



Department of  
**Education**

# ESSA Equitable Services Toolkit

## Federal Programs and Oversight

Tennessee Department of Education | May 2024



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## Introduction

The Tennessee Department of Education (department) works to ensure that all students enrolled in public and non-public schools, receive a high quality, equitable education. Since the passage of the Elementary and Secondary Education Act (ESEA), as reauthorized by the Every Student Succeeds Act (ESSA), non-public school students and teachers have been eligible to participate in equitable services and programs under Title I, Part A (Title I), as well as Title VIII, Part F (Title VIII). ESSA requires a local education agency (LEA), that receives Title funding, to provide equitable services to eligible non-public school students, teachers, and their families.

While ESSA primarily supports public education, some eligible children, teachers, and families that attend non-public schools may receive benefits and services from the LEA. A portion of ESSA funding from each LEA must be designated to address the needs of these eligible students, teachers, and families.

## *Purpose of the Toolkit*

This toolkit was produced under the Tennessee Department of Education (department), as formulated by law, guidance, and resources from the U.S. Department of Education (ED). It contains information, guidance, and materials for public and non-public schools within the State of Tennessee. This toolkit only addresses equitable services under ESSA. Other laws, such as IDEA and CTE, include other types of equitable services provisions that require LEAs to provide equitable participation to non-public school students, their teachers, and other education programs. The department will address those services in another separate toolkit. This toolkit was developed with the following individuals in mind:

- **LEA Federal Programs Directors/Coordinators** – an LEA representative that works with federal funding and would like to improve communication and involvement with non-public school representatives, while also creating more meaningful consultation and involvement with them.
- **Non-Public School Officials** – a non-public school representative that desires to receive federal funding from their local LEA, would like to understand the LEA's involvement with providing ESSA services and programs for non-public students, and get a better understanding of program requirements.

The information gained from this toolkit should enhance the collaborative efforts between public and non-public school officials. Further, this toolkit also should encourage LEAs and non-publics to:

- Understand the requirements of the law regarding the equitable participation of non-public school children, their teachers, and their families;
- Become knowledgeable about practices that enhance collaboration and help support the process of consultation and provision of services;

- Work together as partners to ensure a fair, equitable, and significant opportunity for non-public school children to receive a quality education under ESSA; and
- Share best practices and models among colleagues.

### ***Role of the Ombudsman***

To help ensure equitable services and other benefits are being provided for eligible non-public school students, teachers, and other educational personnel, the state must designate an ombudsman to monitor and enforce the requirements under both Title I and Title VIII. Tennessee has designated the department's federal programs ombudsman to meet these ESSA equitable services requirements. For questions regarding information in this toolkit, or any other questions related to equitable services to non-public schools, please contact:

**Michelle Harless**

Federal Programs Ombudsman

Division of Federal Programs and Oversight

[Michelle.Harless@tn.gov](mailto:Michelle.Harless@tn.gov)

(615) 418-4390

## The Laws

### ***Title I, Part A § 1117<sup>1</sup>***

The purpose of Title I, Part A is to provide all children significant opportunity to receive a fair, equitable, and high-quality education and to close educational achievement gaps. Each LEA that receives Title I, Part A funds identifies public school attendance areas and schools that have high concentrations of children from low-income families as eligible to participate in Title I programs. Under ESSA § 1117, the following title program is covered:

- Title I, Part A: Improving Basic Programs Operated by Local Educational Agencies

ESSA § 1117 requires participating LEAs, in consultation with appropriate non-public school officials, to provide eligible children attending non-public, non-profit 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. The Title I, Part A program provides supplemental educational services so that all children have a fair, equal, and significant opportunity to obtain a high-quality education. Generally, to qualify for assistance under Title I, Part A, a student must reside within the attendance area of a participating public school located in a Title I school attendance area and be failing, or at risk of failing, to meet student academic achievement standards. More information regarding Title I, Part A equitable services can be accessed in later sections of this toolkit.

### ***Title VIII, Part F § 8501<sup>2</sup>***

The purpose of Title VIII is to provide equitable services, in consultation with non-public school officials, for eligible non-public school children and educators with services and other benefits that are deemed to be equitable to those provided for eligible public school children and educators. Under ESEA § 8501, there are numerous Title programs that are governed by Title VIII. These titles include:

- Title I, Part C: Education of Migratory Children
- Title II, Part A: Supporting Effective Instruction
- Title III, Part A: English Language Acquisition, Language Enhancement, and Academic Achievement
- Title IV, Part A: Student Support and Academic Enrichment Grants
- Title IV, Part B: Nita M. Lowey 21st Century Community Learning Centers (21st CCLC)

Eligibility for these programs depends on specific program requirements. More information regarding the equitable services requirements of the above programs can be accessed in later sections of this toolkit.

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<sup>1</sup> Non-regulatory guidance for Title I, Part A equitable services can be access [here](#).

<sup>2</sup> Non-regulatory guidance for Title VIII can be accessed [here](#).

## Providing Equitable Services to Non-Public Schools

### *How are services equitable?*

For all programs, services to non-public schools are equitable when LEAs:

1. Assess, address, and evaluate the needs of non-public school students, teachers, and parents;
2. 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;
3. Begin services with non-public school students at the same time as public school students.
4. Must ensure that the total amount expended by the LEA for services to eligible non-public school children is proportionate to the amount of funds generated by non-public students.

### *How are students eligible?*

Eligibility requirements vary based on the program. See later sections of this toolkit for eligibility requirements for each ESSA program.

## Requirements and Responsibilities of LEAs and Non-Public Schools

The LEA and the non-public school each have specific roles and responsibilities throughout the equitable services process that require both parties to collaborate in order to decide how best to utilize funding. This involves an in-depth consultation process to create a plan. Together, non-public school officials and LEA staff should review various sources of data (based on multiple, objective and educationally related criteria) to assess the eligible students' greatest needs, agree on what types of services will be provided and for whom, and decide how they will be evaluated. Depending on program requirements, benefits may support students themselves, help their families support their learning, or help educators who work with them more effectively. Discussing and clarifying the roles and responsibilities at the beginning of the process will help ensure meaningful, timely and ongoing consultation.

### *What is the LEA responsible for?*

The LEA implements the plan to provide services, communicating with the non-public school staff as needed along the way. The LEA initiates and guides the overall process, which includes:

- **Contacting** non-public schools within LEA boundaries (and Title I eligible non-public schools outside the boundaries of the LEA) to invite them to consult in early winter and providing enough information to enable them to make an informed decision on whether equitable services may be beneficial to their students.
- **Establishing** any necessary deadlines and clearly communicating with non-public schools about expectations, deadlines, and responsibilities, as well as the consequences for not meeting them.
- **Determining** the amount of available funding based on program eligibility requirements and student data provided by the non-public school.



- **Scheduling and facilitating** meaningful consultation meetings with non-public school officials to plan services and support the non-public schools' understanding of requirements under ESSA and LEA guidelines.
- **Providing** or contracting for services that are agreed upon with the non-public school and making sure that the non-public school receives services in a timely manner.
- **Purchasing** materials, supplies, or equipment necessary to support the Title services.
- **Evaluating** services to ensure effectiveness in addressing the needs of the eligible students that attend the non-public school.

### ***What is the non-public school responsible for?***

While the LEA serves as the fiscal agent for all equitable services purchases and services, participating non-public school officials play an important part in the process. Non-public school officials are responsible for:

- **Providing** the LEA with the non-public official contact(s). The non-public school should provide the LEA with a representative to serve in their interest during the consultation process.
- **Assisting** the LEA with the collection of needed information and data. Because an LEA may not have all necessary information and data needed to determine the proportionate share for the non-public school, non-public school officials may need to assist the LEA by providing information or documentation that enables the LEA to meet its responsibilities under the law. For example, to calculate the proportional share of funds available to provide equitable services under Title I, Part A, an LEA will need assistance in determining which non-public school students reside in a participating Title I public school attendance area and are low-income. Similarly, to identify students who are eligible to receive Title I services (i.e., they reside in a participating Title I public school attendance area and are low-achieving), an LEA will need assistance in obtaining data on the academic performance of low-achieving non-public school students to determine, in consultation with appropriate non-public school officials, what services will be provided. For Title I, Part A, non-public school officials may also need to identify eligible students who reside in an LEA different from the one in which the non-public school is located and alert that LEA of students' potential eligibility.
- **Contacting** the LEA if there are questions about provision of services. Further, if a non-public school has students it believes may be eligible for equitable services and the non-public school has not been contacted by that LEA, it would be prudent for non-public school officials to contact the LEA directly in order to ensure that their eligible students are considered for title services.
- **Participating fully** in meaningful and timely consultation. Non-public school officials must also make a good faith effort to continue communication in a timely manner, when the LEA is consulting with the non-public school. When an LEA provides and requests information, collaboration, and confirmation of services for the non-public school, timely communication is key to reaching agreement. If the non-public school does not respond to the LEA's request(s) in a timely manner, it can be assumed that the services requested may not be granted based on the situation and program at hand, thus the non-public school will be ineligible to receive services for that fiscal year.



## ***LEA Responsibility for Students Enrolled in Pre-Kindergarten***

In 2022, HB1890 was passed in Tennessee and amended T.C.A. § 49-6-301(a) to include the following in the state's definition of what constitutes an elementary school. For purposes of federal funding, "elementary schools" are schools serving any combination of pre-kindergarten through grade six (Pre-K–6) (T.C.A. § 49-6-301(a)).

This addition to the state's definition of what constitutes an elementary school provides greater flexibility to LEAs when deciding how to spend some federal education program funds. Tennessee LEAs may choose whether to serve pre-K students and instructional staff with funds from the following programs:

The decision on whether an LEA will serve Pre-K non-public students and staff should be made in consultation with non-public school officials. It is also important to note that while Pre-K students and staff may be served with ESSA dollars, only K-12 students are counted when calculating the proportionate share.

## **Introducing and Offering Equitable Services to Non-Public Schools**

### ***Intent to Participate***

It is the responsibility of the LEA to seek out eligible non-public schools that would like to participate in equitable services. The LEA should use an [Intent to Participate Form](#) and send this form to eligible non-public schools within their boundaries or, for Title I, to those non-public schools whose students reside in the LEA. This typically occurs annually in late fall/early winter in anticipation for the upcoming school year. Information collected from this form will be used to complete the annual [Non-Public Survey](#) and the Consolidated Funding Application (CFA).

### ***What is the LEA responsible for?***

1. Annually identify eligible non-public schools within the LEA's boundaries, as well as non-public schools where students who reside in the LEA attend. A list of Tennessee non-public schools can be found [here](#) (found under *Non-Public Schools Directory*).
2. Send an Intent to Participate Form to all eligible non-public schools.
3. Follow up and make sure that eligible non-public schools received the form. LEAs must make multiple attempts to contact eligible non-public schools if they are unresponsive. Maintain documentation of all outreach efforts.
4. Give the school a reasonable but firm deadline to return the form back to the LEA (typically, no later than January 15).
5. Gather forms and prepare for the completion and submission of the annual [Non-Public Survey](#) in ePlan.

***What is the non-public school responsible for?***

1. Declare to the LEA whether they intend to participate in equitable services for the upcoming year by stating “yes” or “no” for each program on the form.
2. Return the completed form to the LEA by the deadline provided.
3. Keep a copy of the completed and submitted form for the non-public school records.

***The Non-Public Survey***

Once the LEA receives intent forms back from the non-public schools, the LEA will update the [Non-Public School Survey](#) in ePlan. The Non-Public Survey typically opens in early-January and is due in mid-February. Non-Public Survey responses will provide information needed for the CFA and will be used to inform allocations for Title I, Part A; Title I, Part C; Title II, Part A; Title III, Part A; Title IV, Part A, and IDEA.

**What is the LEA responsible for?**

1. Collect Intent to Participate forms from eligible non-public schools.
2. Read [Non-Public Survey guidance document](#) in [ePlan > TDOE Resources](#) > Equitable Services to Non-Public Schools (CTE/ESSA/IDEA) > ESSA Non-Public Schools Information > Equitable Services Webinars and TDOE Guidance.
3. Update the Non-Public Survey in ePlan with the information provided by the non-public schools on the submitted Intent to Participate forms.
4. Complete the Non-Public Survey by the deadline (mid-February).

**What is the non-public school responsible for?**

1. Complete the intent to Participate form and return it to the LEA by the requested deadline to confirm all Title programs that the non-public wishes to participate in for the upcoming fiscal year.

**Consultation: From Affirmation to Agreement*****What is Meaningful Consultation?***

Timely and meaningful consultation with appropriate non-public school officials is an essential requirement in an LEA’s implementation of an effective equitable services program for eligible non-public school children, their teachers, and their families. Consultation involves discussions between public and non-public school officials on key topics that affect the ability of eligible non-public school students to participate equitably in equitable service programs. Effective consultation provides a genuine opportunity for all parties to express their views and to have those views considered. Successful consultation:

- establishes positive and productive working relationships,
- makes planning effective,
- continues throughout the implementation of equitable services, and

- serves to ensure that the services provided meet the needs of eligible students, teachers, and families.

Consultation is at the heart of equitable services. Consultation between the non-public school and the LEA is necessary to ensure that a program adequately provides required services under the law, and that the services meet the expressed needs of non-public school teachers, students, and staff. Meaningful consultation must begin before any services are provided to students, teachers, or other non-public school educational staff. Ongoing consultation process should begin well before the start of the school year and should continue throughout the full implementation and evaluation of services.

### ***The Consultation Process***

Once the LEA has identified the non-public schools that wish to participate in equitable services, an annual consultation meeting should be held, addressing the different Title programs, the LEA process of providing services, as well as what services are allowable under ESSA. Some LEAs hold individual meetings with each participating non-public school, while others may hold a group consultation meeting with all participating non-public schools at once. Either method is allowable, however, care should be taken when conducting group meetings to ensure that each non-public school has the opportunity to communicate needs, express concerns, and ask questions that pertain to their unique context.

As noted above, ESSA requires timely and meaningful consultation between LEAs 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 ESSA programs. Further, the law states that consultation shall continue throughout the implementation and assessment of activities. (ESSA §§ 1117 and 8501). Consultation must address the following topics for eligible non-public school children:

- how student's needs will be identified;
- what services will be offered;
- how and when decisions about the delivery of services will be made;
- how, where, when, and by whom services will be provided;
- how services will be academically assessed and improved based upon assessment results;
- the size and scope of services; and
- proportion of funds allocated for services and how the amount of funds is determined.
- the method of determining poverty (Title I, Part A only);
- how and when the LEA will make decisions about the delivery of services to eligible children, including a thorough consideration and analysis of the views of the non-public school officials on the provision of services through a contract with potential third-party providers;
- how, if the LEA disagrees with the views of the non-public school official on the provision of services through a contract, the LEA shall provide to the official a written explanation of the reasons why the LEA has chosen not to use a contract.
- whether to provide equitable services to eligible non-public school children:

- by creating a pool or pools of funds with all the funds allocated under a program; or
- on a school-by-school basis based on the proportionate share of funds available to provide services in each school.
- other topics of consultation must include, as appropriate:
  - administrative costs, including indirect costs;
  - any funds available for carryover; and
  - transferring funds from Title II, Part A and Title IV, Part A under the transferability authority in ESEA § 5103.

The consultation process must be documented by the LEA. Proof of non-public school outreach and consultation must be produced for the CFA as well as Results-Based Monitoring (RBM) purposes. At a minimum, the [Affirmation of Meaningful Non-public School Consultation Form](#) must be completed and uploaded to the CFA annually in May. LEAs must also reach and document final agreements with participating non-public schools as described in later sections of this toolkit.

As noted above, consultation is not a one-time meeting. To ensure that consultation is meaningful, LEAs and non-public schools must continue consulting with each other throughout the year. While it is primarily the responsibility of the LEA to continuously check in with their participating non-publics, non-public school officials should also feel free and understand how to contact the LEA when questions or concerns arise.

### ***What is the LEA responsible for?***

1. Initiate meaningful consultation meetings with participating non-public schools in the spring.
2. Continue consulting with non-public schools over spring and summer to plan programming for the upcoming school year.
3. To document the consultation process, provide non-public schools with an affirmation form, as well as a deadline for when the form is due.
4. Update the CFA with information related to equitable services (i.e. budgets and all information requested on the *Equitable Services* page(s)), and upload copies of completed and signed affirmation forms.
5. Ensure final agreement has been reached and documented as described in later sections of this toolkit.

### ***What is the non-public school responsible for?***

1. Attend consultation meetings when requested by the LEA.
2. Complete any affirmation forms provided by the LEA by the established due date.
3. Continue consulting with LEA over spring and summer about the services for the non-public school.
4. Update the LEA with any information that is deemed necessary to provide the service(s).
5. Complete and submit final agreement forms as specified by the LEA.

## ***The Final Agreement***

Once the LEA has consulted with participating non-public schools, a final agreement must be reached between the two parties. A final agreement form must be signed by the LEA and non-public official(s) and uploaded to ePlan. LEAs that have uploaded consultation agreements for each participating non-public school will have satisfied the ESSA requirement that consultation agreements be forwarded to the ombudsman.

## ***Completing the Agreement: Traditional Form v. Combined Form***

There are two ways that an LEA and non-public school can document and meet the requirement of a final agreement. Using **traditional forms**, the LEA will upload two separate documents to ePlan at two different times each year. This might be a good option for LEAs with a large number of participating nonpublic schools, those with non-public schools who participate in Title I, Part A, and those who feel as though final agreements have not been reached by the time the CFA is due in May.

Traditional Forms	Due Date
<a href="#">Affirmation of Timely and Meaningful Consultation Form</a>	Due in <b>May</b> with the CFA
<a href="#">Non-Public School Agreement Form</a>	Due by <b>Sept. 15</b> in the ePlan LEA Document Library

The **combined form** allows an LEA to submit affirmation and final agreement forms together to the CFA in May. This might be a better option for LEAs with a small number of participating nonpublic schools who do not participate in Title I, Part A.

Combined Form	Due Date
<a href="#">Affirmation of Meaningful Non-Public Consultation and Agreement form</a>	Due in <b>May</b> with the CFA

### **What is the LEA responsible for?**

1. Decide whether the LEA and non-public schools will use the traditional form(s) or the combined form.
2. Complete the chosen forms in consultation with the participating non-public schools and submit them to ePlan as specified above.
3. Continue ongoing consultation and administer services in a timely manner as agreed upon with the non-public school.

### **What is the non-public school responsible for?**

1. Provide the LEA with a signed agreement form by the deadline provided.

2. Continue consulting with the LEA over specific requests made under each Title program.
3. Provide the LEA with any information that is deemed necessary to provide the service(s).  
Always follow deadlines established by the LEA to provide the service(s) the non-public school.

## ***Suggested Consultation Timeline***

The following timeline illustrates when consultation should occur annually:

- **Late fall/early winter:** LEA Informs non-public school officials annually of consultation process via an Intent to Participate form.
- **Late winter/early spring:** Non-public school identifies that their school would like to participate in services via an Intent to Participate form.
- **Early spring:** LEA holds annual consultation meeting with participating non-public schools to begin to assess needs and plan services for the upcoming school year. An [Affirmation of Consultation](#) or an [Affirmation and Final Agreement](#) form is used as appropriate to document the process and is submitted to the upcoming fiscal year's CFA by in May.
- **Late spring:** LEA determines per pupil amount for non-public school services equal to per pupil amount for public school services.
- **Ongoing:** LEA and non-public school engage in timely and meaningful consultation, following deadlines and requirements that have been set by the LEA, the department, and ED for the fiscal year.
- **Summer:** LEA and non-public school discuss logistics of program operation.
- **Late summer:** If this has not already occurred, LEA and non-public school come to a final agreement of services, based on previous consultation meetings. A [Non-Public Consultation Final Agreement](#) or an [Affirmation and Final Agreement](#) form is used as appropriate to document the process.
- **Begin in fall and continue throughout the school-year:** LEA provides or contracts services, programs, materials, and resources for participating non-public schools.
- **Spring:** LEA and non-public school evaluate programs and services for effectiveness. Use evaluation results to help inform and improve future services.

## ***Equitable Services Complaints***

Pursuant to ESEA §§ 1117 and 8501, as amended by ESSA, a non-public school official has the right to file a written complaint with the state education department ombudsman asserting that an LEA did not:

1. engage in consultation that was meaningful and timely,
2. did not give due consideration to the views of the non-public school, or
3. did not make a decision that treats non-public school students equitably.

More information, including details about what must be included in a complaint can be found in [Appendix A](#) of this document.

## Title I, Part A

### *Overview*

The purpose of Title I, Part A of the ESEA is to provide all children the opportunity to receive a fair, equitable, and high-quality education and to close educational achievement gaps. (ESEA § 1001). Each LEA that receives Title I funds identifies public school attendance areas and schools that have high concentrations of children from low-income families as eligible to participate in Title I programs. (ESEA § 1113). ESEA § 1117 requires participating LEAs, in consultation with appropriate non-public school officials, to provide eligible children attending non-public non-profit elementary and secondary schools, their teachers, and their families with Title I services or other benefits that are equitable to those provided to eligible public school children, their teachers, and their families. 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 as described in earlier sections of this toolkit. Title I, Part A services for non-public school students must be developed in consultation with officials of nonpublic schools.

### *Calculating the Title I Part A Proportionate Share*

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 area, based on the number of children that are eligible under Title I, Part A requirements. An LEA must apply the proportion used to calculate the proportional share to its entire Title I allocation (including any Title II, Part A or Title IV, Part A funds that an LEA transfers into Title I, Part A) before it reserves any funds for other purposes, including all reservations the ESEA requires or authorizes an LEA to take off the top of its Title I allocation, such as reservations for administration, parent and family engagement, children in institutions for neglected or delinquent children, homeless children and youth, and LEA-wide initiatives. (ESEA 1117(a)(4)(A)).

Title I, Part A requires an LEA to determine an accurate count of **children from low-income families who attend public and non-public schools and reside in participating Title I public school attendance areas** in order to allocate the proportional share. This sets forth a student residency requirement, rather than a school location requirement, for receipt of equitable services under Title I, Part A. Low-achieving students who live in a participating Title I public school attendance area are eligible for services and, therefore, the LEA where the **student** resides is responsible for providing equitable services.

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. Some children might attend non-public schools that are located outside the boundaries of the LEA. The LEA is responsible for providing services for those children too. It is



the responsibility of the LEA where the eligible student (not school) resides to initially contact the non-public school(s).

In order to calculate the Title I, Part A proportionate share for non-public schools, an LEA needs two pieces of information:

1. The number of non-public school students who reside in each Title I, Part A school attendance area  
*and*
2. The number of those students who are low-income.

To determine which non-public school students reside in a Title I, Part A school attendance area, an LEA must obtain the names, addresses, and grade levels of non-public school students. Under ESSA § 1120(c), an LEA may calculate the number of non-public school children who are from low-income families in several ways:

- 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.
- 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. (34 C.F.R. § 200.64(a)(3)(i)(B)(2)).
  - The survey must, to the extent possible, protect the identity of families of non-public school students.
- 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).

- 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.

In summary, the steps to determine the Title I, Part A proportionate share amount are calculated as follows:

- The LEA determines the participating public school attendance area of Title I schools only.
- The LEA determines the number of children from low-income families residing in each participating area (Title I schools) who attend non-public schools.
- The LEA applies the non-public school proportion to LEA's total Title I allocation to determine the equitable services proportionate share.

For example, an LEA with four Title I public school attendance areas and a total Title I, Part A allocation of \$1,000,000 would determine the total amount for Title I equitable services activities (proportionate share) as follows:

<b>Example of Formula to Determine Amount for of Title I, Part A Equitable Services</b>			
Public School Attendance Area	Number of Public School <b>Low-Income</b> Children	Number of Non-Public School <b>Low-Income</b> Children	Total Number of <b>Low-Income</b> Children
School A	500	120	620
School B	300	9	309
School C	200	6	206
School D	350	15	265
<b>Total</b>	<b>1350</b>	<b>150</b>	<b>1500</b>
Proportionate Share percentage <i>150/1500=10%</i>	90%	10%	
	\$900,000	\$100,000	

### ***Title I, Part A Eligibility for Services***

Once an LEA determines the proportionate share, it must then determine, in consultation with non-public school officials, which non-public school students are eligible to receive Title I, Part A services. ESEA §1117 requires participating LEAs to provide eligible children attending non-public non-profit 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.

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 identified by the LEA as low achieving on the basis of multiple, educationally related, objective criteria.

In addition, under ESEA § 1115(c)(2) states that children may be identified as eligible for services solely by virtue of their status as follows: homeless children; children who in the preceding two years had participated in Head Start, a literacy program under Title II, Part B, Subpart 2, a Title I preschool program, or a Title I, Part C (Migrant Education) program; and children in a local institution for neglected or delinquent children and youth or attending a community day program for such children. (ESEA § 1115(c)(2)(B)-(E)).

**In short, a student does not have to be low-income to receive Title I, Part A equitable services.** Eligible non-public school children are children who reside in a participating Title I public school attendance area and are low achieving or those who qualify under ESEA § 1115(c)(2).

**NOTE:** *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 services on elementary schools (K-5) only, the non-public is not restricted to serve only grades K-5. The non-public could serve eligible students in additional grade spans if determined through consultation and collaboration.*

## ***Criteria for Eligibility for Services***

In consultation with non-public school officials, an LEA must establish multiple, educationally related, objective criteria to determine which non-public school children are eligible for Title I services, and, within the eligible group, identify those children in greatest academic need who will be served. (ESEA § 1115(a), (c)(1)(B)).

An LEA, in consultation with appropriate non-public school officials, may use criteria such as achievement tests, teacher referrals and recommendations based on objective, educationally related criteria, grades, and more to identify non-public school children who are most in need of Title I, Part A services. Note that these criteria may differ from the criteria an LEA uses to identify public school students for services. Specific examples include:

### ***For Kindergarten through 2nd Grade***

- teacher judgment,
- interviews with parents, and
- developmentally appropriate measures.

### ***For 3rd Grade through 12th Grade***

- achievement test scores,
- report card grades, and
- teacher referral.

## ***Summary of Title I, Part A Non-Public School Eligibility Requirements***

The table below summarizes the residency, income, and academic eligibility requirements for Title I, Part A equitable services.

<b>Title I <u>Fund Generators</u> Used to Determine the Proportionate Share</b>	<b>Non-Public Students who are <u>Eligible for Title I Services</u></b>
Non-public school students who: <ul style="list-style-type: none"> <li>• are from low-income families and</li> <li>• live in a participating Title I school attendance area.</li> </ul>	Non-public students who: <ul style="list-style-type: none"> <li>• live in a participating Title I public school attendance area and</li> <li>• are low-achieving or</li> <li>• non-public students noted in ESEA § 1115(c)(2)</li> </ul>
<b>Title I Eligible Students Include:</b>	
<ul style="list-style-type: none"> <li>• Those who attend a non-public school within the LEA in which they reside and</li> <li>• Those who attend a non-public school outside of the LEA in which they reside</li> </ul>	

## ***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. Title I, Part A requires an LEA to reserve and spend at least 1 percent of its Title I allocation to carry out required Title I parent and family engagement activities if the LEA's Title I allocation exceeds \$500,000.

To determine the minimum amount, it must spend on parent and family engagement activities, an LEA must calculate 1 percent of its total Title I allocation. The LEA then applies the proportionate share percentage for services to non-public school students to determine how much it must spend for parent and family engagement activities for the parents and families of eligible non-public school students. The LEA must then spend that amount from the proportion of its Title I allocation for equitable services for non-public school children.

## ***Allowable Services and Activities under Title I, Part A***

According to ESSA, **Title I services or other benefits, including materials and equipment, must be secular, neutral, and nonideological** (ESEA § 1117(a)(2)). Title I, Part A non-public school participants must be provided with services that meet their educational needs. These needs may be met through a variety of services delivery mechanisms, discussed during the consultation process, such as pull-out tutoring or intervention during the regular school day, before or after school instruction, or summer school classes. Overall, Title I, Part A funds should be expended to implement evidence-based programs that help students

improve their academic achievement in the regular non-public school classroom (i.e., reading, mathematics, etc.). Title I, Part A program expenditures can include the following:

- Books, materials, and equipment necessary to implement the Title I, Part A program (The LEA must retain title to the books, other materials, and equipment purchased with Title I, Part A funds. Each item must be processed through the LEAs inventory system and labeled to show the item is property of the school district.
- Supplemental instruction outside the regular classroom,
- Extended learning time (before and after school, summer and Saturday programs),
- Family literacy programs,
- Early childhood education programs,
- Counseling,
- Home tutoring,
- Instruction using take-home computers,
- Computer-assisted instruction, and
- Combinations of services listed above.

### ***Allowable Title I, Part A Professional Development for Teachers and Staff Members***

Professional development is a major emphasis in Title I, Part A. The professional development activities offered to non-public school teachers should reflect not only the needs of the children being served by the Title I, Part A program but also the skills and knowledge that non-public school teachers need in the classroom to better instruct the Title I children. Both LEAs and third-party providers should use the consultation process to ensure that the professional development activities for non-public school teachers are designed to help Title I, Part A children in their regular classroom. Activities for the teachers of non-public school participants must be planned in meaningful consultation with non-public school officials prior to implementation.

The professional development activities for non-public school teachers of participating students should be ongoing and activities should address how these teachers can serve better their students who are at risk of failing. For example, a professional development activity could provide information on research-based reading and mathematics instruction for at-risk children. It is prohibited to use Title I, Part A funds for activities that are designed to upgrade the instructional program in the regular classroom of the non-public school or meet the general needs of children in non-public schools.

### ***Title I, Part A Resources***

- [ESSA Title I, Part A Statue](#)
- [Ensuring Equitable Services to Non-public School Children A Title I Resources Toolkit](#) (This resource was developed by ED under No Child Left Behind, but still contains relevant information and tools)
- [Title I, Part A Providing Equitable Services to Non-Public Schools No-Regulatory Guidance](#)

## Title I, Part C

The purpose of the Title I, Part C Migrant Education Program (MEP) is to provide high-quality, comprehensive supplemental educational programs and services during the school year and, as applicable, during the summer or intersession periods, that address the unique educational needs of eligible migratory children who have not attained either a high school diploma or High School Equivalency Diploma (GED). All LEAs that accept Title I, Part C funds and have identified migratory children with unmet needs are expected to implement supplemental instructional and/or support services, during the regular school year and summer months, using the funds awarded to the LEA. The MEP shall:

- Provide high-quality, comprehensive educational programs for migratory children to help reduce the educational disruptions and other problems that result from repeated moves;
- Ensure that migratory children who move among the states are not penalized in any manner by disparities among the states in curriculum, graduation requirements, and state academic content and student academic achievement standards;
- Ensure that migratory children are provided with appropriate educational services (including supportive services) that address their unique needs in a coordinated and efficient manner;
- Ensure that migratory children receive full and appropriate opportunities to meet the same challenging state academic content and student academic achievement standards that all children are expected to meet;
- Design programs to help migratory children overcome educational disruption, cultural and language barriers, social isolation, various health-related problems, and other factors that inhibit the ability of such children to do well in school;
- Ensure that all migrant students graduate with a high school diploma (or complete a General Education Diploma) that prepares them for responsible citizenship, further learning, and productive employment; and
- Ensure that migratory children benefit from state and local systemic reforms. (ESEA Title I, Part C § 1301)

### ***Title I, Part C Eligibility***

According to Title I, Part C §§ 1115(b)(1)(A) and 1309(2), a child is eligible for the services provided by the Migrant Education Program (MEP) if the following conditions are met:

1. The child is between 3 and 21 years of age; and
2. The child is entitled to a free public education (through grade 12) under state law or is below the age of compulsory school attendance; and
3. The child is a migratory agricultural worker or a migratory fisher, or the child has a parent, spouse, or guardian who is a migratory agricultural worker or a migratory fisher; and
4. The child or child's parent(s) moved within the preceding 36 months in order to seek or obtain qualifying work, or to accompany or join the migratory agricultural worker or migratory fisher identified in condition 3, above, in order to seek or obtain qualifying work; and

5. With regard to the move identified in condition 4, above, the child has moved from one LEA to another.

All LEAs and schools in Tennessee use the Occupational Survey (OS) form as the first step in the Identification and recruitment (ID&R) process. The form is issued to each student annually during new student registration or back-to-school registration. As explained in the [Occupational Survey Protocol](#), the survey is completed by a parent or guardian, is returned to the LEA, and submitted to the state MEP contractor through [tn.msedd.com](http://tn.msedd.com). Copies of the OS, including versions in multiple other languages, can be found on the [Tennessee Migrant Education Program website](#) and in the Title I, Part C folder in [ePlan > TDOE Resources](#). More information on the identification of migratory students attending non-public schools can be found in [here](#).

### ***Calculating the Title I, Part C Proportionate Share***

ESSA § 8501(a)(4) requires for educational services and benefits for eligible non-public school children, their teachers, and other educational personnel serving those children, under Title I, Part C, be equal to expenditures for the public school program, taking into account the number and educational needs of the children being serviced.

Non-public school students generally must receive an equitable amount “off the top” of the Title I, Part C allocation before calculating funds for public school students. Non-public schools participating in Title I, Part C having identified migrant students are entitled to the Title I, Part C per student allocation less the allowable Title I, Part A administrative/indirect rate of no more than 2%.

<b>Example of Formula to Determine Amount For Title I, Part C Equitable Expenditures</b>	
<b>A. Number of Migrant Students</b>	
A1: LEA Identified Migrant Student Enrollment	970
A2: Participating Non-public Schools Identified Migrant Student Enrollment	30
A3: Total Identified Migrant Student Enrollment = A1 + A2	1,000
<b>B. Title I, Part C Allocation</b>	
B1: Total LEA Allocation	\$150,000
B2: 2% Administrative Costs (for public and non-public school programs)	\$3,000
B3: LEA Allocation Minus Admin Costs = B1-B2	\$147,000
<b>C. Per Pupil Rate</b>	
C1: B3 divided by A3	\$147.00
<b>D. Equitable Services</b>	
Amount LEA must reserve for equitable services for non-public school teachers and other educational personnel = A2 x C1	\$4,410



## ***Allowable Services and Activities under Title I, Part C***

Under ESEA, LEAs that receive Title I, Part C funding must provide equitable services to eligible migratory non-public school students, their teachers, and other educational personnel. After timely and meaningful consultation with appropriate non-public school officials, LEAs must:

- Provide appropriate instructional services which may include evaluation services to determine progress, counseling, tutoring, special education services, or other benefits (such as dual or concurrent enrollment, technology devices, etc.) that address the student needs, and
- Ensure that teachers and families of these children participate on an equitable basis in services and parent and family engagement activities.

### ***Special Considerations***

There are multiple steps involved in identifying migratory students. LEAs should consult the [Title I, Part C Equitable Services guidance document](#) for next steps if a non-public school indicates that they may have migratory students. Contact [Terry.Garrett@tn.gov](mailto:Terry.Garrett@tn.gov) and [Hannah.Gribble@tn.gov](mailto:Hannah.Gribble@tn.gov) with questions about the MEP.

### ***Title I, Part C Resources***

- [Title I, Part C Migrant Education Program Guide](#)
- [Tennessee Migrant Education Program: Suggested Use of MEP Funds](#)
- [Title I, Part C Equitable Services Guidance Document](#)
- [TN MEP – Resources for School Districts](#)
- [Title I, Part C Non-Regulatory Guidance](#)

## **Title II, Part A**

### ***Overview***

The purpose of Title II, Part A under the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA), is to

- Increase student achievement consistent with challenging state academic standards;
- Improve the quality and effectiveness of teachers, principals, and other school leaders;
- Increase the number of teachers, principals, and other school leaders who are effective in improving student academic achievement in schools; and
- Provide students from low-income families and minority students greater access to highly effective teachers.

### ***Title II, Part A Eligibility***

ESEA § 8101(44) requires participating LEAs, in consultation with appropriate non-public school officials, to provide non-public non-profit teachers, principals, and other school leaders to educational services and other benefits that are equitable to those provided to eligible public school teachers, principals, and school leaders. Additionally, under § 2103(b)(3)(I), Title II, Part A funds may be used for training for all school

personnel in addressing issues related to school conditions for student learning such as safety, peer interactions, drug and alcohol abuse and chronic absenteeism.

To qualify for Title II, Part A services, a non-public school must:

- Have students who reside in an LEA receiving Title II, Part A funding.

### ***Calculating the Title II, Part A Proportionate Share***

ESSA § 8501(a)(4) requires that expenditures for educational services and other benefits for eligible non-public school children, their teachers, and other educational personnel serving those children, under Title II, Part A, be equal to expenditures for the public school program (taking into account the number and educational needs of the children to be served). Therefore, the total K-12 enrollment of the non-public school should be used when calculating the Title II, Part A proportionate share. The amount an LEA must reserve to provide equitable services for non-public school educators for Title II, Part A is based on the LEA's total Title II, Part A allocation, less administrative costs. Non-public schools generally must receive an equitable amount "off the top" of the Title II allocation before calculating funds for public school students.

<b>Example of Formula To Determine Amount For Title II, Part A Equitable Services</b>	
<b>A. Number of Students</b>	
A1: LEA Enrollment	900
A2: Participating Non-public 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 non-public 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 non-public school teachers and other educational personnel = A2 x C1	\$95,000

### ***Allowable Services and Activities under Title II, Part A***

An LEA may use Title II, Part A funds to provide professional development activities for educators to address the specific needs of non-public school children. In addition to professional development, there may be other permissible uses of Title II, Part A funds for the benefit of non-public school educators. For example, ESEA §§ 2103(b)(3)(H), (I), (J), (K), and (L) allow training for

- selecting and implementing formative and classroom-based assessments;
- identifying gifted and talented children;
- mental health support;

- supporting instructional services provided by effective school library programs; and
- Preventing and recognizing child sexual abuse.  
preventing and recognizing child sexual abuse.

Additionally, ESEA § 2103(b)(3)(I) allows in-service training for school personnel related to techniques and supports necessary to facilitate student access to appropriate mental health services, and training to improve school conditions for student learning.

However, an LEA may not use Title II, Part A funds for equitable services to reduce the class size (ESEA § 2103(b)(3)(D)) in a non-public school because using the funds reserved for equitable services for contracts for non-public school teachers and staff would be inconsistent with the requirements in ESEA § 8501(d) regarding public control of funds and the supervision and control of employees or contractors and the requirement that equitable services address specific identified needs of students and educators rather than the general needs of a non-public school (34 C.F.R. § 299.8(b)(1)).

**Definition of Professional Development** ESEA § 8101(42), requires that professional development activities are (1) part of the strategy for providing educators with the knowledge and skills necessary to enable children to succeed in a well-rounded education and (2) sustained (not stand-alone, 1-day, or short-term workshops), intensive, collaborative, job-embedded, data driven, and classroom focused.

## ***Considerations for Professional Development***

An LEA must consider the following:

- Does the professional development meet the definition of “professional development?” (ESEA § 8101(42)).
- Is the professional development evidence-based, where applicable? (ESEA § 8101(21)).
- Is the professional development reasonable and necessary in order to provide Title II, Part A equitable services? ( 2 C.F.R. § 200.403).
- Does the professional development supplement, and not supplant, professional development that would have otherwise been provided to non-public school teachers, principals, and other school leaders? (ESEA § 2301).

## ***Special Considerations***

The ESEA does not require Title II, Part A-funded professional development for non-public school teachers to be aligned with State or LEA goals or strategic plans. If the needs of eligible non-public school children and educators are different from the needs of public school children and educators, an LEA must provide different services and other benefits. (34 C.F.R. § 299.7(c)).

However, there are some things to consider when approving professional development for a non-public school. They include:

- **Conferences that are short-term or stand-alone events.**

- A conference would not be allowable under Title II, Part A unless there are additional components for further integration into a comprehensive plan for professional development for a teacher or teachers. The non-public school official should demonstrate, through consultation with an LEA, that attendance at a short-term conference is part of a sustained and comprehensive professional development plan for a teacher that meets these Title II, Part A requirements, including the statutory definition of professional development.
- Activities under ESEA §§ 2103(b)(3)(H), (I), (J), (K), and (L) do not need to meet the definition of professional development. This includes training for selecting and implementing formative and classroom-based assessments, for identifying gifted and talented children, for mental health support, for supporting instructional services provided by effective school library programs, and for preventing and recognizing child sexual abuse
- **Conferences should be secular in nature, but conferences conducted by religious organizations often include both secular and religious content.**
  - If an otherwise allowable professional conference is conducted by a religious organization, an LEA may pay only for a teacher's participation in that portion of the conference program that is secular, neutral, and nonideological. In determining the costs associated with a non-public school teacher's participation in the conference, an LEA would need to:
    - determine the sessions of the conference that provide secular, neutral, and nonideological professional development;
    - have the teacher document participation in such program sessions in such a way that the LEA is able to determine the percentage of the teacher's overall time spent attending those sessions; and
    - apply that percentage against the overall cost of attending the conference as a whole.
  - All costs must be allocable to the Federal program (2 C.F.R. § 200.405).
  - For professional development activities, whether in-person or via a virtual/online format, an LEA might require that a non-public school teacher provide both titles and descriptions of the sessions the teacher expects to attend, as well as some form of verification that the teacher participated in the sessions.
- An LEA must administer and retain control over Title II, Part A funds, and services must be provided by the LEA or through a contract between the LEA and a third-party provider. (ESEA § 8501(d)).

## ***Title II Resources***

- [Title II, Part A Non-Regulatory Guidance](#)
- [Title II, Part A Overview and Allowable Use of Funds](#)
- [Effective Use of Title II, Part A Presentation](#)
- [Optional Title II, Part A Activity Evaluation Form](#)

## Title III, Part A

### **Overview**

The purpose of Title III, Part A under the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA), includes:

- Ensuring that English Learners (ELs), including immigrant children and youth, attain English proficiency and develop high levels of academics achievement in English;
- Assisting ELs, including immigrant children and youth, to achieve at high levels in academic subjects;
- Assisting teachers, principals, and other school leaders in establishing, implementing, and sustaining effective language instruction educational programs;
- Assisting teachers, principals, and other school leaders to develop and enhance their capacity to provide effective language instruction educational programs; and
- Promoting parental, family, and community participation in language instruction educational programs for the parents, families, and communities of ELs.

### ***Title III, Part A Eligibility***

To be eligible for Title III, Part A services for immigrant children and youth, a non-public school student must be enrolled in a nonprofit non-public or secondary school in the geographic area served by an LEA that receives a Title III, Part A subgrant for immigrant children and youth, and must meet the definition of an immigrant children and youth under ESEA § 3210(5).

### ***Calculating the Proportionate Share under Title III, Part A***

ESSA § 8501(a)(4) requires for educational services and benefits for eligible non-public school children, their teachers, and other educational personnel serving those children, under Title III, Part A, be equal to expenditures for the public school program, taking into account the number and educational needs of the children being serviced.

Non-public school students generally must receive an equitable amount “off the top” of the Title III allocation before calculating funds for public school students. Non-public schools participating in Title III having identified English learners are entitled to the Title III per student allocation less the allowable Title III administrative/indirect rate of no more than 2%.

<b>Example of Formula to Determine Amount For Title III, Part A Equitable Expenditures</b>	
<b>A. Number of English Learners</b>	
A1: LEA Identified EL Student Enrollment	100
A2: Participating Non-public Schools Identified EL Student Enrollment	10
A3: Total Identified EL Student Enrollment = A1 + A2	110
<b>B. Title III, Part A Allocation</b>	
B1: Total LEA Allocation	\$15,000
B2: 2% Administrative Costs (for public and non-public school programs)	\$300
B3: LEA Allocation Minus Admin Costs = B1-B2	\$14,700
<b>C. Per Pupil Rate</b>	
C1: B3 divided by A3	\$134
<b>D. Equitable Services</b>	
Amount LEA must reserve for equitable services for non-public school teachers and other educational personnel = A2 x C1	\$1340

### ***Allowable Services and Activities under Title III, Part A***

- Tutoring for ELs before, during or after school;
- Professional development for the teachers of EL students;
- Summer school programs to provide English instruction to ELs;
- Administration of an English Language Proficiency (ELP) assessment for identification of English Language Services (ELS) and/or for the purpose of evaluating the effectiveness of services;
- Provision of supplemental instructional materials and supplies (must be supplemental to what the non-public school would provide in the absence of Title III, Part A services and must be secular, neutral and non-ideological.)
- Allowable service providers include:
  - LEA employees or contracts for direct services (teacher, speaker, facilitator, etc.)
    - An LEA-employed teacher who meets state licensing requirements for the assignment.
    - A non-public school teacher may be employed by the LEA to provide Title III, Part A services outside of the time they are employed by the non-public school and under the supervision of the LEA.
    - Professional organizations or qualified individuals can provide services through trainings, professional development sessions, or conferences.
    - An LEA-procured contractor who is independent of the non-public school.

As noted above, non-public school teachers and other educational personnel who instruct non-public school ELs may receive professional development under Title III, Part A. The extent to which non-public school teachers and other educational personnel would receive professional development under Title III, Part A would be determined during the consultation process.

### ***Special Considerations***

- LEA Title III funding can never be used to identify ELs in public school districts. However, Title III funding for the non-public schools can be used to identify eligible ELs in the non-public school. If these services are provided, the non-public may use procedures similar to those used by public schools to identify students eligible for Title III services. **The LEA must provide oversight of the initial identification including the use of objective and reliable criteria.**
- The LEA and the non-public staff should use data, coordination, and consultation to develop a high-quality program. The program must meet the needs of the ELs in attaining proficiency in English and meeting the challenging state academic standards.
- The Title III program design is not required to be the same for both the LEA and the non-public school. All Title III LEA programs must have three separate elements: family and community engagement; language instruction educational program; and professional development. However, the Title III program at the non-public does not require all three elements.
- The program and services provided must not duplicate any current services provided by the non-public school.
- Direct language support for identified students can take place:
  - in the non-public school, public school, or home
  - during the school day, before or after school, during the summer

### ***Title III, Part A Resources***

- [English as a Second Language \(ESL\) Manual](#)
- [Title III Allowability Guide](#)
- [Title III Non-regulatory Guidance](#)

## **Title IV, Part A**

### ***Overview***

The purpose of Title IV, Part A under the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA), includes:

- Expanding student support and academic enrichment by increasing student access to a well-rounded education;
- Improving school conditions for safe and healthy student learning; and
- Improving the effective use of technology



### ***Title IV, Part A Eligibility***

ESEA § 8101(44) requires participating LEAs, in consultation with appropriate non-public school officials, to provide non-public non-profit teachers, principals, and other school leaders to educational services and other benefits that are equitable to those provided to eligible public school teachers, principals, and school leaders. To qualify for Title IV, Part A services, a non-public school must:

- Have students who reside in an LEA receiving Title IV, Part A funding (ESEA § 8501(a)(1), (4)(A))

### ***Calculating the Proportionate Share Under Title IV, Part A***

**ESSA § 8501(a)(4)** requires that expenditures for educational services and other benefits for eligible non-public school children, their teachers, and other educational personnel serving those children, under Title IV, Part A, be equal to expenditures for public school program, taking into account the number and educational needs of the children to be served. Therefore, the **total K-12 enrollment** of the non-public school should be used when calculating the Title IV, Part A proportionate share. The amount an LEA must reserve to provide equitable services for non-public school educators for Title II, Part A is based on the LEA's total Title II, Part A allocation, less administrative costs. Non-Public school generally must receive an equitable amount "off the top" of the Title IV allocation before calculating funds for public school students.

<b>Example of Formula to Determine Amount for Title IV, Part A Equitable Expenditures</b>	
<b>A. Number of Students</b>	
A1: LEA Enrollment	900
A2: Participating Non-public Schools Enrollment	100
A3: Total Enrollment = A1 + A2	1,000
<b>B. Title IV, Part A Allocation</b>	
B1: Total LEA Allocation	\$10,000
B2: 2% Administrative Costs (for public and non-public school programs)	\$200
B3: LEA Allocation Minus Admin Costs = B1-B2	\$9,800
<b>C. Per Pupil Rate</b>	
C1: B3 divided by A3	\$9.80
<b>D. Equitable Services</b>	
Amount LEA must reserve for equitable services for non-public school teachers and other educational personnel = A2 x C1	\$980

### ***Title IV, Part A Program Specific Funding Requirements***

- LEAs with a Title IV award over \$30,000 must spend at least 20% of the award on Well-Rounded Education activities, 20% on Safe and Healthy Students activities and a portion of funds on the

Effective Use of Technology. These percentages include the non-public equitable share, even though there is no minimum spending requirements for non-public services.

- LEAs with awards over \$30,000 must spend at least 20% of the award on Well-Rounded Education activities and 20% on Safe and Healthy Students activities. These percentages include the nonpublic equitable share though there is no minimum spending requirements for nonpublic services.
- No more than 15% of funds in the Effective use of Technology area may be spent on technology infrastructure, including, but not limited to: devices, equipment, software applications, platforms, digital instructional resources, and/or other one-time IT purchases. This includes the non-public equitable share. Note that this 15% cap is on the total amount spent in this category for both public and non-public services, not of the total award.

## ***Allowable Services and Activities under Title IV, Part A***

### **Well-Rounded Educational Opportunities**

The first purpose of the Title IV, Part A program is to provide all students with a well-rounded education and access to an enriched curriculum and educational experiences. A well-rounded education:

- helps students make important connections among their studies, their curiosities, their passions, and the skills they need to become critical thinkers and productive members of society.
- promotes a diverse set of learning experiences that engage students across a variety of course activities and programs.

Programs, subjects, and activities that support a well-rounded education may include, but are not limited to:

- |   |  |
|---|--|
| • English   | • Arts                                 |
| • Reading language arts                           | • History                              |
| • Writing   | • Career and technical education (CTE) |
| • Science, technology, engineering, & math (STEM) | • Music                                |
| • Mathematics                                     | • Health and physical education        |
| • Civics and government                           | • College and career counseling        |
| • Economics                                       | • Social-emotional learning            |
| • Geography                                       | • Environmental education              |
| • Foreign languages                               | • Accelerated learning programs        |
| • Computer science                                |  |

### **Safe and Healthy Students**

The second purpose of the Title IV, Part A program is to improve school conditions for student learning. Funds may be used for any program or activity that fosters safe, healthy, supportive, and drug-free school environments, including direct student services and professional development and training for school staff. Programs, subjects, and activities that support safe and healthy students can be authorized by topic and may include, but are not limited to:

Safe and Supportive Schools	Student Physical and Mental Health
<ul style="list-style-type: none"> <li>• Preventing bullying and harassment</li> <li>• Relationship-building skills</li> <li>• School dropout prevention</li> <li>• Re-entry programs &amp; transition services for justice-involved youth</li> <li>• School readiness and academic success</li> <li>• Child sexual abuse awareness and prevention</li> <li>• Reducing use of exclusionary discipline practices &amp; promoting supportive school discipline</li> <li>• Suicide prevention</li> <li>• Building school and community relationships</li> <li>• Culturally responsive teaching and PD on implicit bias</li> </ul>	<ul style="list-style-type: none"> <li>• Drug and violence prevention</li> <li>• Health and safety practices in school athletic programs</li> <li>• School-based health and mental health services</li> <li>• Healthy, active lifestyle, nutritional education</li> <li>• Physical activities</li> <li>• Trauma-informed classroom management</li> <li>• Preventing use of alcohol, tobacco, smokeless tobacco, electronic cigarettes</li> <li>• Chronic disease management</li> </ul>

### Effective Use of Technology

The third purpose of the Title IV, Part A grant is to improve the use of technology and thus improve the academic achievement and digital literacy of all students. When carefully designed and thoughtfully applied, technology can accelerate, amplify, and expand the impact of effective practices that support student learning, increase community engagement, foster safe and healthy environments, and enable well-rounded educational opportunities.

Title IV, Part A program funds may be used to provide educators, school leaders, and administrators with the professional learning tools, devices, content, and resources to do the following activities, among other allowable uses:

- Provide personalized learning;
- Discover, adapt, and share high-quality resources;
- Implement blended learning strategies; and
- Implement school- and district-wide approaches to inform instruction, support teacher collaboration, and personalize learning.

As noted above, a special rule within ESSA states that no more than 15 percent of funds in this content area may be spent on technology infrastructure, including but not limited to: devices, equipment, software applications, platforms, digital instructional resources, and/or other one-time IT purchases.

### Special Considerations

The ESEA does not require Title IV, Part A-funded professional development for non-public school teachers to be aligned with State or LEA goals or strategic plans. If the needs of eligible non-public school children and educators are different from the needs of public school children and educators, an LEA must provide different services and other benefits. (34 C.F.R. § 299.7(c)). LEAs should make the same considerations for professional development under Title IV that are noted in the Title II section of this document.

## ***Title IV, Part A Resources***

- [Optional Title IV Activity Evaluation Form](#)
- [Title IV, Part A Q&A](#)
- [Title IV, Part A Student Support and Academic Enrichment Presentation](#)
- [Title IV, Part A Non-Regulatory Guidance](#)

## **Title IV, Part B**

### ***Overview***

The purpose of the Title IV, Part B Nita M. Lowey 21st Century Community Learning Centers (21st CCLC) program is to establish or expand community learning centers that provide students with academic enrichment opportunities along with activities designed to complement the students' regular academic program. This may include:

- Tutoring and mentoring
- Homework assistance
- Academic enrichment
- Community service activities
- Supplemental activities in music, art, sports, cultural enrichment

**NOTE:** A detailed questions and answers document on Title IV, Part B equitable services can be founds [here](#).

### ***Title IV, Part B Eligibility***

Any public or non-public organization is eligible to apply for a 21st CCLC grant. Examples of agencies and organizations eligible under the 21st CCLC program include, but are not limited to: non-profit agencies, city or county government agencies, faith-based organizations, institutions of higher education, and for-profit corporations. The statute encourages eligible organizations applying for funds to collaborate with the schools the children attend. The statute also allows a consortium of two or more agencies, organizations or entities to apply. The requirement to provide for the equitable participation of eligible non-public school children and educators applies regardless of whether a grantee is an LEA, community-based organization (CBO), or other eligible entity.

To qualify for Title IV, Part B equitable services, a non-public school must:

- Have students who reside in the area and are of the same grade levels as public students served by the grant.

### ***Calculating the Title IV, Part B proportionate Share***

A 21st CCLC grantee must ensure that expenditures for equitable services for eligible non-public schools are equal on a per-pupil basis to the expenditures for participating public school children and educators, taking into account the number and educational needs of the eligible non-public school children and educators. (ESEA § 8501(a)(4); 34 C.F.R. § 299.7(a)). After timely and meaningful consultation with appropriate non-public school officials, a grantee could:

- Choose to calculate equal expenditures strictly on the basis of the relative enrollment of students in public schools and private schools, assuming the needs are similar, that have indicated their willingness to participate in the 21st CCLC program on the assumption that these numbers accurately reflect the relative needs of children and educators in public and private schools, or
- Choose to use other factors relating to the needs of public and private school children and not base its equal expenditures only on relative enrollments.
  - For example, if a grantee targets its program on a specific subgroup of students (e.g., ELs, low achieving students from low-income families), the LEA would use the number of eligible children in the defined subgroup enrolled in both public and private schools.

In the case of a 21st CCLC program that is open to all children within the CBO's service area and has sufficient funding to serve all children interested in participating, the equal expenditures requirement would be met because the program is open to all eligible students and each participating student would receive the same amount of services.

### ***Allowable Services and Activities under Title IV, Part B***

Each eligible organization that receives an award may use the funds to carry out a broad array of before- and after-school activities (or activities during other times when school is not in session) that advance student achievement. Local grantees are limited to providing activities within the following list:

- Remedial education activities and academic enrichment learning programs, including providing additional assistance to students to allow the students to improve their academic achievement;
- Mathematics and science education activities;
- Arts and music education activities;
- Entrepreneurial education programs;
- Tutoring services (including those provided by senior citizen volunteers) and mentoring programs;
- Programs that provide after-school activities for limited English proficient students that emphasize language skills and academic achievement;
- Recreational activities;
- Telecommunications and technology education programs;
- Expanded library service hours;
- Programs that promote parental involvement and family literacy;
- Programs that provide assistance to students who have been truant, suspended, or expelled, to allow the students to improve their academic achievement; and
- Drug and violence prevention programs, counseling programs, and character education programs

### ***Special Considerations***

- 21st CCLC grantees should consult the [Title IV, Part B Equitable Services Questions and Answers](#) document if there are eligible non-public schools located within the boundaries served by the grant.
- Consultation with non-public schools must start *before* the agency applies for the grant in order for the subgrantee to consider the needs of non-public schools in their application.
- Consultation must also be on-going and continue throughout the five year grant period. (ESEA § 8501(a)(3)(A), (c)(3)). Even if the non-public school initially declined Title IV, B services; there must still be an annual notice and intent to participate application.
- 21st CCLC program services may be provided in a public school, non-public school, or other facility that is safe and easily accessible. (ESEA § 4204(b)(2)(A)(i)).

### ***Title IV, Part B Resources***

- [Title IV, Part B - 21st CCLC Equitable Services Questions and Answers](#)
- [Extended Learning Program Manual](#)
- [21st CCLC Intent to Participate](#)
- [21st CCLC Affirmation and Final Agreement Form](#)

## Timeline for ESSA Equitable Services

In summary, Under ESEA, as authorized by ESSA, there are a number of programs that require equitable participation of non-public school students and teachers. The requirement of providing equitable services is achieved through timely and meaningful consultation between the LEA and non-public school officials. The consultation process must occur prior to any decision that affects the opportunities of eligible non-public school students, teachers, and other educational personnel for equitable services. This consultation must be ongoing, continuing throughout the implementation and assessment of these activities. The table below provides a suggested timeline for a year of equitable services.

### *Equitable Services: A Year at a Glance*

<b>December- January</b>	<p><b>Intent to Participate</b></p> <ul style="list-style-type: none"> <li>The LEA should send the <a href="#">Intent to Participate Form</a> to eligible non-public schools within their boundaries or, for Title I, Part A, to those schools whose students reside in the LEA in anticipation of the upcoming school year.</li> <li>Information collected should be used to complete the non-public survey and the Consolidated Funding Application (CFA).</li> </ul> <p><b>Steps:</b></p> <ol style="list-style-type: none"> <li>Send the <a href="#">Intent to Participate Form</a> to all eligible non-public schools, including a clear and reasonable deadline for submission. (No later than January 15)</li> <li>Follow up and make sure that non-public schools receive the form. If the non-public school is unresponsive, follow up using at least three (3) modes of communication (i.e. phone, email, certified mail, in-person visit, etc.). Be sure to document all communication attempts.</li> <li>Assist non-public schools as needed in the completion of the intent form.</li> <li>Collect completed intent forms and prepare for the Non-Public Survey.</li> </ol>
<b>January - February</b>	<p><b>The Non-Public Survey</b></p> <ul style="list-style-type: none"> <li>The <a href="#">Non-Public School Survey</a> is typically available in ePlan in mid-January and is due in mid-February.</li> <li>Survey responses generate information needed for the CFA and will be used to inform allocations for IDEA; Title I, Part A; Title I, Part C; Title II; Title III; and Title IV, Part A.</li> </ul> <p><b>Steps:</b></p> <ol style="list-style-type: none"> <li>Collect <a href="#">Intent to Participate</a> forms from eligible non-public schools.</li> <li>Check the <a href="#">Non-Public School Directory</a>.</li> <li>Read <a href="#">Non-Public Survey guidance</a> in ePlan &gt; TDOE Resources.</li> <li>Update the Non-Public Survey in ePlan by the established due date (mid-February).</li> </ol>

<p><b>March - May</b></p>	<p><b>Affirmation of Meaningful Consultation</b></p> <ul style="list-style-type: none"> <li>ESSA 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 ESSA programs, and shall continue throughout the implementation and assessment of activities. (ESSA §1117 and §8501)</li> <li>LEAs should complete the applicable Affirmation of Meaningful Consultation Form* with non-public schools.</li> <li>The consultation process between public and non-public school officials regarding Title program services should result in a program designed to meet the educational needs of eligible nonpublic school children.</li> </ul> <p><b>Steps:</b></p> <ol style="list-style-type: none"> <li>Start consultation meetings in the spring in anticipation of the upcoming school year.</li> <li>Continue consulting with non-public schools over the spring and summer.</li> <li>Update CFA with information related to equitable services by May 1.</li> <li>If using the traditional forms, get ready to complete the final agreement by Sept. 15.</li> </ol> <p>*<a href="#">Combined</a> or <a href="#">Traditional Form</a> with <a href="#">Final Agreement</a></p>
<p><b>May-September</b></p>	<p><b>Final Agreement of Services</b></p> <p>LEAs are required to document that:</p> <ul style="list-style-type: none"> <li>meaningful consultation took place and</li> <li>a final agreement was reached between the LEA non-public school officials.</li> </ul> <p>Traditionally, the <a href="#">Affirmation of Meaningful Non-Public School Consultation</a> form is submitted in May with the CFA and the <a href="#">Final Agreement</a> is then uploaded to ePlan in by Sept. 15.</p> <p><b>Steps:</b></p> <ol style="list-style-type: none"> <li>Decide whether the LEA will use the Traditional Form or the <a href="#">Combined Form</a>.</li> <li>If using the Combined Form, upload the document to the CFA in May. If using the Traditional Form, upload final agreements to LEA Document Library by Sept. 15.</li> <li>Continue ongoing consultation and obligate services in a timely manner as requested from Non-Public School</li> </ol>



### Ongoing

#### Timely and Meaningful Consultation

Meaningful consultation between an LEA and appropriate non-public school officials 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.

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
- includes **evaluation** to ensure that the services provided meet the needs of eligible non-public school students, teachers and other education personnel, and families.

## Resources for Equitable Services

### ***TDOE Resources***

LEA and non-public school officials can find the resources highlighted in this toolkit in [ePlan](#), the state's grant management system. In the [TDOE Resources](#) tab of ePlan, there are multiple documents, presentations, and templates to assist those who are looking for information related to equitable services (**[ePlan.tn.gov](#) > TDOE Resources > Equitable Services to Non-Public Schools (CTE/ESSA/IDEA) > ESSA Non-Public Schools Information**)

## Appendix A: 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 (ESEA) of 1965, as amended by the Every Student Succeeds Act (ESSA), a non-public 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 non-public school students equitably.

### What must be included in a complaint?

Non-public 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 non-public school officials, or made decisions that treated non-public 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 [Michelle.Harless@tn.gov](mailto:Michelle.Harless@tn.gov).

### What happens to a complaint after it is received?

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 receipt. If necessary, an on-site review may be conducted. If appropriate, additional information may be gathered and forwarded to other appropriate offices or organizations.

If additional information is needed, the complainant and the LEA will be contacted. For this reason, a telephone number, address, and email address of the complainant must be included with the complaint. Failure to provide a telephone number, mailing address, and email address could result in the department not being able to adequately respond to the complaint.

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 school district. 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.

### **How can a complaint decision be appealed?**

The complainant can appeal the decision by the ombudsman by filing an appeal with the U.S. Secretary of Education within thirty (30) calendar days after the resolution of the complaint. If the forty-five (45) day time limit for response by the ombudsman has passed without a decision, the deadline for filing an appeal is thirty (30) calendar days after the forty-five (45) day deadline.

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.

# Equitable Services Complaint to the Ombudsman

Instructions: Please type or print legibly

Full name and position of individual(s) filing the complaint:		Full name of organization(s):	
Complainant mailing address:		Complainant phone number:	
School district against which the complaint is being filed:		Complainant email address:	
Did the district engage in consultation that was meaningful and timely?* <input type="checkbox"/> YES <input type="checkbox"/> NO			
Did the district give due consideration to the views of non-public school officials?* <input type="checkbox"/> YES <input type="checkbox"/> NO			
Did the district make decisions that treated non-public school students equitably?* <input type="checkbox"/> YES <input type="checkbox"/> NO			
*if the complainant checks "YES" to these questions, no formal complaint can proceed but the ombudsman will work with parties to resolve the issue informally			
Which title program(s) has allegedly been violated? Please check all that apply. <input type="checkbox"/> Title I-A <input type="checkbox"/> Title I-C <input type="checkbox"/> Title II-A <input type="checkbox"/> Title III-A <input type="checkbox"/> Title IV-A <input type="checkbox"/> Title IV-B			
Description of the allegation. (Please include specific dates, communication with school district personnel, and related facts to each of the title programs checked above):			
List names and telephone numbers of individuals who can provide additional information:			
Have efforts been made to resolve this complaint through the school district (required)? <input type="checkbox"/> YES <input type="checkbox"/> NO  If yes, please describe the steps taken:			
Has the complaint been filed with any other government agency? <input type="checkbox"/> YES <input type="checkbox"/> NO  If so, please provide the agency's name as well as the date filed:			
If the Tennessee Department of Education does not have jurisdiction to investigate this complaint, do you give permission to send this complaint to the federal and/or state department or agency that has jurisdiction? <input type="checkbox"/> YES <input type="checkbox"/> NO			

Signature of complainant:	Title of complainant:	Date:
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Return to the ombudsman and school district, along with  
the below **CONSENT FOR USE OF PERSONAL INFORMATION FORM** via email to  
[Michelle.Harless@tn.gov](mailto:Michelle.Harless@tn.gov).

## Equitable Services Complaint to the Ombudsman

### Consent for Use of Personal Information

I am aware that it is the policy of the Tennessee Department of Education, to the extent allowed by state law, to protect the identity of complainants who cooperate with the department's reviews and investigations. Because of the nature of equitable services complaints, I understand for this complaint to be investigated, it shall be necessary for the department to release my name and information about me to the school district that is the subject of this complaint. I understand the information I provide, as well as any information obtained during the review of this complaint, will also be available to any person within the department with a need to know its contents, and may be used for program analysis, review, evaluation, and statistical purposes.

I also understand that any information I provide is subject to any state law which allows any citizen of Tennessee to review the records maintained by the department.

Signature of complainant:	Title of complainant:	Date:

Return to the ombudsman and school district, along with the above **EQUITABLE SERVICES COMPLAINT TO THE OMBUDSMAN FORM** via email to [Michelle.Harless@tn.gov](mailto:Michelle.Harless@tn.gov).