

§ 300.141

provision of services indicated on the child's services plan.

(b) *Child find complaints—to be filed with the LEA in which the private school is located.* (1) The procedures in §§ 300.504 through 300.519 apply to complaints that an LEA has failed to meet the child find requirements in § 300.131, including the requirements in §§ 300.300 through 300.311.

(2) Any due process complaint regarding the child find requirements (as described in paragraph (b)(1) of this section) must be filed with the LEA in which the private school is located and a copy must be forwarded to the SEA.

(c) *State complaints.* (1) Any complaint that an SEA or LEA has failed to meet the requirements in §§ 300.132 through 300.135 and 300.137 through 300.144 must be filed in accordance with the procedures described in §§ 300.151 through 300.153.

(2) A complaint filed by a private school official under § 300.136(a) must be filed with the SEA in accordance with the procedures in § 300.136(b).

(Approved by the Office of Management and Budget under control number 1820-0030)

(Authority: 20 U.S.C. 1412(a)(10)(A))

§ 300.141 Requirement that funds not benefit a private school.

(a) An LEA may not use funds provided under section 611 or 619 of the Act to finance the existing level of instruction in a private school or to otherwise benefit the private school.

(b) The LEA must use funds provided under Part B of the Act to meet the special education and related services needs of parentally-placed private school children with disabilities, but not for meeting—

(1) The needs of a private school; or

(2) The general needs of the students enrolled in the private school.

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(Authority: 20 U.S.C. 1412(a)(10)(A))

§ 300.142 Use of personnel.

(a) *Use of public school personnel.* An LEA may use funds available under sections 611 and 619 of the Act to make public school personnel available in other than public facilities—

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(1) To the extent necessary to provide services under §§ 300.130 through 300.144 for parentally-placed private school children with disabilities; and

(2) If those services are not normally provided by the private school.

(b) *Use of private school personnel.* An LEA may use funds available under sections 611 and 619 of the Act to pay for the services of an employee of a private school to provide services under §§ 300.130 through 300.144 if—

(1) The employee performs the services outside of his or her regular hours of duty; and

(2) The employee performs the services under public supervision and control.

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(Authority: 20 U.S.C. 1412(a)(10)(A))

§ 300.143 Separate classes prohibited.

An LEA may not use funds available under section 611 or 619 of the Act for classes that are organized separately on the basis of school enrollment or religion of the children if—

(a) The classes are at the same site; and

(b) The classes include children enrolled in public schools and children enrolled in private schools.

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(Authority: 20 U.S.C. 1412(a)(10)(A))

§ 300.144 Property, equipment, and supplies.

(a) A public agency must control and administer the funds used to provide special education and related services under §§ 300.137 through 300.139, and hold title to and administer materials, equipment, and property purchased with those funds for the uses and purposes provided in the Act.

(b) The public agency may place equipment and supplies in a private school for the period of time needed for the Part B program.

(c) The public agency must ensure that the equipment and supplies placed in a private school—

(1) Are used only for Part B purposes; and

(2) Can be removed from the private school without remodeling the private school facility.

(d) The public agency must remove equipment and supplies from a private school if—

(1) The equipment and supplies are no longer needed for Part B purposes; or

(2) Removal is necessary to avoid unauthorized use of the equipment and supplies for other than Part B purposes.

(e) No funds under Part B of the Act may be used for repairs, minor remodeling, or construction of private school facilities.

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(Authority: 20 U.S.C. 1412(a)(10)(A)(vii))

CHILDREN WITH DISABILITIES IN PRIVATE SCHOOLS PLACED OR REFERRED BY PUBLIC AGENCIES

§ 300.145 Applicability of §§ 300.146 through 300.147.

Sections 300.146 through 300.147 apply only to children with disabilities who are or have been placed in or referred to a private school or facility by a public agency as a means of providing special education and related services.

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(Authority: 20 U.S.C. 1412(a)(10)(B))

§ 300.146 Responsibility of SEA.

Each SEA must ensure that a child with a disability who is placed in or referred to a private school or facility by a public agency—

(a) Is provided special education and related services—

(1) In conformance with an IEP that meets the requirements of §§ 300.320 through 300.325; and

(2) At no cost to the parents;

(b) Is provided an education that meets the standards that apply to education provided by the SEA and LEAs including the requirements of this part, except for § 300.18 and § 300.156(c); and

(c) Has all of the rights of a child with a disability who is served by a public agency.

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(Authority: 20 U.S.C. 1412(a)(10)(B))

§ 300.147 Implementation by SEA.

In implementing § 300.146, the SEA must—

(a) Monitor compliance through procedures such as written reports, on-site visits, and parent questionnaires;

(b) Disseminate copies of applicable standards to each private school and facility to which a public agency has referred or placed a child with a disability; and

(c) Provide an opportunity for those private schools and facilities to participate in the development and revision of State standards that apply to them.

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(Authority: 20 U.S.C. 1412(a)(10)(B))

CHILDREN WITH DISABILITIES ENROLLED BY THEIR PARENTS IN PRIVATE SCHOOLS WHEN FAPE IS AT ISSUE

§ 300.148 Placement of children by parents when FAPE is at issue.

(a) *General.* This part does not require an LEA to pay for the cost of education, including special education and related services, of a child with a disability at a private school or facility if that agency made FAPE available to the child and the parents elected to place the child in a private school or facility. However, the public agency must include that child in the population whose needs are addressed consistent with §§ 300.131 through 300.144.

(b) *Disagreements about FAPE.* Disagreements between the parents and a public agency regarding the availability of a program appropriate for the child, and the question of financial reimbursement, are subject to the due process procedures in §§ 300.504 through 300.520.

(c) *Reimbursement for private school placement.* If the parents of a child with a disability, who previously received special education and related services under the authority of a public agency,