



**COLORADO**  
Department of Education

# Equitable Services to Non-Public Schools Under the Every Student Succeeds Act

May 23, 2017

# Agenda

- Ombudsman
- Consultation
  - Requirements
  - Template
- Expenditure Determination
  - Title I, Part A
  - Title II, Part A
  - Title III, Part A
  - Title IV, Part A
- Notice of Allocation
- Complaint Process
- Additional Considerations and Frequently Asked Questions
- Resources
  - U.S. Department of Education
  - Colorado Department of Education
- Survey
- Contact Information

- The Every Student Succeeds Act (ESSA) was signed into law by President Obama on December 10, 2015, and represents good news for our nation's schools. This bipartisan measure reauthorizes the 50-year-old Elementary and Secondary Education Act (ESEA), the nation's national education law and longstanding commitment to equal opportunity for all students.

U.S. Department of Education

# ESSA: Non-Regulatory Guidance

- USDE released [non-regulatory guidance \(NRG\) regarding equitable services requirements under the ESSA](#) in November 2016. The ESSA makes a number of updates to the equitable services requirements for private school students in Title I and Title VIII. This document discusses these specific updates, including:
  - Ombudsman
  - Consultation Requirements
  - Expenditure Determination
  - Notice of Allocation
  - Compliance: Complaint Procedures and State Provided Services

# Non-Public Schools Ombudsman

# Ombudsman

- To help ensure such equity for such private school children, teachers, and other educational personnel, the Colorado Department of Education (CDE) must designate an ombudsman to monitor and enforce the requirements of providing equitable services.
- NRG: An ombudsman should serve as CDE's primary point of contact for addressing questions and concerns from private school officials and LEAs regarding the provision of equitable services under Titles I and VIII.
- CDE Non-Public Schools Ombudsman: [Colleen Brooks](#)

# Consultation

# Consultation

- NRG: The “goal of reaching agreement” between an LEA and appropriate private school officials is grounded in timely, meaningful, and open communication between the LEA and the private school officials on key issues that are relevant to the equitable participation of eligible private school students, teachers and other education personnel, and families in ESEA programs.
- LEAs must document and provide affirmation of consultation with non-public school officials. This information is currently collected through the [non-public schools consultation form](#) and the [Consolidated Application](#).



# Consultation under Title I

## NCLB

Topics required included:

- How the children's needs will be identified.
- What services will be offered.
- How, where, and by whom the services will be provided.
- How the services will be academically assessed and how the results of that assessment will be used to improve those services.
- The size and scope of the equitable services to be provided to the eligible private school children, and the proportion of funds that is allocated under subsection (a)(4) for such services.
- The method or sources of data that are used under subsection (c) and section 1113(c)(1) to determine the number of children from low-income families in participating school attendance areas who attend private schools.
- How and when the agency will make decisions about the delivery of services to such children, including a thorough consideration and analysis of the views of the private school officials on the provision of services through a contract with potential third-party providers.
- How, if the agency disagrees with the views of the private school officials on the provision of services through a contract, the local educational agency will provide in writing to such private school officials an analysis of the reasons why the local educational agency has chosen not to use a contractor.

# Consultation under Title I

## ESSA

The topics subject to consultation have been expanded to include the following:

- How the proportion of funds allocated for equitable services is determined.
- Whether the LEA will provide services directly or through a separate government agency, consortium, entity or third-party contractor.
- Whether to provide equitable services to eligible private school children by pooling funds or on a school-by-school basis.
- When, including the approximate time of day, services will be provided.
- Whether to consolidate and use funds available for Title I equitable services in coordination with eligible funds available for equitable services under programs covered under section 8501(b) to provide services to eligible private school children in participating programs.
- The written affirmation that consultation has occurred must provide the option for private school officials to indicate 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.

# Consultation under Title VIII

- Covered Programs:
  - Title I, Part C - Education of Migratory Children
  - Title II, Part A - Supporting Effective Instruction State Grants
  - Title III, Part A - English Language Acquisition, Language Enhancement, and Academic Achievement
  - Title IV, Part A - Student Support and Academic Enrichment
  - Title IV, Part B - 21st Century Community Learning Centers

# Consultation under Title VIII

## NCLB

Topics required included:

- How the children's needs will be identified.
- What services will be offered.
- How, where, and by whom the services will be provided.
- How the services will be assessed and how the results of that assessment will be used to improve those services.
- The size and scope of the equitable services to be provided to the eligible private school children, teachers and other educational personnel, and the amount of funds available for those services.
- How and when the agency, consortium or entity will make decisions about the delivery of services to such children, including a thorough consideration and analysis of the views of the private school officials on the provision of services through a contract with potential third-party providers.

# Consultation under Title VIII

## ESSA

The topics subject to consultation have been expanded to include the following:

- How the amount of funds available for equitable services is determined.
- Whether the agency, consortium, or entity responsible for providing equitable services will provide those services directly or through a separate government agency, consortium, or entity, or through a third-party contractor.
- Whether to provide equitable services to eligible private school participants (1) by creating a pool or pools of funds with all of the funds allocated under programs covered under section 8501(b) or (2) on a school-by-school basis based on each the proportionate share of funds available to provide services in each school.
- Documentation: Each LEA shall maintain in the agency's records, and provide to the SEA involved, a written affirmation signed by officials of each participating private school that the meaningful consultation required by this section has occurred. The written affirmation shall provide the option for private school officials to indicate 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. If such officials do not provide such affirmation within a reasonable period of time, the LEA shall forward the documentation that such consultation has, or attempts at such consultation have, taken place to the SEA..

# Consultation under Title VIII: Title I, Part C

- The [Migrant Education Program](#) (MEP) provides supplemental support to eligible migrant children and youth.
- The purpose of the program is to ensure that migratory children are not penalized in any manner by disparities among curriculum, graduation requirements, academic content and student academic achievement standards, and ensure that migratory children are provided with appropriate educational services and opportunities so they can succeed in school and graduate from high school being postsecondary education or employment ready.
- In many cases, the LEA completing the consultation form may not be the entity managing/receiving Title I, Part C funds. In the event that the non-public school has students eligible for Title I, Part C services and wants to participate, the LEA is responsible for connecting the non-public school with the entity administering Title I, Part C.

# Consultation

- The results of agreement following consultation must be transmitted to the non-public schools ombudsman **no later than 30 days prior to the LEA's final submission of the Consolidated Application.**
  - NRG: The ombudsman should establish a process for receiving documentation of agreement from each LEA consistent with the consultation requirement that the results of such agreement shall be transmitted to the ombudsman.
  - Note: CDE recognizes that allocations will be released later than usual this year, which may prevent the LEA's ability to meet the 30 day deadline if the LEA is submitting the final version of the Consolidated Application on June 30, 2017. In this situation, the LEA should contact the non-public schools ombudsman prior to submitting the Consolidated Application.

# Consultation Template

- Note: LEAs should be aware that a previous version of the non-public schools consultation template was removed and updated after CDE became aware of data privacy concerns regarding a field included in the February 2017 version of the consultation template, specifically the number of low-income students. LEAs should discontinue use of the previous version, and instead access the updated May 2017 version now posted on the [equitable services webpage](#).

COLORADO DEPARTMENT OF EDUCATION

Consultation for the 2017-2018 School Year

Non-Public Schools

*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),(5).*

*The "goal of reaching agreement" between an LEA and appropriate private school officials is grounded in timely, meaningful, and open communication between the LEA and the private school officials on key issues that are relevant to the equitable participation of eligible private school students, teachers and other education personnel, and families in ESEA programs.*

*Meaningful consultation provides ample time and a genuine opportunity for all parties to express their views, to have their views seriously considered, and to discuss viable options for ensuring equitable participation of eligible private school students, teachers and other education personnel, and families. This assumes that the LEA has not made any decisions that will impact the participation of private school students and teachers in applicable programs prior to consultation, or established a blanket rule that precludes private school students and teachers from receiving certain services authorized under applicable programs. An LEA should consult with private school officials about the timeline for consultation and provide adequate notice of such consultation to ensure meaningful consultation and the likelihood that those involved will be well prepared with the necessary information and data for decision-making. Successful consultation begins well before the implementation of services, establishes positive and productive working relationships, makes planning effective, continues throughout implementation of equitable services, and serves to ensure that the services provided meet the needs of eligible students and teachers.*

*Note: Consultation forms must be submitted to the non-public schools ombudsman after timely and meaningful consultation. However, LEAs are not required to submit forms for non-public schools that choose not to participate in the LEA's Federal programs. LEAs should retain documentation of the non-public school's decline to participate or that the non-public school did not respond to the LEA's invitation; however, these documents do not need to be submitted to the ombudsman.*

**CONTACT INFORMATION**

LEA: \_\_\_\_\_

LEA Representative(s): \_\_\_\_\_

Phone: \_\_\_\_\_

E-mail(s): \_\_\_\_\_

Non-Public School: \_\_\_\_\_

Address: \_\_\_\_\_

School Code: \_\_\_\_\_

School Administrator: \_\_\_\_\_

Phone: \_\_\_\_\_

E-mail(s): \_\_\_\_\_

Method of determining the number of low-income children (if applicable): \_\_\_\_\_

**Required**  
(To Obtain Benefits)  
FORM # OFP-140  
EDCAC APPROVED  
ADDITIONAL COPY TO CDE 2017





# Expenditure Determination: Title I

# Expenditure Determination: Title I

- 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.

# Expenditure Determination: Title I

- **May an LEA reserve funds off the top of its Title I allocation before it allocates funds for equitable services?**
  - No. 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.
  - *Note: This is a change from how the funds were previously calculated to provide equitable services under the No Child Left Behind (NCLB) Act. LEAs will no longer use the school-level PPA to determine the amount of funds to reserve to provide equitable services under Title I.*

# Calculating the Proportionate Share: Step 1

- Identify the number of low-income students **residing** within the eligible Title I school's boundary that attend public school.
  - Considerations: The number of students enrolled in or attending the Title I school is not necessarily the number of students residing within the Title I school's boundary.
  - While October count numbers are helpful in determining the number of students residing in the boundary, it likely does not accurately capture the entire count.

# Calculating the Proportionate Share: Step 1

Example of Determining the Amount of Title I funds for Equitable Services to Non-Public Schools			
<u>Public Schools Being Served by the LEA with Title I Funds</u>	Number of Low-Income Students who are: <ul style="list-style-type: none"> <li>Residing within the Title I School Boundary, <b>and</b></li> <li>Attending Public School</li> </ul>	Number of Low-Income Students who are: <ul style="list-style-type: none"> <li>Residing within the Title I School Boundary, <b>and</b></li> <li>Attending a Non-Public School</li> </ul>	Total
Title I School A	300	20	320
Title I School B	150	5	155
Title I School C	500	25	525
Total	<b>950</b>	<b>50</b>	<b>= 950+ 50 = <u>1000</u></b>
Percentage of Students	= 950/(950+50) = 95%	= 50/(950+50) = 5%	
Proportionate Share of \$1M Title I Allocation	= .95 * \$1M = \$950,000	= .05 * \$1M = \$50,000	

Must reflect the students that reside in the Title I school's boundaries. LEAs may use GIS mapping information (typically accessed for transportation purposes), the Title I School's residing and attending home enrollment, or other information available to the LEA to determine this number. The number of students residing in the Title I school boundary is not the same as the number of students attending the Title I school.

Must be obtained through consultation with participating non-public schools.

The amount of funds that must be reserved to provide equitable services to participating non-public schools. This must be determined **prior** to taking any set-asides off the top of the LEA's Title I allocation. This amount is inclusive of the funds used to provide parents and family engagement activities to non-public schools, as well as the administration reservation.

# Calculating the Proportionate Share: Step 1

- How should the LEA determine the number of low-income children residing in the Title I school boundary?
  - This process may vary depending on the information available in the LEA. It may include reviewing:
    - Geographic Information System (GIS) mapping data, often used for transportation, or
    - Title I School enrollment information (October count) and mapping students back to their home school of residency to account for choice/charter options

# Calculating the Proportionate Share: Step 2

- Identify, through consultation with the non-public school, the number of low-income students residing within the Title I school's boundary that attend private school.
  - When determining the number of students residing within the Title I school boundary, the LEA should only consider students in comparable grade levels as those being served by the Title I school. For instance, if the Title I school serves k-5 students, only non-public school students in grades k-5 should be considered when determining step 2.

# Calculating the Proportionate Share: Step 2

Example of Determining the Amount of Title I funds for Equitable Services to Non-Public Schools			
<u>Public Schools Being Served by the LEA with Title I Funds</u>	Number of Low-Income Students who are: <ul style="list-style-type: none"> <li>Residing within the Title I School Boundary, <b>and</b></li> <li>Attending Public School</li> </ul>	Number of Low-Income Students who are: <ul style="list-style-type: none"> <li>Residing within the Title I School Boundary, <b>and</b></li> <li>Attending a Non-Public School</li> </ul>	Total
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Title I School B	150	5	155
Title I School C	500	25	525
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Must reflect the students that reside in the Title I school's boundaries. LEAs may use GIS mapping information (typically accessed for transportation purposes), the Title I School's residing and attending home enrollment, or other information available to the LEA to determine this number. The number of students residing in the Title I school boundary is not the same as the number of students attending the Title I school.

Must be obtained through consultation with participating non-public schools.

The amount of funds that must be reserved to provide equitable services to participating non-public schools. This must be determined **prior** to taking any set-asides off the top of the LEA's Title I allocation. This amount is inclusive of the funds used to provide parents and family engagement activities to non-public schools, as well as the administration reservation.



# Calculating the Proportionate Share: Step 2

- How should the LEA determine the number of low-income children residing in the Title I school boundary and attending the private school?
  - Consultation
    - The LEA has the final authority to determine the calculation method; the private school must use information that leads to comparable identification of students (see section 1118(c)(1)).
    - The data obtained through consultation will be used by the LEA to enter the necessary data in the Consolidated Application.
    - LEAs should be cognizant of local data privacy policies when exchanging student-level information with the non-public school. The LEA may consider developing a data sharing agreement with the non-public school on the advice of counsel.

# Calculating the Proportionate Share: Step 2

- To obtain the count of private school children from low-income families, LEAs may use:
  - **Data from the same source** - using the same measure of low income used to count public school children (e.g., free and reduced-price lunch eligibility)
  - **Survey, with extrapolation** - using comparable poverty data from the results of a survey that, to the extent possible, protects the families' identities.
  - **Proportionality** - applying the low-income percentage of each participating public school attendance area to the number of private school children who reside in that attendance area.
  - **Correlated measure** - using an equated measure of low income correlated with the measure of low income used to count public school children.
  - **Comparable data** - permitting the use of comparable data or using comparable poverty data from a different source, such as scholarship application.\*\*

# Calculating the Proportionate Share: Step 2

- LEAs should indicate which method for obtaining the low-income count will be used when submitting the results of consultation to the non-public schools ombudsman.



# Calculating the Proportionate Share: Step 2

## INCOME ELIGIBILITY GUIDELINES

(EFFECTIVE FROM JULY 1, 2016 TO JUNE 30, 2017)

FOR SCHOOL USE ONLY. DO NOT DISTRIBUTE TO PARENTS

Household Size	Free Guidelines					Reduced Guidelines				
	Yearly	Monthly	2x/ Month	Bi-weekly	Weekly	Yearly	Monthly	2x/ Month	Bi-weekly	Weekly
1	\$15,444	\$1,287	\$644	\$594	\$297	\$21,978	\$1,832	\$916	\$846	\$423
2	\$20,826	\$1,736	\$868	\$801	\$401	\$29,637	\$2,470	\$1,235	\$1,140	\$570
3	\$26,208	\$2,184	\$1,092	\$1008	\$504	\$37,296	\$3,108	\$1,554	\$1,435	\$718
4	\$31,590	\$2,633	\$1,317	\$1,215	\$608	\$44,955	\$3,747	\$1,874	\$1,730	\$865
5	\$36,972	\$3,081	\$1,541	\$1,422	\$711	\$52,614	\$4,385	\$2,193	\$2,024	\$1,012
6	\$42,354	\$3,530	\$1,765	\$1,629	\$815	\$60,273	\$5,023	\$2,512	\$2,319	\$1,160
7	\$47,749	\$3,980	\$1,990	\$1,837	\$919	\$67,951	\$5,663	\$2,832	\$2,614	\$1,307
8	\$53,157	\$4,430	\$2,215	\$2,045	\$1,023	\$75,647	\$6,304	\$3,152	\$2,910	\$1,455
For each additional family member add	\$5,408	\$451	\$226	\$208	\$104	\$7,696	\$642	\$321	\$296	\$148
Error Prone Thresholds	\$1,200	\$100	\$50	\$44	\$24	\$1,200	\$100	\$50	\$44	\$24

# Calculating the Proportionate Share: Step 2

- Considerations:

- In order to determine the proportionate share, the non-public school must provide student address information; however, the LEA does not need to know the name of the student or family in order to verify that the student address is within the Title I school boundary.
- Further, statute provides the LEA with four methods of determining whether the student would qualify as low-income for purposes of determining Title I poverty measures. The four methods are listed on a previous slide. The LEA should choose the most comparable method and discuss this with the non-public school during consultation; however, the LEA ultimately makes the final determination regarding what measure is comparable.

# Calculating the Proportionate Share: Step 2

- **Considerations - Participating v. Non-Participating:**
  - If the LEA is able to obtain information from non-participating non-public schools, the information should be included in the calculation. However, in Colorado, CDE has no mechanism to require and/or enforce a requirement that LEAs obtain this data from non-participating non-public schools.
  - Currently, the only time the LEA is able to collect this information is upon the non-public school's indication, through consultation, that they want to participate in the LEA's Title I program and receive equitable services for their students.
  - CDE would expect to see that the LEA has been collecting and verifying address and applicable income information for students from participating non-public schools; however, CDE is not mandating that LEAs obtain this information from non-participating non-public schools.

# Calculating the Proportionate Share: Step 3

- Add together the aggregate sum from steps #1 and #2. The result is the denominator used to calculate the proportionate share.



# Calculating the Proportionate Share: Step 3

Example of Determining the Amount of Title I funds for Equitable Services to Non-Public Schools			
<u>Public Schools Being Served by the LEA with Title I Funds</u>	Number of Low-Income Students who are: <ul style="list-style-type: none"> <li>Residing within the Title I School Boundary, <b>and</b></li> <li>Attending Public School</li> </ul>	Number of Low-Income Students who are: <ul style="list-style-type: none"> <li>Residing within the Title I School Boundary, <b>and</b></li> <li>Attending a Non-Public School</li> </ul>	Total
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Proportionate Share of \$1M Title I Allocation	= .95 * \$1M = \$950,000	= .05 * \$1M = \$50,000	

Must reflect the students that reside in the Title I school's boundaries. LEAs may use GIS mapping information (typically accessed for transportation purposes), the Title I School's residing and attending home enrollment, or other information available to the LEA to determine this number. The number of students residing in the Title I school boundary is not the same as the number of students attending the Title I school.

Must be obtained through consultation with participating non-public schools.

The amount of funds that must be reserved to provide equitable services to participating non-public schools. This must be determined **prior** to taking any set-asides off the top of the LEA's Title I allocation. This amount is inclusive of the funds used to provide parents and family engagement activities to non-public schools, as well as the administration reservation.



# Calculating the Proportionate Share: Step 4

- Divide the aggregate from step #2 by the sum of step #3. The quotient is the percentage which represents the proportionate share.



# Calculating the Proportionate Share: Step 4

Example of Determining the Amount of Title I funds for Equitable Services to Non-Public Schools			
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Must be obtained through consultation with participating non-public schools.

The amount of funds that must be reserved to provide equitable services to participating non-public schools. This must be determined **prior** to taking any set-asides off the top of the LEA's Title I allocation. This amount is inclusive of the funds used to provide parents and family engagement activities to non-public schools, as well as the administration reservation.

# Calculating the Proportionate Share: Step 5

- Multiply step #4 by the LEA's total Title I, Part A allocation. The product equals the amount of funds that must be set-aside to provide equitable services with Title I, Part A funds to participating non-public schools.
- Unlike the No Child Left Behind Act, under the Every Student Succeeds Act the LEA must determine the proportionate share prior to taking any additional set-asides from the LEA's Title I allocation. Thus, the proportionate share must be determined based on the entire Title I allocation, based on the current year allocation, excluding carry-over.

# Calculating the Proportionate Share: Step 5

Example of Determining the Amount of Title I funds for Equitable Services to Non-Public Schools			
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# Calculating the Proportionate Share: Step 6

- Budget family engagement activities to the non-public school and the administration reservation (as determined through consultation) from the proportionate share. In other words, these budget items should be accounted for with funds already set-aside for the proportionate share, not in addition to the proportionate share.
- When budgeting within the Consolidated Application, the LEA will have three funding source options to reflect whether the funds are identified for the parent and family engagement activities, administration reservation, or the remaining amount of the proportionate share used to provide equitable services.

# Calculating the Proportionate Share: Step 6

## Example of Equitable Services For Parents and Families of Eligible Private School Children

LEA's Title I Allocation	1% For Parent and Family Engagement	Proportionate Share for Equitable Services For Parents and Families (based on previous example/diagram)	Source of Funds For Equitable Services For Parents and Families
\$1,000,000	\$10,000	$\$10,000 * 5\% =$ <b><u>\$500</u></b>	$\$50,000 - \$500 =$ \$45,500 remaining for instruction and professional development.

# Calculating the Proportionate Share: Q&A

<b>Example of Determining the Amount of Title I funds for Equitable Services to Non-Public Schools</b>			
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Must reflect the students that reside in the Title I school's boundaries. LEAs may use GIS mapping information (typically accessed for transportation purposes), the Title I School's residing and attending home enrollment, or other information available to the LEA to determine this number. The number of students residing in the Title I school boundary is not the same as the number of students attending the Title I school.

Must be obtained through consultation with participating non-public schools.

The amount of funds that must be reserved to provide equitable services to participating non-public schools. This must be determined **prior** to taking any set-asides off the top of the LEA's Title I allocation. This amount is inclusive of the funds used to provide parents and family engagement activities to non-public schools, as well as the administration reservation.

# Title I: Allowable Activities

- Have the options available for using funds to provide equitable services under Title I changed under the ESSA?
  - No. The only change is that the statute now specifies that an LEA must consult with private school officials regarding whether to provide services by pooling or on a school-by-school basis.
- Once participants are selected, how does an LEA determine what Title I services are to be provided?
  - An LEA, in consultation with appropriate private school officials, determines the appropriate Title I services based on the needs of the private school students. Title I services may be provided in subject areas or at grade levels that are different from those provided public school students, as long as these services are provided in the same grade-span as the services provided to public school children. These services must hold reasonable promise that the academic performance of private school participants will improve.



# Title I: Allowable Activities

- What types of services are available for private school participants?
  - Based on the non-public school's needs assessment, services for participating private school children may include, but are not limited to, the following:
    - Instructional services provided by public school employees or third-party contractors
    - Extended-day services
    - Family literacy programs
    - Counseling programs
    - Computer-assisted instruction (CAI)
    - Home tutoring,
    - Instruction using take-home computers,
    - High-quality early childhood education programs for eligible children (if applicable).
- For Title I services, may an LEA just provide a private school with instructional materials and supplies paid with Title I funds?
  - Simply providing the private school with instructional materials and supplies is NOT an option available to the LEA because it is neither a proper Title I program implemented by the LEA nor meets the equitability requirement.

# Expenditure Determination: Title II

# Expenditure Determination: Title II

- How does an LEA determine the amount required for Title II, Part A equitable services to private school teachers and other educational personnel now that this amount must be determined based on the LEA's total Title II, Part A allocation?
  - The amount an LEA must reserve to provide equitable services for private school teachers and other educational personnel for Title II, Part A services is based on the LEA's total Title II, Part A allocation, less administrative costs.
  - The LEA determines the amount of funds available for Title II, Part A equitable services for private school teachers and other educational personnel by calculating, on a per-pupil basis, the amount available for all public and private school students enrolled in participating private elementary and secondary schools in areas served by the LEA (regardless of a student's residency), taking into consideration the number and needs of the children, their teachers and other educational personnel to be served.

# Expenditure Determination: Title II

<b>EXAMPLE OF FORMULA TO DETERMINE AMOUNT FOR TITLE II, PART A EQUITABLE EXPENDITURES</b>	
<b>A. Number of Students</b>	
A1: LEA Enrollment	900
A2: Participating Private Schools Enrollment	100
A3: Total Enrollment = $A1 + A2$	1,000
<b>B. Title II, Part A Allocation</b>	
B1: Total LEA Allocation	\$1,000,000
B2: Administrative Costs (for public and private school programs)	\$50,000
B3: LEA Allocation Minus Admin Costs = $B1 - B2$	\$950,000
<b>C. Per Pupil Rate</b>	
C1: B3 divided by A3	\$950
<b>D. Equitable Services</b>	
Amount LEA must reserve for equitable services for private school teachers and other educational personnel = $A2 \times C1$	\$95,000

# Title II: Allowable Activities

- What types of activities may an LEA now provide to private school participants?
  - An LEA may continue to use Title II, Part A funds to provide professional development activities for teachers, principals, and other school leaders to address the specific needs of their students. Additionally, there may be other permissible uses of Title II, Part A funds for the benefit of private school participants.
  - Any use of Title II, Part A funds for the benefit of private school participants must:
    - Be an allowable local use of Title II, Part A funds under the authorizing statute.
    - Meet the specific needs of students enrolled in a private school, and not the school itself. Title II, Part A funds may not be used to meet the needs of a private school or the general needs of the students enrolled in the private school. In some instances, however, a program or activity that primarily benefits a private school's students (because it addresses specific, rather than general, needs of the students) will also incidentally benefit the school.
    - Ensure that the LEA responsible for providing equitable services retains control of the funds used to provide such services.
  - Equitable services under Title II, Part A may not be used for class-size reduction in a private school because contracts for private school teachers and staff would be inconsistent with the requirements in ESEA regarding public control of funds and the supervision and control of employees or contractors.

# Expenditure Determination: Title III

# Expenditure Determination: Title III

- In general, in calculating the per-pupil Title III allocation, the LEA should use the number of students eligible for Title III services (i.e., those students who have been identified as English Learners (ELs) under the ESEA).
- As with other decisions affecting services to private school students, LEAs should consult with private school officials on the method for determining Title III equal expenditures, and the resulting methodology should reasonably reflect the relative number and educational needs of the private school ELs. **At all times, the LEA must remain in control of the Title III funds.**

# Title III: Allowable Activities

- What are some examples of the Title III services that an LEA may provide to private school ELs, their teachers, and other educational personnel?
  - Tutoring for ELs before, during, or after school hours;
  - Professional development for private school teachers of ELs;
  - Summer school programs to provide English language instruction for ELs;
  - Administration of an ELP assessment for identification of ELs and/or for the purpose of evaluating the effectiveness of services, including the provision of test booklets, teacher training, and stipends to teachers to administer assessments; and
  - Provision of supplemental instructional materials and supplies. These materials and supplies must be supplemental to what the private school would be required to provide in the absence of the Title III services. These materials and supplies must also be clearly labeled and identified as the LEA's property, and must be secular, neutral, and non-ideological. The LEA is required to maintain oversight of all materials and supplies purchased with Title III funds.



# Expenditure Determination: Title IV

# Expenditure Determination: Title IV

- CDE is currently awaiting guidance from USDE and counsel to ensure the most appropriate method of calculating the allocation to provide equitable services under Title IV, Part A is used. CDE will communicate this information with the LEAs once a final determination has been made.

# Notice

# Notice of Allocation

- CDE must provide notice in a timely manner to appropriate private school officials in Colorado 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.

# Complaint Process

# Compliance - Complaint

- A private school official may file a complaint with CDE asserting that the LEA did not engage in consultation that was meaningful and timely, did not give due consideration to the views of the private school official, or did not make a decision that treats the private school students equitably.
  - The complaint must include the basis of the noncompliance.
  - The timeframe that CDE has for responding to a complaint from parents, teachers, or other individuals concerning violations of ESEA section 8501 regarding the participation by private school children and teachers is 45 days. In addition, the Secretary of the Department of Education must investigate and resolve an appeal of an CDE's resolution of a complaint within 90 days.

# Compliance – Updated State Services Procedures

- CDE must provide equitable services directly or through contracts with public or private agencies, organizations, or institutions, if appropriate private school officials have —
  - Requested that CDE provide such services directly; and
  - Demonstrated that the LEA has not met applicable equitable services requirements in accordance with the procedures for making such a request, as prescribed by CDE.

# Additional Considerations and Frequently Asked Questions (FAQs)



# Additional Statutory Updates under ESSA

- ESSA requires all funding for equitable services be obligated in the first fiscal year that the funds are available to districts. In the event that an extenuating circumstance arises and the LEA is unable to obligate all of the funds, the funds may remain available for the provision of equitable services under the respective program during the subsequent school year. (i.e. the funds may be carried over categorically)
- If the LEA encounters an extenuating circumstance that would require the funds to be carried over, the LEA must contact the non-public schools ombudsman to obtain approval.

# Additional Statutory Updates under ESSA

- ESSA requires LEAs to provide private school officials with a written explanation of the reasons the district disagrees with the view of private school officials on a particular consultation topic.
- CDE has incorporated this requirement into the Consultation Template if the event that the LEA and the non-public school official are unable to come to an agreement regarding the provision of equitable services. This process may also be accomplished outside of the Consultation Template.

- **Question: Is the LEA required to consult with for-profit private schools?**
  - Answer: For-profit non-public schools are NOT eligible to receive equitable services under the ESEA. The LEA is only required to consult with non-profit non-public schools regarding the provision of equitable services.

- **Question: Are the students that generate the proportionate share the only students that may access the equitable services provided in the non-public school?**
  - **Answer: The proportionate share is intended to calculate the amount of funds that must be set-aside to provide equitable services to at-risk students in non-public schools. The students that generate the funds may or may not necessarily be the students that are identified as at-risk of meeting grade-level academic standards who may then access the equitable services. The at-risk student count should not be used to calculate the proportionate share.**

- **Question: Are private school children from low-income families automatically eligible for Title I services?**
  - No. Student eligibility for Title I services for private school children is determined by (1) residence in a participating public school attendance area, and (2) educational need. Poverty is not a criterion.
- **Question: How are the criteria determined?**
  - In consultation with private school officials, an LEA must establish multiple, educationally related, objective criteria to determine which private school children are eligible for Title I services, and, within the eligible group, which children will be served. To the extent appropriate, the LEA must select private school children who are failing, or most at risk of failing, to meet high student academic achievement standards.

- **Question: If an LEA does not collect the names of low-income families, how do LEA officials or auditors determine that the poverty numbers provided by the private school officials are accurate?**
  - Private school officials should maintain the poverty data in their files. If LEA officials or auditors wish to review the poverty data, they may review the data at the private schools.

- **Question: May private school officials order or purchase materials and supplies needed for the Title I program and be reimbursed by an LEA?**
  - No. Private school officials have no authority to obligate or receive Title I funds. The statute clearly states that the LEA must maintain control of Title I funds, materials, equipment, and property. **No Title I funds may be paid to a private school.**

- **Question: Does the indirect cost rate apply to the entire Title I allocation?**
  - Answer: Yes. The indirect cost rate is not impacted by calculating the proportionate share.





- **Question: Does REAPing or transferring funds from Title II and/or Title IV impact the consultation requirements?**
  - Answer: Yes. The LEA must consult with the non-public school officials about the decision to REAP or transfer Title II and/or Title IV funds *before* the funds are REAPed or transferred. If the non-public school chooses to participate in Title II and/or Title IV, the LEA must determine the amount necessary to set-aside to provide equitable services to the non-public school, and may then REAP or transfer the remaining amount of Title II and/or Title IV funds.

# Resources

# U.S. Department of Education

- U.S. Department of Education's Non-Regulatory Guidance
  - [Fiscal Changes and Equitable Services Requirements under the Elementary and Secondary Education Act of 1965 \(ESEA\), as amended by the Every Student Succeeds Act \(ESSA\)](#) (*Released November 2016*)
  - [Title IX, Part E Uniform Provisions - Equitable Services for Eligible Private School Students, Teachers, and Other Educational Personnel](#) (*Released March 2009*)
  - [Title III, Part A English Language Acquisition, Language Enhancement, and Academic Achievement Equitable Services to Private School Students, Teachers, and Other Educational Personnel](#) (*Released July 2015*)
  - [Title I Services to Eligible Private School Children](#) (*Released October 2003*)

- Office of ESEA Programs
  - [Equitable Services to Non-Public Schools Webpage](#)
    - Consultation Template
    - Sample Inter-District Memorandum of Understanding (MOU)
    - Guidance
      - Proportionate Share: Step-by-Step (*coming soon!*)
      - Equitable Services: FAQs (*coming soon!*)
  - Virtual Academy Work Sessions
    - [Equitable Services Under the ESSA](#)
      - Recording will be posted soon!
    - [Fiscal Impact of Non-Public Schools Under the ESSA](#)
      - Previously recorded on February 3, 2017

# Questions?



# Survey

- Thank you for participating in the Virtual Academy work session. Please provide feedback to CDE regarding the quality and effectiveness of the work session by completing a short survey. The survey is comprised of eight questions and should take no longer than five minutes to complete.
- Please access the follow-up survey by clicking on the image below.



# Contact Information

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