



BEST **FOR**
ALL

We will set all students on a path to success.

Title I, Part A Equitable Services

Danny Bounds | Federal Programs Ombudsmen

Federal Programs and Oversight | June 2021



BEST FOR ALL

We will set all students on a path to success.

ACADEMICS

ALL TENNESSEE STUDENTS WILL HAVE
ACCESS TO A HIGH-QUALITY EDUCATION,
NO MATTER WHERE THEY LIVE

STUDENT READINESS

TENNESSEE PUBLIC SCHOOLS WILL BE
EQUIPPED TO SERVE THE ACADEMIC
AND NON-ACADEMIC NEEDS OF ALL
STUDENTS IN THEIR CAREER PATHWAYS

EDUCATORS

TENNESSEE WILL SET A NEW PATH FOR
THE EDUCATION PROFESSION AND BE
THE TOP STATE TO BECOME AND REMAIN
A TEACHER AND LEADER FOR ALL



Agenda

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- Complaints
- Eligible Activities
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Title I, Part A Equitable Services Overview



Title I, Part A: Equitable Services

- Under Title I, Part A § 1117 of the Elementary and Secondary Education Act (ESEA), as amended by the Every Student Succeeds Act (ESSA), local education agencies (LEAs) are required to provide **eligible** students attending non-public elementary and secondary schools, their teachers, and their families with Title I, Part A services or other benefits that are equitable to those provided to eligible public school children, their teachers, and their families.
 - Eligible students are those students that reside in Title I, Part A school zones and are failing or at risk for failure.

Title I, Part A: Equitable Services

- Once a non-public school has notified the LEA that the school intends to participate in Title I, Part A services and programming, the LEA must initiate consultation with that non-public school.
- Title I, Part A services for non-public school students must be developed in consultation with officials of non-public schools.

Title I, Part A: Equitable Services

- To qualify for Title I, Part A services, a student must:
 1. reside within the attendance area of a Title I, Part A public school *and*
 2. be failing, or at risk of failing, to meet student academic achievement standards.
- **Poverty is not a requirement for eligibility**

Title I, Part A: Equitable Services

- Criteria for eligibility is determined **during consultation** through multiple measures such as:
 - **Kindergarten through 2nd Grade**
 - teacher judgment,
 - interviews with parents, and
 - developmentally appropriate measures.
 - **3rd Grade through 12th Grade**
 - achievement test scores,
 - report card grades, and
 - teacher referral.

Title I, Part A: Equitable Services Funding

- An LEA must **only** use Title I, Part A funds to meet the needs of the **Title I, Part A eligible participants**.
- Consequently:
 - an LEA cannot use any Title I, Part A funds to meet the needs of the non-public school or the general needs of the non-public school children.
 - non-public schools cannot have school-wide programs.
 - **no funds can go directly to non-public schools.**



Equitable Services

- Services to non-public schools are equitable when LEAs:
 - Assess, address, and evaluate the needs of non-public school students, teachers, and parents;
 - Provide non-public school students and teachers with an opportunity to participate in activities equivalent to the opportunity provided to public school students and teachers; and
 - Begin services with non-public school students at the same time as public school students.

Equitable Funding for Students

- The total amount expended by the LEA for services to eligible non-public school children must be proportionate to the amount of funds generated by non-public school students.
- Non-public school students generally must receive an equitable amount off the top of the Title I, Part A allocation before calculating funds for public school students.



Equitable Services

- The LEA is not required to match their supports and services with Title I, Part A to supports in non-public program(s).
 - For example, if public schools are focusing Title I, Part A services in grades K–2 (in a K–8 school), the non-public schools are not restricted to only serve grades K–2. The non-public school could serve additional grade spans if determined through consultation and collaboration.



Equitable Funding for Parent and Family Engagement

- Under ESEA Title I, Part A § 1118, LEAs are required to calculate funds based on their **total** Title I, Part A allocation to carry out required parent and family engagement activities.
- LEAs are **required** to reserve the calculated funds for parental involvement activities from the non-public school portion allocated for Title I, Part A. (ESEA Title I, Part A § 1116(a)(3)(A))



Consultation



Consultation: Regulatory Requirements

- Title I, Part A requires **timely and meaningful consultation** between the LEA and non-public school officials prior to any decision that affects the opportunities of eligible non-public school children, families, and teachers to participate in Title I, Part A programs, and shall continue throughout the implementation and assessment of activities. (ESEA Title I, Part A § 1117)



Consultation: Regulatory Requirements

- Consultations must address the following for eligible non-public school children:
 - how the LEA will identify needs;
 - what services the LEA will offer;
 - how and when LEAs make decisions about the delivery of services;
 - how, where, and by whom LEAs will provide services; and
 - how LEAs assess the academic services to non-public school children, and how LEAs use the results to improve Title I, Part A services.



Consultation: Regulatory Requirements

- Consultations must also address the following for eligible non-public school children:
 - how the proportion of funds allocated for equitable services is determined.
 - whether the LEA will provide services directly or through a separate LEA or third-party contractor.
 - when, including the approximate time of day, services will be provided.
 - whether to provide equitable services to eligible non-public school children by pooling funds or on a school-by-school basis.
 - whether to consolidate and use funds available for Title I, Part A equitable services with funds available for equitable services under programs covered under § 8501(b).



Consultation: End Goal of Consultation Process

- The consultation process between public and non-public school officials regarding Title I, Part A program services should result in a Title I, Part A program designed to meet the educational needs of eligible non-public school children.



Consultation: Meeting Agendas

- Well-constructed meeting agendas provide road maps for well-run and focused consultation meetings.
- To the extent possible, envisioning the consultation needs for the school year *prior* to the first consultation meeting will determine what subjects should be covered in order to effectively pace the consultation process.
- The agenda items and timing of the meetings should follow the decisions made and the timeline established, respectively, at the first consultation meeting.



Consultation: Affirmation of Meaningful Consultation

- Title I, Part A requires that each LEA must obtain a **written affirmation** signed by the official of each participating non-public school, or a representative of those schools, that the required consultation process has occurred.
- A signature on an affirmation form signifies that the non-public school official is satisfied that an equitable program has been designed to meet student needs and has a reasonable promise of being effectively implemented.



Consultation: Final Agreement

- Title I, Part A requires that each LEA must obtain a **final agreement** signed by the official of each participating non-public school, or a representative of those schools, that the required consultation process has occurred and an agreement of services have been reached.
- The LEA and the non-public school shall both have the goal of reaching agreement on how to provide equitable and effective programs for eligible non-public school children.



Affirmation Forms

- **Affirmation Forms:** LEAs have **two** affirmation forms to choose from:
 - *Traditional form: **Affirmation of Meaningful Consultation Form***
 - Covers initial consultation process
 - Uploaded to CFA
 - Non-public final agreements (listed below) will need to be uploaded to the LEA document library by August 1.
 - *Combined form: **Affirmation of Meaningful Consultation & Agreement Form***
 - Covers initial consultation and final agreement
 - One form uploaded to CFA; no additional forms needed
- **Agreement Form**
 - Traditional Agreement form (if only using traditional affirmation form)
 - Covers final agreement between LEA and non-public school
 - Will need to be uploaded to the LEA document library by August 1.

Complaint Process




Complaints: Right to File a Complaint

- Non-public schools may file a complaint with the state's ombudsman if they believe that:
 - timely and meaningful consultation did not occur;
 - the LEA did not give due consideration to the views of the non-public school officials; or
 - the funds generated or services to be provided are not equitable.



Complaints: Right to File a Complaint

- A [complaint form](#) is available in [ePlan > TDOE Resources > ESSA/IDEA Non-Public / Private Schools Information & Documents > ESSA Non-Public/Private Schools Information & Documents > Samples & Templates for Providing Equitable Services to Non-Public / Private Schools & Complaint Form / Procedures > Equitable Services Complaint to the Ombudsman](#)



Procedures for Complaint to the Ombudsman Every Student Succeeds Act (ESSA)

Statutory Requirement

Pursuant to §§ 1117 and 8501 of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act (ESSA), a private school official has the right to file a written complaint with the state education department ombudsman asserting that a school district did not engage in consultation that was meaningful and timely, did not give due consideration to the views of the private school, or did not make a decision that treats private school students equitably.

What must be included in a complaint?

Private school officials filing a complaint with the ombudsman concerning equitable services under ESSA must do so in writing and utilize the form provided with this document that requires the following information:

- full name, address, email address, and telephone number of individual(s) or organization(s) filing the complaint;
- a description of the situation or allegation, including whether or not the school district engaged in consultation that was meaningful and timely, gave due consideration to the views of the private school officials, or made decisions that treated private school students equitably;
- the name of the school district the complaint is being filed against and the names of any other agencies or employees involved;
- a statement identifying which title requiring equitable services has been allegedly violated;
- all facts supporting the allegation; and
- efforts made to resolve the complaint with the school district.

Where should a complaint be sent?

Complaints must be signed by the individual(s) or organization(s) filing the complaint and copied to the school district. Complaints must be sent to the department to the attention of the ombudsman via email to Danny.Bounds@tn.gov, or mailed to the following address:

Tennessee Department of Education
Division of Federal Programs and Oversight
Complaint to the Ombudsman
710 James Robertson Parkway
Andrew Johnson Tower, 12th floor
Nashville, Tennessee 37243

Division of Federal Programs & Oversight
710 James Robertson Parkway • Andrew Johnson Tower, 12th Floor • Nashville, TN 37243
tn.gov/education

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Complaints: Right to File a Complaint

- A formal written complaint must include:
 - a statement that the state education agency (SEA), LEA, or other entity receiving financial assistance has violated a requirement of a federal statute or regulation that applies to a program requiring equitable participation;
 - the facts on which the statement is based and the specific statutory or regulatory requirements allegedly violated; and
 - the signature of the complainant.



Complaints: How to File a Complaint

- Once a complaint is completed by the non-public school official, it must be signed by the individual(s) or organization(s) filing the complaint.
- After the complaint is completed and signed, the non-public school official must submit the complaint, as well as any additional documentation, via email to the Federal Programs Ombudsman, Danny Bounds (Danny.Bounds@tn.gov), with the LEA Representative copied on the email.
- Once the LEA receives the signed complaint, the LEA must upload the complaint to the current year's LEA Document Library in the applicable program's Equitable Services Complaint folder.



Complaints: The Equitable Services Complaint Process

- A written complaint will be promptly acknowledged and investigated.
- Appropriate program staff, including the ombudsman, will conduct a review of the complaint and notify the complainant of the next steps of the process.



Complaints: The Equitable Services Complaint Process

- Within forty-five (45) calendar days of receipt of the complaint, the ombudsman will investigate and send a written finding of fact to the complainant and the LEA.
- If areas of noncompliance are found, corrective action will be required and timelines for completion indicated.
- All parties will be informed of the areas of noncompliance and the required corrective actions.



Complaints: How to Appeal a Complaint Finding

- Appeals can be made by filing an appeal with the U.S. Secretary of Education within thirty (30) calendar days after the resolution of the complaint.
- The appeal to the U.S. Secretary of Education must be accompanied by a copy of the resolution by the ombudsman and a complete statement of the reasons for an appeal.
- The U.S. Secretary of Education shall investigate and resolve the appeal no later than ninety (90) calendar days after receipt of the appeal



Complaints: State Provided Services (Post-Complaint Finding)

- If the U.S. Department of Education (ED) determines that an LEA has substantially failed or is unwilling to provide equitable services, the Secretary of Education will waive the LEA's responsibility to provide equitable services and arrange for the provision of services by another entity.
- In some circumstances, that entity will be the SEA.



Complaints: State Provided Services (Post-Complaint Finding)

- An SEA may retain from the applicable LEA's Title I, Part A allocation the funds generated by eligible non-public school students from low-income families in the involved non-public school(s).
- The SEA may also retain from the proportional share of Title I, Part A funds generated for equitable services reasonable and necessary administrative costs for arranging the services.



Eligible Activities



Eligible Services: Non-Public School Students

- Services to eligible non-public school students may include:
 - instruction outside the regular classroom,
 - extended learning time (before and after school and in the summer),
 - family literacy programs,
 - early childhood education programs,
 - counseling,
 - home tutoring,
 - instruction using take-home computers,
 - computer-assisted instruction, and
 - combinations of services listed above.



Eligible Activities: Parent and Family Engagement

- Title I, Part A places considerable emphasis on parent and family engagement.
 - research shows that parent and family engagement in the education of children is a critical factor in improving academic achievement.
 - if students are to attain and maintain grade-level proficiency and achieve high academic standards, families must support their children's learning.



Eligible Activities: Parent and Family Engagement

- An LEA must provide equitable services to parents of non-public school participants from the funds set aside for this purpose.
- Activities for the parents of non-public school participants must be planned and implemented after meaningful consultation with non-public school officials and parents.



Eligible Activities: Parent and Family Engagement

- Title I, Part A funds can also be used to assist parents in helping their children with academic achievement goals.
- If a non-public school would like to use funds in this manner, they must include a written agreement between the LEA and parents of participating non-public school students regarding the responsibilities of the LEA and parents in:
 - the Title I, Part A program,
 - parent meetings,
 - student academic progress,
 - parent teacher conferences, and
 - parent education.



Eligible Activities: Professional Development

- Professional development is a major emphasis in Title I, Part A
- Professional development activities should enrich teacher knowledge and provide opportunities for both the Title I, Part A teachers and non-public school teachers of Title I, Part A participants to increase their skills and knowledge regarding providing instruction to Title I, Part A children.



Eligible Activities: Professional Development

- The professional development activities for non-public school teachers should address how to better serve Title I, Part A students, such as providing information on research-based reading and mathematics instruction.
- It is inappropriate to use these funds to upgrade the instructional program in the regular classroom of the non-public school.



Fiscal Considerations



Allocation of Funds

- Expenditures for equitable services to eligible non-public 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 non-public schools. [ESSA § 1117(a)(4)(A)]



Allocation of Funds

- An LEA must determine the proportionate share of Title I, Part A funds available for equitable services based on the total amount of Title I, Part A funds received by the LEA **prior to any allowable expenditures or transfers of funds.**

[ESSA § 1117(a)(4)(A)]



Obligation of Funds

- **Funds allocated to an LEA** for educational services and other benefits to eligible non-public 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.** *[ESSA § 1117(a)(4)(B)]*
 - Under extenuating circumstances, funds not obligated are available for equitable services in the subsequent school year.



Obligation of Funds: Carryover

- If the non-public has any carryover funds, the LEA is required to track and maintain the amount of carryover and include the carryover amount as a part of the non-public's budget for next fiscal year.
- Along with the fiscal movement of non-public carryover, an LEA is required to consult with the non-public and create a plan to expend such funds.



Obligation of Funds: Carryover

- If proper consultation (**multiple and documented contact attempts with clear and reasonable deadlines**) does still not result in the timely obligation of funds, it may be reasonable for the LEA to determine that the non-public school is no longer eligible to receive carryover, or in extreme cases, has declined services.



Obligation of Funds: Carryover

- The LEA is required to inform the non-public, in writing, if either of these determinations is made.
- Documentation that the proper consultation process was attempted, and that carryover has been an issue for the past 3 -5 years is **crucial** to justify such a decision.
- It is also recommended that LEAs contact Danny.Bounds@tn.gov before such a decision is made to ensure that the LEA is operating within its legal parameters.



LEA Responsibility in Serving Non-Public Schools



LEA Responsibility: Initial Contact

Under Title I, Part A:

- LEAs must annually contact each non-public school with children who might reside within the LEA's boundaries to determine whether the non-public school would like for their eligible students to participate in equitable services under Title I, Part A.
- It is the responsibility of the LEA where the **eligible student** (not school) resides to initially contact the non-public school(s).



How to start initial contact

- Gather known addresses of students enrolled in non-public schools
- Contact non-public schools within the area and inquire about any students enrolled in the LEA's school zone
- Send the initial intent to participate form to the non-public schools.



What happens if two LEAs are serving the same non-public school?

- Two different LEAs may serve one non-public school, if eligible children residing in a Title I, Part A attendance zone attend that particular school.
- It is the responsibility of the LEA where the **eligible student** (not school) resides to provide services to that participating non-public school.
- A non-public school can receive equitable services allocations from multiple LEAs.

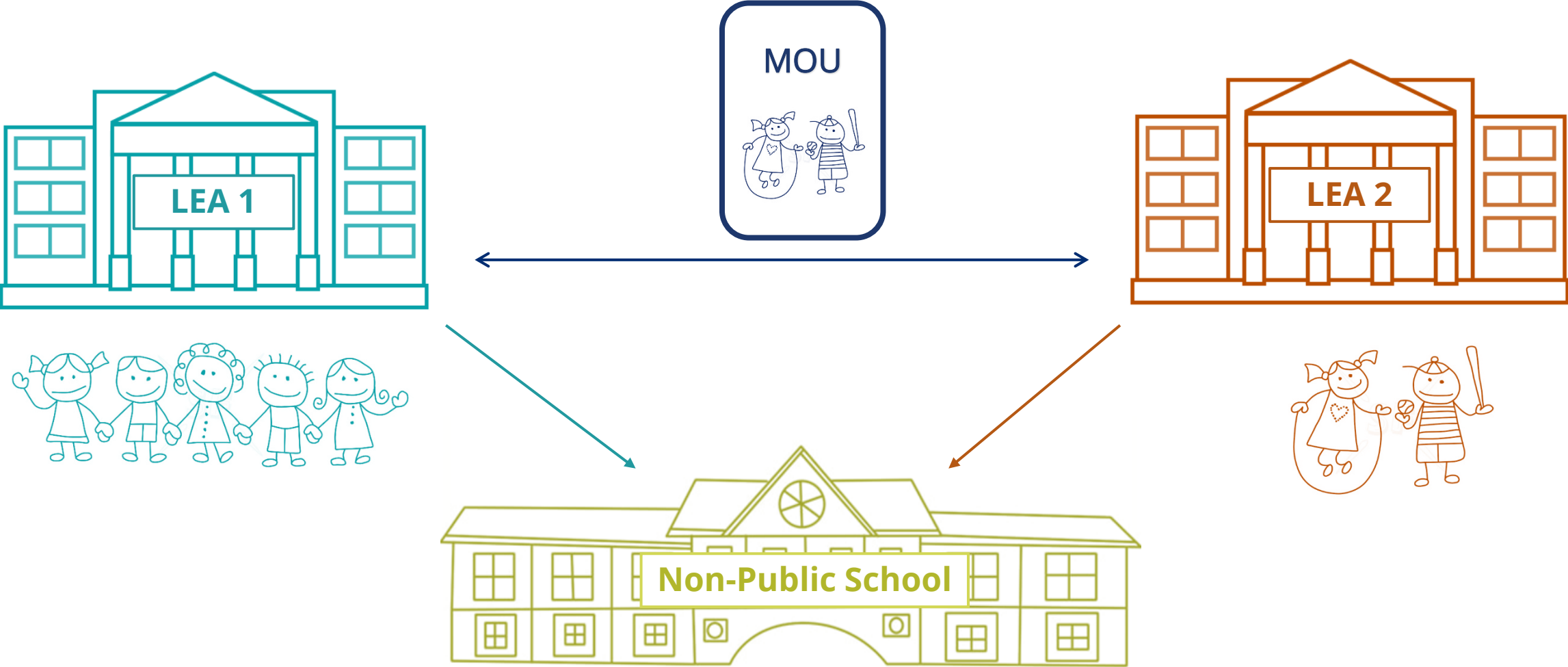


LEA Responsibility

- Memorandum of Understanding
 - Two different LEAs may agree to construct a Memorandum of Understanding (MOU), and have one LEA serve the non-public school.
 - It is the responsibility of the LEA wishing to enter into an MOU, to contact the neighboring LEA and outline the terms, expectations, and agreements in the MOU.
 - The MOU must be signed by both LEAs and must be communicated to the non-public school(s) during consultation.



LEA Responsibility



Calculation Methods: Eligibility of Non- Public Children



Calculating Eligibility of Non-Public School Children

- An LEA may calculate the number of children who are from low-income families and attend non-public schools in several ways, such as using:
 - the same measure of poverty;
 - comparable poverty data from a different source;
 - comparable poverty data from a survey;
 - proportionality; or
 - an equated measure.



Methods 1 and 2

- **Use the same poverty measure used to count eligible public school students.**
 - For example, if the LEA uses free and reduced-price lunch (FRPL) program participation as its data source and the non-public school participates in the FRPL program, the data should be used to count eligible non-public school students.
- **Use comparable poverty data from a different source to count eligible public school students.**
 - ED's guidance states an LEA also may use a comparable data source, such as Temporary Assistance for Needy Families (TANF) or a tuition scholarship program, which uses a similar income eligibility threshold.

Method 3

- **Conduct a survey of enrolled non-public school families to obtain comparable data.**
 - Non-public school officials may survey enrolled families to obtain income data which may be applied to the threshold used to determine FRPL eligibility.
 - Data should be extrapolated if not all non-public school families respond to the survey.
 - The survey must, to the extent possible, protect the identity of families of non-public school students.

Method 4

- **Use proportionality to apply the low-income percentage of public school children to the number of non-public school children in each attendance area.**
 - For example, an LEA calculates the percentage of those from low-income families in a public school attendance area to be 60 percent. The LEA then applies this percentage of the public school attendance area to the number of non-public school children residing in that public school attendance area. So, if the number of non-public school children residing in the public school attendance area is 50, then 60 percent of 50 children or 30 children are considered to be from low-income families. The LEA calculates the per-pupil amount based on this number (i.e., 30 children).

Method 5

- **Use an equated measure of income that correlates to the measure used to count public school children.**
 - *For example*, by determining the percentage of public school children eligible for TANF who are also eligible for FRPL, an LEA may assume that an equal percentage of TANF-eligible non-public school students would also qualify for FRPL.



Frequently Asked Questions



FAQs for Title I, Part A Equitable Services

Must the number of non-public school children served be equal to the number of non-public school students from low-income families?

- **No.** The needs of eligible non-public school children and the amount of funds available determine who is served and what services are received.



FAQs for Title I, Part A Equitable Services

May an LEA require non-public school officials to verify that students attending their school reside in a Title I, Part A public school attendance area?

- **No.** It is the LEA's responsibility to verify the eligible non-public school children reside in participating public school attendance areas. The officials of the non-public school may help with this determination if they wish. However, the LEA cannot require non-public school officials to do this verification.



FAQs for Title I, Part A Equitable Services

Are non-public school children from low-income families automatically eligible for Title I, Part A services?

- **No.** Student eligibility for Title I, Part A services for non-public school students is determined by:
 - residence in a participating Title I, Part A public school attendance area and
 - educational need.
- Poverty is **not** a criterion.



FAQs for Title I, Part A Equitable Services

May non-public school students be offered a schoolwide program?

- **No.** Since non-public schools are not eligible for services, schoolwide programs may not be operated in non-public schools. However, eligible non-public school children residing in an area served by a schoolwide Title I, Part A public school program must be offered equitable services.



FAQs for Title I, Part A Equitable Services

May non-public school officials arrange for professional development services for teachers of Title I, Part A participants and submit the invoice to the LEA for reimbursement?

- **No.** Non-public school officials are not authorized to obligate or receive Title I, Part A funds. The statute clearly states that the LEA must maintain control of the funds. No Title I, Part A funds may be paid to the non-public school.



FAQs for Title I, Part A Equitable Services

May two different LEAs serve one non-public school, even if the non-public school is outside of the LEA's boundaries?

- **Yes.** Two different LEAs may serve one non-public school, if eligible children residing in a Title I, Part A attendance zone attend that particular school. It is the responsibility of the LEA where the eligible student (not school) resides to provide services to that participating non-public school.
- 34 C.F.R. § 200.62(b)(1)(i) defines, in part, Title I, Part A eligible non-public school children as those who reside in a participating Title I, Part A public school attendance area of an LEA, regardless of whether the private school they attend is located in the LEA.

Resources



Resources

- [ESEA Ensuring Equitable Services Title I Toolkit](#)
- [ESSA Non-Regulatory Guidance: Fiscal Changes & Equitable Services](#)
- [ESEA Non-Regulatory Guidance: Title I - Equitable Services for Eligible Private School Students](#)
- [ESEA Non-Regulatory Guidance: Title IX \(ESSA Title VIII\) - Equitable Services for Eligible Private School Students/Teachers](#)

We want your feedback!

Please complete the evaluation survey found at <https://stateoftennessee.formstack.com/forms/fpoevaluation> or use the camera/QR code reader on your phone to scan the survey QR code below. Thank you!



Contact Information

- **Danny Bounds** | Federal Programs Ombudsman
Division of Federal Programs and Oversight
Danny.Bounds@tn.gov
(615) 917-3465



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1-800-232-5454

Notifications can also be submitted electronically at:

<http://www.comptroller.tn.gov/hotline>