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**COLORADO**  
Department of Education

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# OSEP Findings and Corrective Action Plan for Proportionate Share

October 24, 2024



# Session Objectives



Participants will understand,

- History of Proportionate Share Calculations for 3 to 5 year olds in Colorado.
- OSEP findings and remedies for proportionate share.
- OSEP requirements for proportionate share.
- Proportionate share calculation for 619 and 611 funds.
- Addressing OSEPs findings.
- Resources available to meet the requirements for the OSEP CAP and proportionate share.





# 2012 CDE Memo



## Colorado

- In August 2012, CDE issued a guidance memo stating, that in Colorado elementary school refers to the compulsory education provided in grades 1 through 6.
- Colorado does not have a definition of elementary school in law that supports this statement.

## Federal

- Elementary school means a nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under State law. 34 CFR 300.13



# OSEP Finding



The State does **not** ensure that its LEAs are correctly calculating the proportionate share for parentally-placed private school children with disabilities ages **3 through five** for IDEA Section 619, and ages 3 through 21 (**rather than only children ages five through 21**) for IDEA Section 611, in accordance with 34 C.F.R. § 300.133(a)(1) and (2).





## Federal Regulations IDEA (Part B - 3 to 21)

For children aged 3 through 21, an amount that is **the same proportion** of the LEA's total subgrant under section of the Act as the **number of private school children with disabilities aged 3 through 21** who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district served by the LEA, is to the total number of children with disabilities in its jurisdiction aged 3 through 21.

34 CFR 300.133(a)(1)



# Federal Regulations IDEA (Part B - 3 to 5)

For children aged **3 through 5**, an amount that is the **same proportion** of the LEA's total subgrant under section 619(g) of the Act as the **number of parentally-placed private school children with disabilities aged 3 through 5** who are enrolled by their parents in a private, including religious, elementary school located in the school district served by the LEA, is to the total number of children with disabilities in its jurisdiction aged 3 through 5.

34 CFR 300.133(a)(2)(i)

# OSEP Findings and Remedies



# OSEP Prop Share Findings

- The State is not ensuring that AUs are including children aged 3 through 5 for IDEA Section 611, and children aged 3 through 5 for IDEA Section 619 in their proportionate share calculations for parentally-placed private school children with disabilities, consistent with 34 C.F.R. § 300.133(a)(1) and (2).





# OSEP Required Remedies (Part 1)

## Part 1

- Establish a count of parentally-placed children with disabilities under IDEA aged 3 through 21 for section 611 grant
- Establish a count of parentally-placed children with disabilities under IDEA aged 3 through 5 for section 619 grant.
- Using the best data available and consultation with private schools, AUs must,
  - Determine the number of children with disabilities under IDEA enrolled by parents in private elementary and secondary schools located in the boundaries of the AU for FFY 2019 - FFY 2023.



# OSEP Required Remedies (Part 2/3)

## **Part 2**

Using the data from part 1, each AU in the state must properly calculate the proportionate share of IDEA part B funds from both sections 611 and 619 grants.

## **Part 3**

Each AU must determine the amount of State, local, and IDEA Part B funds, including funds from both IDEA Sections 611 and 619 grants that the AU expended in FFY 2019 through FFY 2023 to provide special education and related services to parentally-placed private school children with disabilities under IDEA.

- funds must be determined and calculated separately for each year.





# OSEP Required Remedies (Part 4/5)

## Part 4

Each AU must determine the short fall of expended funds from IDEA sections 611 and 619 for FFY 2019 - FFY 2023.

- Subtract the amount determined in part 2 from the total in part 3.
- The AU must conduct this separately for each FFY 2019 - 2023.

## Part 5

Each AU must remedy any shortfall identified in part 3 using available State and local funds and IDEA Part B funds from both its section 611 and 619 grants, where available, to make up the difference.





# Evidence of Implementation

The State must provide evidence of,

1. the results of the AUs revised child count data, and the recalculation of IDEA part B funds for both sections 611 and 619 grants.
2. the total amount of IDEA part B funds for sections 611 and 619 grants previously expended by the AU for FFY 2019 - FFY 2023.
3. that AUs have conducted meaningful consultation with private school representative and representative of privately-placed children with disabilities under IDEA on matter including,
  - a. the child find process, and
  - b. the decisions reached for any shortfall amount for equitable services.

# Proportionate Share Requirements



# Definition of Parentally-Placed

§300.130 Definition of parentally placed private school children with disabilities.

## Private School Children with Disabilities

Parentally-placed private school children with disabilities means,

- children with disabilities enrolled by their parents in private schools or facilities, including those that are religious, that meet the definition of elementary or secondary schools in the state, §300.13, 300.36,
- other than children with disabilities covered under §§300.145 through 300.147 (children placed or referred by public agencies).





# What is Proportionate Share?



Proportionate Share is a portion of a district's IDEA Part B entitlement grants allocated to provide equitable services to eligible parentally-placed students who are privately educated in a district's geographic boundaries, regardless of where the students live.

- Portion: amount calculated based on the number of eligible students.
- Equitable Services: special education and related services, including direct services that meet the identified needs of the child.
- Eligible: students ages 3-21 identified with a disability under IDEA.





# Proportionate Share



To ensure the provision of equitable services for parentally-placed private school children with disabilities, each AU is required to determine:

- The number of eligible children under IDEA, aged 3 through 21, enrolled by parents in private schools within the AU's jurisdiction,
- Calculate a Proportionate Share amount for IDEA section 619 (3-5 year olds) and section 611 (3-21 year olds); and
- After consultation, expend the Proportionate Share of its IDEA Part B federal funds to provide equitable services to parentally placed children with disabilities aged 3 through 21.







# Proportionate Share (children aged 3-21)

Each AU must spend an **Equal Proportion** of the AU's total subgrant under section 611(f) of the IDEA as the,

- number of students with disabilities,
- aged 3 through 21 who are enrolled by their parents in private school settings, including religious, elementary, and secondary schools,
- located in a school district served by the AU,
- as compared to the total number of children with disabilities aged 3 through 21 in the jurisdiction of the AU.

**Note: AUs are expected to spend all proportionate share amounts or document their attempts to do so.**

# AU Responsibilities for Parentally Placed Private School Students (*slide 1*)

- The AU where private schools are located is responsible for locating, identifying, and evaluating all children with disabilities who are enrolled by their parents in private, including religious, elementary schools and secondary schools. (U.S.C. § 1412(a)(10)(A)(ii) and 34 C.F.R. § 300.131).
- The AU where private elementary schools or secondary schools are located is responsible for conducting reevaluations of children with disabilities enrolled by their parents in the private elementary schools and secondary schools located in the LEA. (U.S.C. § 1412(a)(10)(A)(ii) and 34 C.F.R. § 300.131).

# AU Responsibilities for Parentally Placed Private School Students (*Slide 2*)

- The AU where a child attends private school is responsible for ensuring equitable participation in programs assisted or carried out under IDEA Part B. (20 U.S.C. § 1412(a)(10)(A) and 34 C.F.R. §§ 300.132, 300.137, and 300.138).
- The AU where private schools are located must engage in consultation that involves discussions between the AU, private school officials, and representatives of parents of parentally- placed private school children with disabilities on key issues relating to the equitable participation of eligible private school children with disabilities in Federally-funded special education and related services. (20 U.S.C. § 1412(a)(10)(A)(iii) and 34 C.F.R. § 300.134).

- When timely and meaningful consultation has occurred, the AU where private elementary schools and secondary schools are located must maintain documentation that the consultation has occurred, including a written affirmation signed by the representatives of the participating private schools. (20 U.S.C. § 1412(a)(10)(A) and 34 C.F.R. § 300.139)
- Develop individual service plans for children with disabilities. (20 U.S.C. §§ 1412(a)(10)(A)(i) and (vi) and 34 CFR §§300.132(b), 300.137(c) and 300.138(b))



# AU/BOCES Information

- AU/BOCES are responsible for all aspects of Proportionate Share, including monitoring their region for newly opened private schools.
- AU/BOCES should collaborate with member districts to ensure that all referrals for child find are being passed to the BOCES for follow-up.
- It is the AU/BOCES' responsibility to perform the required consultation and collaboration with private schools within their jurisdiction needed to fulfill the requirements of proportionate share for their member districts.



# Consultation

*(Slide 1)*



# Consultation *(slide 2)*



- AUs ensure leaders of private schools and representatives of parents of parentally-placed private school children with disabilities have opportunities to engage in “timely and meaningful” consultation about the opportunity to access special education.
  - “Timely and meaningful” consultation requires AUs to invite and consult with representatives of the private schools and parents of privately enrolled students who are educated within the geographic boundaries of the AU. (34 CFR § 300.134.)
  - All private schools must be invited to participate in the consultation even if they have expressed no interest in participation.



# Required Points for Consultation

- Consultation must occur before providing proportionate share services and allow input from representatives on the types of services to be provided and the method of delivery of services.
- During consultation, the AU must discuss all of the following areas.
  - Child Find and Evaluation
  - Determination of Proportionate Share
  - Consultation Process, Methodology, and Schedule
  - Determination of Services and Methods of Provision





# Private Schools in your AU

- It is the AUs responsibility to be aware of private schools within its boundaries.
- CDE has a list of non-public schools that register with the state for funding purposes.
- List of non-public schools ([link](#))

**Note: There may be private schools in your AU that have not been identified by CDE.**

# AU Obligation for Calculating Proportionate Share



# Child Count and the Calculation of Proportionate Share *slide 1*

After timely and meaningful consultation, the AU must,

- determine the number of parentally placed private school children eligible under IDEA attending private schools located in the AU's boundary,
  - this must include the total number of students aged 3 - 21 (regardless of receiving services).
- provide a proportionate share of services as agreed upon through the consultation process.



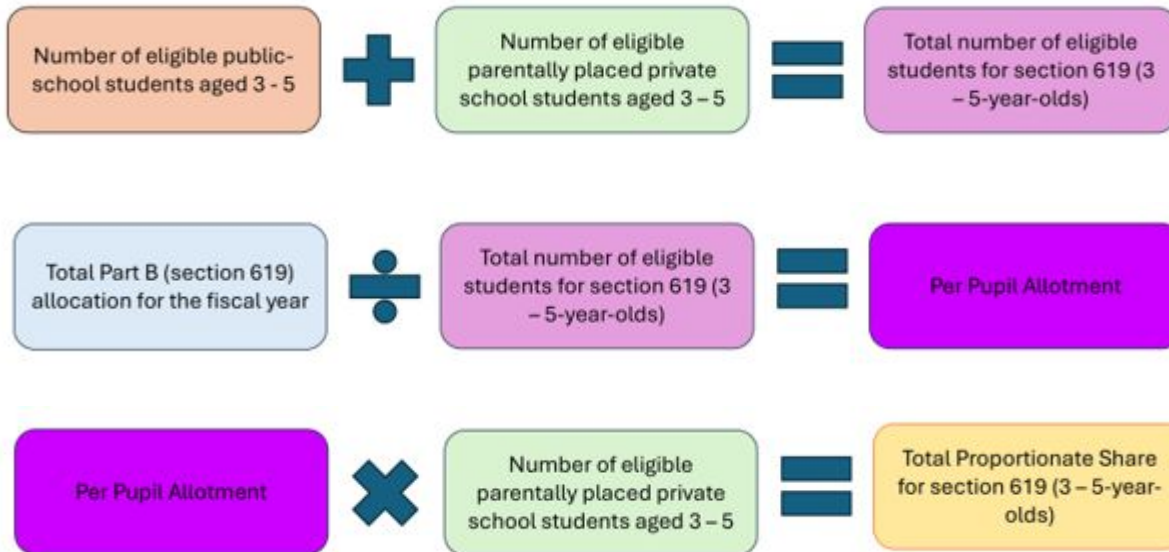
## Section 619: 3-to-5-year-olds





# Proportionate Share Calculation

## Section 619: 3-5-year-olds





# Additional Funding Considerations *(slide 1)*

- The calculation for Proportionate Share must be done annually.
- The calculation for Proportionate Share must be based on the total allocation received by the AU for Part B (611) and Preschool (619).



# Additional Funding Considerations *(slide 2)*

- If the Proportionate Share Funds cannot be expended and additional consultation is ineffective, then the unused amount may be rolled over to the following budget year.
- Proportionate Share Funds rolled over should be the first funds to be expended during the new budget year.
  - Rolled over funds do not reduce the Proportionate Share Set-Aside for the new year.
  - Documentation must be maintained demonstrating the attempted reconciliations and reasons that it was unsuccessful.
- The AU must document efforts to expend all funds.

# Address OSEP Findings





# Recalculating Prop Share

- Consult with all private schools within your AU.
- Using the best data available, obtain students number count for students with disabilities aged 3 through 5 for SY 2019-23.
- Complete AU private school consultation forms.
- Recalculate funds that should have been expended for SY 2019-23.



# Questions



## Your Questions



# Resources to supports AUs

- AU Consultation Forms
- Prop Share calculation form



# Office Hours



## Dates and Times:

- October 30, 2024
  - 10:00 - 11:30
- November 14, 2024
  - 2:00 - 3:30
- November 25, 2024
  - 9:00 - 10:30
- December 3, 2024
  - 1:00 - 2:30





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