

Parentally Placed Private School Children With Disabilities – No Dispute Over FAPE



- Proportionate share calculation should not include students attending for-profit private schools.
 - *Letter to Chapman*, 49 IDELR 163 (OSEP, 2007).
- Part B regulations define parentally placed private school children with disabilities as students who are enrolled by their parents in a private facility that meets the regulations' definition for an elementary or secondary school.
- Definition of elementary or secondary schools only includes nonprofit institutions.

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- *Nonprofit* means – it is owned and operated by one or more corporations or associations where net earnings do not benefit, and cannot lawfully benefit, any private shareholder or entity.
 - *See* 34 CFR 77.1, Definitions that Apply to Department Regulations, Department of Education

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- Evidence of nonprofit status may include:
 - Proof that the IRS currently recognizes the school as being a 501(c)(3); or
 - Statement from a State taxing body or the State attorney general certifying that:
 - School is a nonprofit operating in the State; and
 - No part of its net earnings may lawfully benefit any private shareholder or individual; or
 - Certified copy of certificate of incorporation or similar document that clearly establishes its nonprofit status.
 - *See* 34 CFR 75.51, Direct Grants Program, Department of Education

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- State of Utah recommends to its LEAs that they can advise their private schools to bring evidence of nonprofit status to the private school annual meeting.
- State of Utah does not certify or approve any private schools for special education or education in general.

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- In Utah, private schools or residential treatment centers with educational components may apply for accreditation through Northwest Accreditation and if they are accredited through the process, diplomas issued will be recognized by the State of Utah.
- State law in Utah does not consider home school as a private school.