school district boundaries;
- children ages 3-5yr. parentally placed in a preschool (which is a part of an approved and/or accredited not- for profit nonpublic elementary school)

### **2. Who is responsible for determining and paying for services provided to children with disabilities parentally-placed in nonpublic schools who reside outside the state?**

The public school district within which the nonpublic schools is located, through the consultation process, is responsible for determining and paying for equitable special education services to be provided to children with disabilities parentally-placed in nonpublic schools. These out-of-state children must be included in the group of parentally-placed children with disabilities whose needs are considered in determining which children with disabilities parentally-placed in a nonpublic school will be served and the types and amounts of services to be provided.

### **3. When making a determination regarding the equitable services a school district will provide to out of state children with disabilities placed by their parents in nonpublic schools, could a school district decide to only provide equitable services to children from their school district or Nebraska?**

No. Although school districts have discretion to determine how the proportionate share of Federal Part B funds will be expended so long as the consultation requirements are followed for all parentally placed nonpublic school children, school districts cannot determine, prior to or in absence of the timely and meaningful consultation process, that the proportionate share of Federal Part B funds for equitable services can only be expended to meet the needs of children who are residents of that school district or Nebraska.

## **For Profit Nonpublic Schools**

### **Questions and Answers**

- 1. Must children placed by their parents in a For-Profit nonpublic school be included in the district's Proportionate Share Child Count?**

No. The requirements for this regulation specify the nonpublic school must be nonprofit school.

## **Transportation**

Services to children with disabilities parentally-placed in a nonpublic school may be provided on the premises of nonpublic, including religious schools, to the extent consistent with law. If necessary for a child to benefit from or participate in the services provided, a child with disabilities parentally-placed in a nonpublic school must be provided transportation: from the child's school or the child's home to a site other than the nonpublic school; and from the service site to the nonpublic school, or to the child's home, depending on the timing of the services. The public school district is not required to provide transportation from the child's home to the nonpublic school.

The costs of transportation may be included in calculating whether the public school district has met the requirements for proportionate share expenditures.

### **Questions and Answers- Transportation**

- 1. Is the school district required to provide transportation in order for a child to benefit from or participate in the services provided under the nonpublic school provisions?**

The regulations in 34 CFR §300.139(b) require that if necessary for the child to benefit from or participate in the services provided under the nonpublic school provisions, the district must provide a parentally placed nonpublic school child with a disability transportation from the child's school or the child's home to a site other than the nonpublic school; and from the service site to the nonpublic school, or to the child's home, depending on the timing of the services. IDEA does not require districts to provide transportation from the child's home to the nonpublic school.

Transportation costs may be included in calculating whether the district has spent the proportionate share of Federal Part B funds on providing services to parentally placed nonpublic school children with disabilities.

## **NCLB Qualified Teachers**

Services provided to children with disabilities parentally-placed in a nonpublic school must be provided by personnel meeting the same standards as personnel providing services in the public schools, except that nonpublic elementary and secondary teachers who are providing equitable services to children with disabilities parentally-placed in a nonpublic school do not have to meet the highly qualified special education teacher requirements.

## **Questions and Answers**

### **1. Who must meet the NCLB Qualified Teacher requirements?**

The regulations at 34 CFR §300.138(a) clarify that personnel providing equitable services required by IDEA to children parentally-placed in nonpublic schools by their parents must meet the same standards as personnel providing services in the public schools, except that nonpublic elementary and secondary school teachers who are providing equitable services to children with disabilities parentally-placed in a nonpublic school do not have to meet the NCLB Qualified Teacher Requirements in 34 CFR §300.18. If the responsible school district contracts with the nonpublic school teachers to provide equitable services to children with disabilities parentally-placed in nonpublic schools, those nonpublic school teachers do not have to meet the NCLB Qualified Teacher requirements for special education teachers. However, if public school personnel provide equitable services to nonpublic school children on or off the premises of the nonpublic school, those public school personnel must meet the NCLB Qualified Teacher requirements.

## **Equipment and Supplies**

A school district or approved cooperative may place equipment and supplies in a nonpublic school for the period of time needed for the provision of special education services. Equipment and supplies placed in a nonpublic school are to be used only for the purpose of providing special education services; and can be removed from the nonpublic school without remodeling the nonpublic school facilities.

The supplies and equipment shall be removed if: 1) the equipment and supplies are no longer needed for the purpose of providing special education services; 2) or removal is necessary to avoid unauthorized use of the equipment and supplies for other than special education purposes.

## **Record Keeping**

School districts must maintain records regarding the following:

### **Consultation Plan Process**

Record and documentation of:

- Public Consultation Meeting notices
- Consultation Meeting agendas and discussion
- Consultation Plan summary
- Written affirmation of nonpublic school representatives participation in the meaningful consultation plan process

### **Proportionate Share**

#### **Child Count**

Each public school district must maintain records, and provide to Nebraska Department of Education, Special Education office the following information related to eligible children with disabilities:

- a) Total number of eligible parentally-placed children ages 3-21 attending an approved and/or accredited nonpublic school, including exempt home schools within school district boundaries
  
- b) Total number of eligible public school children ages 3-21 placed in a public school program

#### **Financial**

Record and document how proportionate share funds were expended for eligible children with disabilities parentally-placed in nonpublic schools for the fiscal year;

School districts shall report all expenditures and claims for nonpublic proportionate share service within function code 4412 on the Grants Management System (GMS). Any remaining carry over funds at the end of the fiscal year will be transferred to Proportionate Share Worksheet for Nonpublic Schools (Portal) and accounted in the calculations of the next fiscal year's proportionate share calculation. Proportionate share funds not expended by the end of the carry over period, after meaningful consultation with representatives of nonpublic schools and exempt home schools should be requested to be transferred to be expended for other allowable Part B expenditures.

Documentation and accounting records maintained to support expenditures claimed and requests for reimbursements in the GMS.

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