



**The following is taken from the NDE, Office of Special Education Technical Assistance/Guidance Document: *Children With Disabilities Parentally-Placed In Non-public Schools (Ages 3-21), Free Appropriate Public Education (FAPE) Is Not At Issue* to assist districts better understand the responsibility toward home school students.**

The final IDEA 2004 regulations clarify eligible children with disabilities parentally-placed in a non-public school means “children with disabilities placed by their parents in a non-public, 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 non-public schools.

Under state law, an exempt school (home school) is a private school and a student attending an exempt school should be treated like any other parentally placed private school student. Therefore a public school district’s responsibility does not change whether the child is enrolled in a private Rule 14 (approved) or a Rule 13 (exempt, aka home school) school as long as the child was enrolled in the school by a parent.

This document refers only to eligible children (ages 3-21) with disabilities parentally-placed in an approved and/or accredited Rule 13 (exempt aka homeschool) and Rule 14 (approved Non-public 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 nonaccredited non-public 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 non-public school is located is responsible for:

- Child Find
- Taking a (October 1) child count of eligible: public school, approved and/or accredited non-public school, and exempt home children with disabilities
- Calculation of proportionate share
- Consultations with Non-public schools and determination of equitable services



- Provision of FAPE for Resident children (ages 3-21) with disabilities parentally-placed in a non-public 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 non-public school or exempt home school.

Parentally-placed children with disabilities attending an approved and/or accredited non-public 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.

## **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 non-public schools and exempt homeschools which are located within the public school district's boundaries.

#### Proportionate Share

##### Appendix B to Part 300-Proportionate Share Calculation

Each LEA must expend, during the grant period, on the provision of special education and related services for the parentally-placed private school children with disabilities enrolled in private elementary schools and secondary schools located in the LEA an amount that is equal to:

- 1) A proportionate share of the LEA's subgrant under section 611(f) of the Act for children with disabilities aged 3 through 21. This is an amount that is the same proportion of the LEA's total subgrant under section 611(f) of the Act as the number of parentally-placed private school children with disabilities aged 3 through 21 enrolled in private elementary schools and secondary schools located in the LEA is to the total number of children with disabilities enrolled in public and private elementary schools and secondary schools located in the LEA aged 3- through 21; and



2) A proportionate share of the LEA's subgrant under section 619(g) of the Act for children with disabilities aged 3 through 5. This is an amount that is the same proportion of the LEA's total subgrant under section 619(g) of the Act as the total number of parentally-placed private school children with disabilities aged 3 through 5 enrolled in private elementary schools located in the LEA is to the total number of children with disabilities enrolled in public and private elementary schools located in the LEA aged 3 through 5.

### Child Find

Each school district, after timely and meaningful consultation with representatives of parentally-placed non-public school children, must conduct a thorough and complete child find process to determine the number of eligible parentally-placed children with disabilities attending non-public 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/ADVISED 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 non-public school or exempt home school, and does not consider which school district is providing special education services. (FAPE or Equitable) The NSSRS/ADVISED child count is the total number of eligible Public School children and may not accurately reflect the proportionate share child count, as NSSRS/ADVISED includes all of the children who are being served by the district in both the public and non-public schools, and outside of the district. The NSSRS/ADVISED count also may include resident non-public school children; and non-resident children who are receiving contracted services from the non-resident school district. Simply using the NSSRS/ADVISED count to report the total number of eligible Public School children may not be accurate.

## October 1 Proportionate Share 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

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

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

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

To view the entire guidance document click below:

[The Individuals with Disabilities Education Act \(IDEA\) 92 NAC 51 \(Rule 51\) Special Education Services to Children with Disabilities \(Ages 3-21\) Parentally Placed in Approved and/or Accredited Non-public Schools Including Exempt Home Schools \(FAPE Is Not A](#)

## Providing FAPE to Homeschool students during COVID-19

For students who are residents of the district who fall under Rule 13, Home schooled, exempt, districts would provide services through a model that mirrored the district's current educational environment during the COVID-19 pandemic. For example, if a district was in a remote learning environment for their student population, the homeschool (FAPE) services would be in a remote learning environment.

If the district is in a hybrid model the IEP team needs to look at both models for the appropriate place for services to the student who is home schooled.

Any student that is parentally placed in a non-public school, including homeschooled students, where FAPE is not at issue is entitled to full FAPE services determined by the IEP even when the proportionate share dollars are expended. They are entitled to FAPE which is not determined by a dollar amount.



According to 92 NAC 51 - 015.03C1a; Parentally-placed nonpublic school children with disabilities are eligible for the provision of a free appropriate public education from the school district or approved cooperative in which they reside. Services available under such circumstances are referred to as a Free Appropriate Public Education (FAPE).

92 NAC 51 - 015.03C1a(1); An IEP shall be developed and implemented in accordance with 92 NAC 51-007 for each resident nonpublic school child receiving FAPE.

92 NAC 015.03C1b would not apply in the instance of a homeschool exempt child as the district would only be responsible for providing FAPE to the resident homeschool exempt students.

Should you have any additional questions please contact The Office of Special Education.

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