

## What are ESEA Equitable Services?

### What are equitable services?

The term “equitable services” refers to the process of providing students, educators and families at eligible private, non-profit schools with equitable access to federally funded education programs and services.

The Elementary and Secondary Education Act (ESEA) of 1965, reauthorized in 2015 as the [Every Student Succeeds Act](#) (ESSA), is a federal statute that was passed by the US Congress and signed into law by the president. The purpose of ESEA is to ensure quality and equality in the education of every student. Each year, the Federal budget includes allocations for each Title program. These federal funds must be spent as stipulated under ESEA, and they are primarily used to support public education. However, some children attending private schools may still receive services provided by federal funds under ESEA.

ESEA stipulates that federal funds are distributed by the US Department of Education to each state and then the state distributes almost all of their funds to local education agencies (LEA). In Oregon, LEAs are usually school districts, and in this document, the term “district” is synonymous with LEA. The district is then designated to address the needs of these eligible private school students, educators and families through programs called equitable services.

Equitable services apply to the following ESEA Title programs:<sup>i</sup>

- [Title I-A](#): Improving Academic Achievement
- Title VIII Programs
  - [Title I-C](#): Education of Migratory Children
  - [Title II-A](#): Supporting Effective Instruction
  - [Title III-A](#): English Learners and Immigrant Students
  - [Title IV-A](#): Student Support and Academic Enrichment Grants
  - [Title IV-B](#): 21<sup>st</sup> Century Community Learning Centers
  - [Title IV-F](#): Project SERV

### Who is eligible to receive equitable services?

Generally, the district must offer equitable services to:

- Private schools that are a licensed [non-profit](#) by their residential state and enroll students in any grade kindergarten through twelfth.<sup>ii</sup>
  - Private school students may still be eligible for equitable services, even if they or the private school is located in another school district, county or state.<sup>iii</sup>
  - Private school students and educators may be eligible even if they are not US citizens.<sup>iv</sup>
  - During consultation the district and private school will decide what, if any, services will be provided to parents and families of participating students.<sup>v</sup>

- Preschool students, while not included in the eligibility count for calculating the equitable share, who attend a private elementary school that participates in an eligible Title program may be offered services along with their educators and families.<sup>vi</sup>
- Equitable services can only be provided if the district receives an allocation for the Title program.<sup>vii</sup>

It is up to the private school to decide whether to accept or decline equitable services. A private school does not have to accept all or decline all Title program services and may choose to participate in only some Title program services.

Equitable services cannot be used to meet the general needs of the private school but must be used to meet the specific needs of private school students, their educators and/or families.<sup>viii</sup>

### When private school participants receive equitable services, does this mean the private school has accepted Federal funds and is subject to Federal requirements?

Because equitable service funds remain under the control of the district and funds are never paid directly to the private school, the private school is not considered to be a recipient of federal funds. Therefore, when a private school has participants who receive equitable services, it does not subject the private school to Federal requirements. All federal requirements for receiving the funds lies solely and completely with the district.<sup>ix</sup>

### How are equitable services provided?

The district is exclusively responsible for providing equitable services.<sup>x</sup> It is the district's responsibility [to contact](#) all appropriate private schools (see [Module 2](#)) who may be eligible for equitable services.<sup>xi</sup> The district is solely responsible for obligating the equitable share on behalf of private school students, their educators and families. Districts must NEVER reimburse the private school directly for provided services, and to do so is a violation of federal law.<sup>xii</sup>

Equitable services may take place at various locations. During consultation, the district and private school will determine if the private school, a community-based locale or a public school is the best location. The least disruptive and least expensive location should be chosen. However, in order to participate in equitable services, private schools are not required to make their facilities available. If transportation is needed for students to participate in equitable services, the district is solely responsible for providing the transportation and the cost can be taken from the administrative set-aside.<sup>xiii</sup>

### If a private school accepts services, are they reducing the services available to public schools?

The total allocation that each state receives from the US Department of Education under ESEA is calculated based on US Census data. This means that all known public school students and private school students are included when determining Oregon's total allocation for each Title program. The allocation dispersed to districts is inclusive of all students, both private and public. Therefore, if a private school chooses to accept services, the equitable share is deducted from an allocation that was calculated from all known eligible students, not just eligible public

school students. If a private school chooses to decline services, their equitable share is reallocated, depending on the Title program (see [Module 3](#)), to other participating, eligible students.

## Must equitable services be exactly the same as the services provided to public schools?

During consultation, the district and private school [identify the needs](#) of eligible private school participants, and decide what services will be provided to best address these needs. Therefore, the services provided may be different from services provided at public schools.<sup>xiv</sup> However, Districts must provide services on an equitable basis, and which are equitable in comparison to Title services at a public school.<sup>xv</sup>

Generally, services are considered equitable if the following criteria are met:<sup>xvi</sup>

- The services address and assess the specific needs and educational progress of public and private school participants on a comparable basis; and
- The determination of eligible participants is equitable; and
- The amount of funds, on a per-pupil basis, is used to serve similar public and private school participants; and
- Services provide an opportunity for equitable participation.

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<sup>i</sup> [ESEA](#) section 1117, section 8501(b)(1); [34 CFR § 299.6\(b\)](#)

<sup>ii</sup> [Title I-A Equitable Services NRG](#) (2023) Introduction, [ESEA](#) section 1115(c), section 1117(a)(1)(A), [Title VIII Equitable Services NRG](#) (2023) C-1, C-2, C-5, [ESEA](#) section 8101(19), (45), 8501(a), [34 CFR § 75.51](#), [ORS 339.030](#)

<sup>iii</sup> [Title I-A Equitable Services NRG](#) (2023) A-5, C-10, [34 CFR § 200.62\(b\)\(1\)\(i\)](#), [Title VIII Equitable Services NRG](#) (2023) C-4, [ESEA](#) section 8501(a)(1), (4)(A)

<sup>iv</sup> [Title VIII Equitable Services NRG](#) (2023) C-4, [ESEA](#) section 8501(a)(1), (4)(A)

<sup>v</sup> [Title I-A Equitable Services NRG](#) (2023) B-7, C-34, [ESEA](#) sections 1116(a)(3)(A), 117(a)(1)(B), [Title VIII Equitable Services NRG](#) (2023) C-3, [ESEA](#) section 8501

<sup>vi</sup> [Title I-A Equitable Services NRG](#) (2023) C-2, [Title VIII Equitable Services NRG](#) (2023) C-2

<sup>vii</sup> [Title VIII Equitable Services NRG](#) (2023) A-4, [ESEA](#) section 8501(a)(1)

<sup>viii</sup> [Title I-A Equitable Services NRG](#) (2023) C-14, [Title VIII Equitable Services NRG](#) (2023) C-9, [34 CFR § 299.8\(a\)](#)

<sup>ix</sup> [Title VIII Equitable Services NRG](#) (2023) F-1, F-2, F-3, F-4 [ESEA](#) section 8506(c), 8528, [34 CFR § 99.1\(b\)](#)

<sup>x</sup> [Title I-A Equitable Services NRG](#) (2023) C-12, [ESEA](#) section 1117(a)(1)(A), (b)(1), [34 CFR § 200.64\(b\)\(4\)](#), [Title VIII Equitable Services NRG](#) (2023) C-10, [ESEA](#) section 8501(c)(1)(B)

<sup>xi</sup> [Title I-A Equitable Services NRG](#) (2023) A-2, A-6, [ESEA](#) section 1117(b)(1), [Title VIII Equitable Services NRG](#) (2023) A-2, A-8, [ESEA](#) section 8501(c)(1)

<sup>xii</sup> [Title I-A Equitable Services NRG](#) (2023) C-26, [ESEA](#) section 1117(d)(1), [Title VIII Equitable Services NRG](#) (2023) C-16, C-17, C-21, [ESEA](#) section 8501(d)(1), [2 CFR Part 200, Subpart E](#)

<sup>xiii</sup> [Title I-A Equitable Services NRG](#) (2023) B-39, C-21, C-24, [ESEA](#) section 1117(b)(1)(C), [Title VIII Equitable Services NRG](#) (2023) C-12, C-13, C-14, [ESEA](#) section 8501, (a)(1), (c)(1)(C)

<sup>xiv</sup> [Title I-A Equitable Services NRG](#) (2023) C-7, [ESEA](#) section 1117(a)(1)(A), [34 CFR § 200.64\(b\)\(2\)\(ii\)\(B\)](#), [Title VIII Equitable Services NRG](#) (2023) C-8, C-27, [34 CFR § 299.7\(c\)](#)

<sup>xv</sup> [Title I-A Equitable Services NRG](#) (2023) C-19, [ESEA](#) section 1117(a)(1)(A), (a)(3)(A) [Title VIII Equitable Services NRG](#) (2023) C-8, [ESEA](#) 8501(a)(1), [34 CFR § 299.7\(b\)\(1\)](#)

<sup>xvi</sup> [Title VIII Equitable Services NRG](#) (2023) C-8, C-27, [34 CFR § 299.7\(b\)\(2\), \(c\)](#)