

What the Law Says

[Title I¹](#) and [Title VIII, Part F, Subpart 1, Uniform Provisions- Private Schools²](#) under ESSA includes an Equitable Services provision which refers to the process of providing students, teachers, staff and families at eligible Private, Non-Profits (PNPs) access to federally funded education programs and services, under the following programs:

- Title I-A: Basic Academic Programs;
- Title I-C: Education of Migratory Children;
- Title II-A: Supporting Effective Instruction;
- Title III: Language Instruction for English Learners and Immigrant Students;
- Title IV-A: Student Support and Academic Enrichment Grants; and
- Title IV-B: 21st Century Community Learning Centers.

Each district that receives federal funds must designate a portion of those funds to address the strengths and needs of eligible students, as well as their teachers and families, in the private, non-profit schools that choose to participate in consultation and the equitable services requirement. The types of services provided to PNPs are determined during consultation between the district and the private school and will vary depending on program.

Requirements

Consultation

Consultation is at the heart of equitable services. As required under ESSA, all districts that receive federal funds must provide equitable services to any non-public school within its boundaries that wishes to participate.

Districts meet this requirement through annual consultation that is **timely, meaningful and ongoing**, and which results in the school district and private school officials reaching agreement on services to meet the expressed strengths and needs of private school students, teachers, and staff.

Meaningful consultation must begin before any services are provided to students, teachers, or other private school educational staff. Although the initial consultation is generally the most critical, ongoing consultation is necessary and required for follow-through, adjustments, and evaluation.

Calculating the Equitable Share

Calculation of the equitable share [is based on a formula](#) and depends on several factors including attendance area and enrollment. The private school must provide the district with student information needed to make calculations. The data sources to be used are determined during consultation.

Evaluation

Measures of impact are determined in consultation between the school and the district. Evaluation ensures the equitable services have the intended result. ESSA equitable participation funds may be available to a school each year, so there is always the opportunity to make adjustments to make services more effective and responsive to

¹ ESSA Section 1117(a)(1)

² ESSA Section 8501

needs. Evaluating programs is an important part of continuous improvement and a district responsibility as part of the equitable services process.

Additional Considerations

- **Secular, Neutral, and Non-ideological**
A district must provide equitable services and other benefits, including materials and equipment that are secular, neutral, and non-ideological. Even though many private schools have religious affiliations, core instructional supports and curriculum provided must be secular, neutral, and non-ideological.
- **Transferability**
Districts must consult with participating private schools before a decision is made to transfer funds from II-A or IV-A to another Title program. The equitable share provided to participating private schools is impacted whenever the district transfers funds. The results of the district's needs assessment must be shared with the private schools during meaningful and timely consultation regarding the services they will and will not be eligible for as the result of the transfer of funds.
- **Fiscal Responsibilities**
Districts serve as the fiscal agent for the private schools and consequently retain control of the funds. No funds can be provided directly to schools and all equipment and materials purchased with federal funds as part of equitable services are the property of the district.

Recommendations for Practice

- **Build relationships.** Collaboration is central to the equitable services process. When trust and transparency are present, collaboration and open dialogue that foster shared ownership of the equitable service plan is more likely.
- **Clarify roles and responsibilities.** The district and the private school have specific roles and responsibilities in the process. Discussing and clarifying the roles and responsibilities will help ensure meaningful consultation and more effective implementation.
- **Ensure ongoing communication.** Consider providing an annual calendar of follow-up meetings, report due-dates and site visits. Districts should also maintain documentation of communication with the private school.

Questions for Reflection

1. Which staff member(s) support the equitable services process in the district?
2. What is the district's process for communicating with private schools to ensure meaningful, timely and ongoing consultation?
3. How does the district know when a new private school opens within its boundaries?
4. How does the district evaluate the effectiveness of equitable services?

Frequently Asked Questions

1. Is there guidance on “meaningful, timely, and ongoing”?

Meaningful and timely consultation provides sufficient time and a genuine opportunity for all parties to express their views and to discuss viable options for ensuring equitable participation of eligible private school students, teachers, staff and parents. This requires that the school district has not made any decisions that will impact the participation of private school students and teachers prior to consultation.

Consultation should also be ongoing: beginning well before the start of the school year and continuing throughout full implementation and evaluation of services. There should be a minimum of one on-site visit by the district to the private school³.
2. When should consultation take place?

Districts are encouraged to begin consultation in mid-February or early March to ensure ample time for discussion and planning. Districts are required to send a copy of the Affirmation of Consultation to the ODE Ombudsman within 30 days of consultation.
3. May a district set deadlines for submission of requests from non-public school officials for services and materials?

Yes. Assuming that the district has provided clear and sufficient notice of the deadlines, identified potential consequences for not meeting the deadlines, and given adequate time for non-public school officials to gather the data and respond. Districts may set a time limit for submission of requests for services and materials by non-public school officials.
4. What is the district’s obligation if a private school initially declines participation and decides at a later date they would like to participate?

Timeliness for both the school district and private school is critical. There are no hard and fast cut-off dates for a district to consult with a private school. However, budgets, staffing and, the allocation of resources, may be a consideration. The optimal initial consultation meeting between the school district and private school is early spring.

If the decision to participate is made after October 1, the district may offer to meet with the private school to review the consultation process and timelines so they will be prepared for the following school year. It is important that the district keep documentation of all phone calls, e-mails and meetings.
5. Should an LEA contact the private school officials every year even if the non-public school officials have declined services in the past?

Yes, on an annual basis the LEA must contact private school officials and inquire as to whether the non-public school students and teachers will participate in the ESEA programs available to them.

³ Any onsite visits should meet the safety protocols outlined in the [Ready Schools, Safe Learners Resiliency Framework](#).
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ESSA Quick Reference Brief: Equitable Services

6. May non-public school officials order or purchase materials and supplies needed for a Title program and be reimbursed by a district?

No. Non-public school officials have no authority to obligate or receive federal funds. The statute clearly states that the LEA must maintain control of all Title funds, materials, equipment, and property. No Title funds may be paid to a non-public school. However, a school district may use federal funds to reimburse an individual private school teacher, principal or other school staff for professional development that the school district has preapproved and that meets the reasonable and necessary cost principles of the [Office of Management and Budget \(OMB\) 2 CFR section 200](#). See F-4.

Resources

- [Non-Regulatory Guidance: Title IX, Part E, Uniform Provisions Subpart 1—Private Schools \(USED\)](#)
- [Title I-A: Providing Equitable Services to Eligible Private School Children, Teachers and Families \(USED\)](#)
- [Fiscal Changes and Equitable Services Requirements \(USED\)](#)
- [Private School Participation under ESEA \(ODE\)](#)
- [Equitable Services Handbook \(ODE\)](#)
- [Calculating the Proportionate Share \(ODE\)](#)