ESSA Quick Reference Brief: Equitable Services

What the Law Says

Both ESEA Title I[1] and Title VIII, Part F[2] include an equitable services provision. Equitable services refers to the process of providing eligible students, their educators, and families at non-profit private schools access to federally funded education programs and services. The following programs have equitable service requirements:

- Title I-A: Basic Academic Programs;
- Title VIII 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;
  - Title IV-B: 21st Century Community Learning Centers; and
  - Title IV-F: Project SERV.

Every year, each district that receives an allocation under any of these programs must ask private schools, during a process called consultation, if they are interested in participating in equitable services. If the private school wishes to participate, and enrolls eligible students, the district must set-aside a portion of those funds, referred to as the equitable share, to be used to provide equitable services. The services must address the specific strengths and needs of eligible students, and their educators and families, if applicable. The types of services provided to private school participants are determined during consultation.

Requirements

Consultation

Consultation is at the heart of equitable services. As required under ESEA, every year all districts that receive federal funds must contact each eligible private schools that are physically located within its boundaries and inquire if they intend to participate in an equitable service program. For a private school to be eligible, they must be a non-profit and enroll students in any grade K-12. For private schools that do not respond or decline participation in equitable services, the district must submit documentation of communication with each private school to the Evidence of Consultation form.

Consultation must be **timely, meaningful, ongoing**, and with the goal of reaching agreement. During consultation, decisions are made on the services that will be provided to meet the specific strengths and needs of private school students, their educators, and families. For private schools that are participating, the Affirmation of Consultation must be signed and submitted to the Evidence of Consultation form.

Calculating the Equitable Share

Calculation of the equitable share is based on specific program eligibility and must be a per pupil allocation. The private school must provide the district with student information needed to make calculations. The student information data sources to be used are agreed upon during consultation.

[1] *ESSA Section 1117*
[2] *ESSA Section 8501*

Assessing Needs

While there is not a requirement under ESEA that private schools complete a needs assessment, ESEA does require that all equitable service programs meet the specific academic needs of private school participants. Therefore, districts must show that services and programs meet an identified need. Additionally, having a data-based needs assessment will make evaluating services and programs easier and more valid and reliable.

Evaluation

How services will be evaluated is determined during consultation. Evaluation ensures the equitable services have the intended result. Private schools may participate every year, so the opportunity should be taken to create services that are as effective and responsive as possible.

Additional Considerations

- **Secular, Neutral, and Non-ideological**
  Even though many private schools have religious affiliations, all services, including instructional supports, curriculum, professional learning, materials and equipment, provided by through the district must be secular, neutral, and non-ideological.
- **Transferability**
  Since the equitable share is impacted whenever the district transfers funds, 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 district must give the private school's views due consideration; but the authority to make the final decision lies with the district.
- **Fiscal Responsibilities**
  Districts serve as the fiscal agent for equitable services and must retain control of all funds. The district must never pay the private school directly, even as a reimbursement. In some instances, private school employees can be paid directly. Additionally, all equipment and materials purchased with federal funds as part of equitable services are the property of the district and not the private school.

Recommendations for Practice

- Build relationships. Collaboration is central to the equitable services process. When trust and transparency are present, productive partnerships and open dialogue fostering shared ownership of equitable services is more likely.

- Clarify roles and responsibilities. The district and the private school have specific roles and responsibilities in the process. Discussing and clarifying these relationships will help ensure meaningful consultation and more effective implementation.

- Ensure ongoing communication. Consider providing an annual calendar of follow-up meetings, reporting due dates and site visits. Districts must also maintain documentation of communication with the private school.

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Questions for Reflection

1. Which staff member(s) support the equitable services process in the district?
2. How does the district communicate with private schools to meet consultation requirements?
3. How does the district know when a new private school opens within its boundaries?
4. How does the district partner with the private school to evaluate the private school's needs and the effectiveness of equitable services and programs?

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 participants. This requires that the district does not make any decisions that will impact the participation of private school participants prior to consultation. Ongoing consultation begins well before the start of the school year and continues until final evaluation. There should be a minimum of one on-site visit by the district to the private school in instances where services are provided at the private school.

2. When should consultation take place?

Districts are encouraged to begin consultation in the spring so that services can start at the beginning of the school year. The results of consultation must be submitted to the Evidence of Consultation form.

3. May a district set deadlines for private schools to provide documents or data?

Yes, deadlines may be set if the district has provided clear and sufficient notice of the deadlines, identified potential consequences for not meeting the deadlines, and given adequate time for private school officials to gather the data and respond.

4. Must an LEA contact the private school officials every year even if the private school officials have declined services in the past?

Yes, the district must contact private schools on an annual basis regardless of their past response.

5. May private school officials order or purchase materials and supplies needed for a Title program and be reimbursed by a district?

No, private schools do not have the authority to obligate federal funds. ESEA clearly states that the district must maintain control of all Title funds, materials, equipment, and property. Title funds must never be paid to a private school; but under some circumstance, funds can be paid to private school employees.

Resources

- Title VIII Equitable Services Non-Regulatory Guidance (2023)
- Title I-A Equitable Services Non-Regulatory Guidance (2023)
- Private School Participation Under ESEA webpage
    - Equitable Services Toolkit
    - Equitable Services Learning Modules