

Equitable Services for Private School Students and Teachers in the ESSA Era

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The Elementary and Secondary Education Act (ESEA)

The *Elementary and Secondary Education Act* (ESEA), as reauthorized by the *Every Student Succeeds Act* (ESSA), requires local education agencies (LEAs) to provide for the equitable participation of private school students, teachers and, in some cases, parents and other education personnel in some of the ESEA's major programs.

Equitable Services Provisions

Title I are in Section 1117

Title II-VIII are in Sections 8501-8504 (Title VIII Uniform Provisions)

Title VIII-Covered Programs

- The ESSA updated the covered programs to include the following:
- Title I, Part C - Education of Migratory Children
- Title II, Part A - Preparing, Training, and Recruiting
- Title III, Part A - Language Instruction for English Learners
- Title IV, Part A - Student Support and Academic Enrichment Grants
- Title IV, Part B - 21st Century Community Learning Centers

ESEA section 8501(b)

Characteristics of Services

Services, materials and equipment must be secular, neutral, non ideological and supplemental in nature, not supplanting what the private school would otherwise provide absent the federal education services.

Ombudsman

To help ensure that private school children, teachers, and other educational personnel receive services equitable to those in public schools, State educational agencies (SEAs) must designate an ombudsman to monitor and enforce Title I and Title VIII equitable services requirements.

ESEA sections 1117(a)(3)(B) and 8501(a)(3)(B) FAQs N 1 through N 5

- The primary responsibilities of an ombudsman are to monitor and enforce the equitable services requirements in Titles I and VIII.

- An ombudsman should work with SEA staff administering Title I and programs covered under Title VIII to develop monitoring protocols applicable to the provision of equitable services under each program.
- The ombudsman should also serve as the primary point of contact for responding to and resolving any complaints regarding equitable services that the SEA receives under its ESEA complaint procedures.

Equitable Services Requirements

- Engage in **timely** and **meaningful consultation** with private school officials;
- Provide private school students and teachers with an **opportunity** to participate in activities **equivalent** to the opportunity provided to public school students and teachers;
- **Assess, address and evaluate** the needs of private school students and teachers;
- Provide benefits and services that **meet the needs** of private school students and teachers; and
- **Spend an equal amount** of funds per student to provide services.

Consultation

The **goal of consultation is agreement** between the LEA and appropriate private school officials on how to provide equitable and effective programs for eligible private school children.

ESEA sections 1117(b)(1) and 8501(c)(1) FAQ N 13

- The results of agreement following consultation must be transmitted to the SEA's equitable services ombudsman
- The ombudsman should establish a process for receiving documentation of agreement from each LEA.
- For example, the ombudsman may direct an LEA to document agreement on the same form the LEA uses to document affirmation of consultation and submit that form to the ombudsman.

Section 1117(b)(1) FAQ O 5

The list of consultation topics has been expanded to include:

- How the proportionate share of funds is determined;
- Whether services will be provided directly or through a separate government agency, consortium, entity, or third party contractor;
- Whether to pool funds for equitable services;
- When, including the approximate time of day, services will be provided; and
- Whether to consolidate Title I equitable services funds with funds available for services to private school children under other ESEA programs.

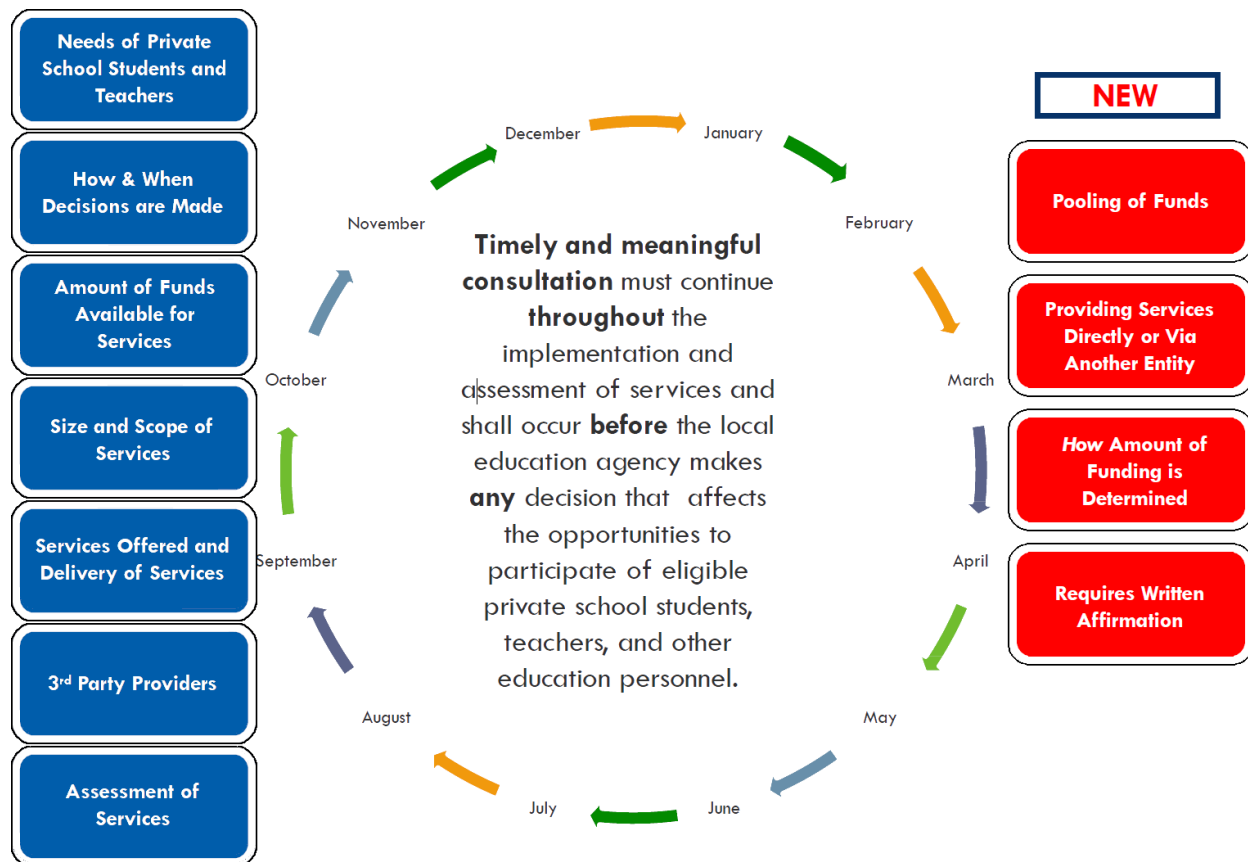
Other changes related to consultation:

- The written affirmation that consultation has occurred must provide the option for private school officials to indicate that such officials' belief that timely and meaningful consultation has not occurred or that the program design is not equitable with respect to eligible private school children.

Section 1117(b)(1) FAQs O-6 and O-7

- As part of consultation, an LEA must consider whether to consolidate and use Title I funds to provide equitable services under Title I in coordination with funds for equitable services from programs covered under Title VII.
- For example, through coordination, an LEA with limited available funds might use Title I funds to provide instructional services to Title I eligible private school students; use Title II funds to provide professional development to those students' teachers (as opposed to all teachers in a given school); use Title III funds to improve the English proficiency of English learners among the participating students; and use Title IV funds to provide necessary counseling services to the most at risk eligible students.
- In coordinating Title I equitable services with other programs, funds would continue to be used for allowable activities under each program, but the coordinated services would allow the LEA to better serve the needs of the most at risk students in a comprehensive manner.
- Coordination between programs will eliminate the silo approach through which an LEA consults with private school officials on a program by program basis.
- An LEA may still expend funds for equitable services on a school by school basis or by pooling. See the previous Title IX Uniform Provisions Non-regulatory guidance, FAQ F-10, for an explanation of pooling.
- The statute now specifically requires an LEA to consult with private school officials regarding these options.

Timely and meaningful consultation must continue throughout the implementation and assessment of services and shall occur before the local education agency makes any decision that affects the opportunities to participate of eligible private school students, teachers and other education personnel



Obligations of Funds

Funds allocated to an LEA for educational services and other benefits to eligible private school children, teachers and other educational personnel, and families must be obligated in the fiscal year for which the funds are received by the LEA.

ESEA sections 1117(a)(4)(B) and 8501(a)(4)(B) FAQs N 6 through N 7

An SEA must provide notice in a timely manner to appropriate private school officials in the State of the allocation of funds for educational services and other benefits under each ESEA program that an LEA has determined are available for eligible private school children, teachers and other educational personnel, and families

ESEA sections 1117(a)(4)(C) and 8501(a)(4)(C) FAQs N 8 through N 10

Allocations

- An SEA should consult with appropriate private school officials to determine an effective manner for disseminating the notice of allocation to appropriate private school officials, which may include notification through the ombudsman.
- An SEA may consider methods such as publicly posting this information on the SEA's website, using an email distribution list of private school officials, or other methods that will ensure that this information is available to appropriate private school officials.

Expenditures for equitable services to eligible private school children, teachers and other educational personnel, and families must be equal to the proportion of funds allocated to participating public school attendance areas based on the number of children from low income families who reside in those attendance areas and attend private schools. An LEA must determine the proportionate share of Title I funds available for equitable services based on the total amount of Title I funds received by the LEA prior to any allowable expenditures or transfers of funds.

Section 1117(a)(4)(A) FAQs O 1 to O-5

An LEA must determine the amount of funds available for providing equitable services prior to any expenditures or transfers of funds. This includes all reservations previously taken “off the top” of an LEA’s Title I allocation, including reservations for administration, parental involvement, and district wide initiatives.

- From the proportionate share of Title I funds available to provide equitable services, an LEA may reserve an amount that is reasonable and necessary to administer equitable services.
- An LEA determines this amount separately from the funds needed to administer the Title I program for students in public schools.
- The LEA should discuss administrative costs for implementing equitable services during consultation with appropriate private school officials.

LCP Step 3

Enter all necessary set asides for your district and then click the "Calculate Distribution Amount" button

Title I Allocation Funds Available: **\$22,134,446**

Set Asides			
Administration	366838	Preschool	600000
Homeless	145000	Professional Development	2213447
Indirect cost	0	Salary Differential	3318230
Neglected	387400	Summer School	0
Parent Involvement	270612	Transportation	0

Total Set Asides: 7301527

Calculate Distribution Amount

Total Distribution Amount: 14832919

Proportionate Share

EXAMPLE OF DETERMINING THE AMOUNT OF TITLE I FUNDS FOR EQUITABLE SERVICES			
Public School Attendance Area	Number of Public School Low-Income Children	Number of Private School Low-Income Children	Total Number of Low-Income Children
A	500	120	620
B	300	9	309
C	200	6	206
D	350	15	365
TOTAL	1,350	150	1,500
PROPORTIONATE SHARE	90% \$900,000	10% \$100,000	

Complaint Process

The timeframe that an SEA has for responding to a complaint from parents, teachers, or other individuals concerning violations of the ESEA section 8501 regarding the participation by private school children and teachers is 45 days. In addition, the Secretary must investigate and resolve an appeal of an SEA's resolution of a complaint within 90 days.

ESEA section 8503

Resources

Office of Non-Public Education

<https://www.ed.gov/birth-to-grade-12-education/alternatives-traditional-public-education/overview>

Non-Regulatory Guidance

<https://www2.ed.gov/policy/elsec/leg/essa/essaguidance160477.pdf>

Elementary and Secondary Education Act (ESEA) as amended by the Every Student Succeeds Act of 2015

<https://www.ed.gov/laws-and-policy/laws-preschool-grade-12-education/esea/esea-guidance>

KSDE Non Public resources available at <https://www.ksde.gov/Default.aspx?tabid=745>

Questions?

Private School Ombudsman psconsultation@ksde.gov

ESSA questions/information: ESSAquestions@ksde.gov