

Affirmation of Timely and Meaningful Consultation with Non-Public School Officials for ESEA Transfers Affecting Equitable Services

When to use this form

ESEA § 5103(b) allows a local educational agency (LEA) to transfer up to 100 percent of funding allocations from Title II-A and/or Title IV-A to one or more of the following program areas: Title I-A, Title I-C, Title I-D, Title II-A, Title III-A, Title IV-A, and Title V-B. The final decision on whether to transfer is made by the LEA. However, the LEA must consult with the non-public school if their equitable share is affected **prior to making the transfer or making any other decisions concerning equitable services.**

The United States Department of Education's (ED's) current guidance on Title V-A transfers states:

[W]e encourage LEAs to carefully consider the views of non-public school officials prior to making decisions regarding transfers. By engaging in timely and meaningful consultation and developing positive relationships with non-public school officials, an LEA can facilitate [the] creation of a cooperative environment and minimize problems and complaints.¹

This **optional** form satisfies the consultation requirements for a transfer when equitable services are involved. The LEA may use this form if the following two criteria apply:

1. One or more of the non-public schools in the LEA have opted to participate in Title II-A and/or IV-A equitable services, and
2. The LEA's funding application indicates an intended transfer of Title II-A and/or IV-A funding to another Title program (e.g., to Title I-A).

If the LEA chooses not to use this form, the LEA must still satisfy the consultation requirements involving transfers affecting equitable services.

How to use this form

1. Complete the *Discussion Topics* section in consultation with the non-public school representative(s). Provide the indicated information, fully disclosing the details of the intended transfer including the funding change(s) caused in the non-public school's equitable share(s) in ESEA Title Programs in which the non-public school is participating.
2. The non-public school representative should then sign the document, indicating either agreement or disagreement with the intended transfer(s). If a disagreement is indicated, the LEA should inform the non-public school representative(s) of the internal LEA complaint procedures and the process to complain to the State Ombudsman. Complaints to the Ombudsman may result in legal uncertainty and delays associated with the dispute resolution process and potential appeals.
3. Keep a copy of the completed, signed form for documentation that the required consultation occurred.

¹ U.S. Dep't. of Educ., Ombudsman Update (Jan. 30, 2018), <https://www2.ed.gov/about/inits/ed/non-public-education/files/ombudsman-update-201801.pdf>.

Discussion Topics

Overview of the ESEA Title Programs, the school LEA's initial funding allocation in each program, and the equitable services proportional shares available to the non-public school prior to the intended transfer:

Describe the transfer intended by the school LEA, including the amount and purpose, and ESEA Title programs from which and to which the funds are intended to be transferred:

Describe the changes to non-public school equitable share amounts in the programs affected by the proposed transfer:

Prior to the transfer, consultation about the proposed transfer has occurred between:

Name of Local Educational Agency

Name of Non-Public School or Agency

Non-Public School Response to the Intended Transfer(s):

- AGREE – This affirmation confirms the non-public school’s agreement that timely and meaningful consultation did occur for the intended transfer and resulting ESEA Program funding changes and that the result is equitable with respect to the non-public school students and teachers.

- DISAGREE – The non-public school asserts that timely and meaningful consultation has not occurred, and/or the transfer decision is not equitable with respect to the non-public school students and teachers.

Name of Local Educational Agency

Name of Non-Public School or Agency

Local Educational Agency Official Date
Signature

Non-Public School Representative Date
Signature