**From:** Swink, Keith
**Sent:** Tuesday, September 26, 2017 10:07 AM
**To:** Barrera, Margie <Margie.Barrera@tea.texas.gov>
**Subject:** RE: Evaluations for Students in "for profit" private schools

A district still has child find obligations to students enrolled in for profit private schools.

**49 IDELR 163**

***Letter to Chapman***

**Office of Special Education Programs**

**August 22, 2007**

Under 34 CFR § 300.130, parentally-placed private school children with disabilities are defined as children with disabilities enrolled by their parents in private, including religious, schools or facilities that meet the definition of elementary school in 34 CFR § 300.13 or secondary school in 34 CFR § 300.36.

The definition of "elementary school" at 34 CFR § 300.13 states: *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. The definition of "secondary school at 34 CFR § 300.36 states: *Secondary school* means a *nonprofit* institutional day or residential school, including a public secondary charter school that provides secondary education, as determined under State law, except that it does not include any education beyond grade 12. (Emphasis added.)

Because both definitions require that the schools be nonprofit, children with disabilities placed by their parents in for-profit private schools are not included in the definition of "parentally-placed private school children with disabilities." Therefore, they would not be included in the proportionate share calculation or be eligible for equitable services under 34 CFR §§ 300.130-300.144.

The child find obligation exists independently from the requirement to expend a proportionate share of IDEA funds to provide services to eligible parentally-placed private school children with disabilities. Under section 612(a)(3)(A) of IDEA and 34 CFR § 300.111, a State must ensure that all children with disabilities residing in the State, including children with disabilities attending private schools, and who are in need of special education and related services, are identified, located, and evaluated; this includes children with disabilities attending for-profit private schools.