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2026 Federal Programs Institute

Consult to Elevate Equitable Services: Meaningful Consultation in Action

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Federal Programs Ombudsman | FPO

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While the State supports your desire to maintain documentation of the meeting and what you learn, **please respect our decision to safeguard information** and do not attempt to use tools such as these. If you choose to use a tool such as this, the State will block that tool from the meeting.

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Session Agenda

- Overview of Equitable Services
- Steps toward Meaningful Consultation
- Changes to Final Agreement Form for FY28
- Resources

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Overview of Equitable Services

Legal Authority for Title I, Part A

- Title I
 - ESEA §1117 (20 U.S.C. § 6320)
 - 34 C.F.R. §§ 299.6-299.12
- The purpose of Title I is to provide all children significant opportunity to receive a fair, equitable, and high-quality education and to close educational achievement gaps.
- The ESEA includes specific equitable services applicable only to Title I.



Legal Authority for Title VIII, Part F

- Title VIII, Part F
 - ESEA §8501 (20 U.S.C. § 7881)
 - 34 C.F.R. §§ 299.6-299.12
- Title VIII, Part F provides requirements for programs other than Title I that require equitable services. These programs are:
 - Title I, Part C
 - Title II, Part A
 - Title III, Part A
 - Title IV, Part A
 - Title IV, Part B
 - Title IV, Part F, §4631
- The purpose of each covered program is set forth in program-specific statutory requirements.



Child Benefit

- Equitable services was a critical component toward support that led to the passage of ESEA in 1965.
- At the time, opposition to including private schools in federal aid programs included concerns with the violation of separation of church and state.
- Concerns were resolved with the application of the “child benefit” concept.
 - Eligible children receive and benefit from federally funded education programs, but no aid goes to private schools themselves.

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Private Schools Requesting Equitable Services

- **137,179** students enrolled in **511** non-profit, private schools eligible for equitable services.
- **212** eligible private schools requested services for FY27.
- **57,715** private school students will benefit from these federally funded services.

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Meaningful Consultation with Private Schools

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Role of the Private School

- Participate actively in consultation.
- Timely responds to deadlines.
- Complete forms needed to facilitate consultation and services.
- Provide data and information about the needs of eligible children, educators, and families.
- Provide information that a Local Education Agency (LEA) may not have that is necessary to implement equitable services (e.g., addresses needed to determine whether private school student resides in a Title I public school attendance area).

Note to LEAs: Any paperwork, etc. should not require undue administrative burden to private schools.

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Role of the LEA

- Initiates consultation beginning with the annual Intent to Participate form.
- Identifies eligible private school students and provides information to State Education Agency (SEA) for proportionate share calculation.
- Designs supplemental programs that meets the needs identified during consultation.
- After timely and meaningful consultation, makes the final decisions with respect to the services provided.
- Maintains control of funds and materials.
- Monitors, evaluates, and documents services.
- Ensures compliance and responds to complaints.

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Four Components of Meaningful Consultation

1. Consultation is “centered on key topics” that affect the ability of private school children, teachers, and families to participate equitably in ESEA programs.
2. Consultation is “timely” when the LEA provides private schools with opportunities for input before any decisions are made and discussions continue throughout the design, development, implementation, and assessment of program.

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Four Components (continued)

3. Consultation is “meaningful” when there are good faith efforts on all parties to have a genuine opportunity to express their view, have those views given serious consideration, and to discuss viable options to ensure equitable participation.
4. The goal of consultation is agreement between the LEA and private school officials on how to provide equitable and effective programs for eligible children, teachers, and families.

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Consultation Red Flags

- LEAs provide unilateral offer of services.
- Private schools do not provide necessary information.
- LEAs assume public and private school needs are the same.
- Private schools do not respond to deadlines.
- Lack of flexibility by either party.

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Strategies to Reach Agreement

- Focus on underlying interests, not positions
- Separate people from the problem
- Know your best alternative
- Manage emotions
- Be prepared
- Take time to build rapport
- Use objective criteria when possible

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Consultation Topics

Consultation Topics

- How and when decisions will be made
- Needs assessment/identification
- What services will be offered
- Size and Scope
- How, where, and by whom services provided
- Directly vs. another entity
- School-by-School or Pooling
- Assessment of services

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Other Consultation Topics

- Administrative costs, including indirect costs.
- Any funds available for carryover.
- Transferring funds from Title II, Part A or Title IV, Part A under the transferability authority in ESEA § 5103 (20 U.S.C. § 7305).

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Additional Title I, Part A Topics

- Method or sources of poverty data.
- Coordination of Title I, Part A with other ESEA programs
- Services for teachers and families under Title I, Part A.
- The multiple, educationally related objective criteria used to determine eligibility for services under Title I, Part A.

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Documenting Consultation

Written Affirmation

- LEA must maintain and provide to the State Education Agency (SEA) written affirmation that meaningful consultation has occurred each year. The affirmation will be signed by the private school officials. This should be uploaded to ePlan by **May 1**.
- LEA will be required to provide the SEA written affirmation of final agreement signed by the private school officials. This should be uploaded to eplan by **September 15**.

Note to LEAs: Beginning with CFA FY28, we will discontinue using the Combined Meaningful Consultation and Final Agreement form. New forms will be provided to LEAs.

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New Final Agreement Form for CFA FY28



Name of LEA _____ Name of Private School _____
ESEA Equitable Services Final Agreement
SY _____
Final Agreements with private schools are due in ePlan by Sept. 15.

Overview

The Every Student Succeeds Act (ESSA) in §§ 1117 and 8501 requires LEAs to provide equitable services to students and teachers in eligible non-public schools. The requirement of providing equitable services is achieved through timely and meaningful consultation between the local educational agency (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. Further, LEAs are required to finalize all ESSA equitable service agreements with non-public school officials. LEAs that have uploaded consultation agreements for each participating non-public school as described below will have satisfied the ESSA requirement that consultation agreements be forwarded to the ombudsman.

State 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 Title II and equitable services coordinator as the ombudsman for ESSA equitable services requirements. If there has been no consultation or agreement between the LEA and the non-public school, a complaint may be filed on behalf of the non-public school by completing the Complaint to the Ombudsman [form](#) found in [eplan.tn.gov > TDOE Resources > ESSA/IDEA Non-public Schools Information & Documents](#). Complaints must be signed by the individual(s) or organization(s) filing the complaint and copied to the LEA. Complaints must be sent to the department to the attention of the ombudsman via email to Michelle.Harless@tn.gov.

Affirmation of Consultation and Final Agreement Form

This sample form expands upon and finalizes topics from the "Affirmation of Meaningful Consultation" that each LEA uploaded to ePlan as part of the consolidated funding application (CFA). This is not an exhaustive list and may not cover the entire agreement between the LEA and private school officials as each school may have individual or unique needs that could be defined as allowable for equitable services. LEAs utilizing this form should modify and add topics to reflect the actual agreement between the LEA, the private school, and any third-party contractor or other LEA providing services through a Memorandum of Understanding (MOU). LEAs must upload final agreements for each participating private school to the ePlan Equitable Services page under "Related Documents" by **Sept. 15**.



The private school official and LEA agree on the terms below for the following program (Use and submit a separate form for each applicable ESSA program):

☐ Title I-A ☐ Title I-C ☐ Title II-A ☐ Title III-A ☐ Title IV-A ☐ Title IV-B

Do not complete if the private school is non-responsive or declining services.

Section 1: Allocation

The equitable share for the school year is estimated to be:		
Set-asides from the equitable share:		
☐ No	☐ Yes, _____ % admin cost	☐ Yes, _____ % for indirect costs.
Carryover from the previous year's equitable share:		
☐ No	☐ Yes, \$ _____	☐ Yes, but private school declines carryover - or did not respond to deadlines after reasonable communication efforts were made by the LEA.
Transfers from the equitable share:		
☐ No transfer	☐ Yes, to Title _____	☐ Private School is not in Agreement *If not in agreement, LEA will provide final decision in writing by date _____
The LEA is providing services to eligible non-public school students, teachers, and other educational personnel by:		
☐ pooling funds	☐ on a school-by-school basis	
Is the LEA coordinating funds available for private school students and teachers for Title I equitable services with funds available for equitable services required by Title VIII (Titles I-C, II-A, III-A, IV-A, and IV-B)?		
☐ Yes	☐ No	☐ N/A - The private school <u>not</u> participate in Title I
The private school understands it cannot be directly reimbursed for equitable services program expenditures, and the district explained the procurement process, including deadlines and inventory regulations.		
☐ Yes		

New Final Agreement Form for CFA FY28



Section 2: Assessment of Needs

Describe how the proportion of funds allocated under Title I, I-C, II, III, or IV for equitable services is determined:

For Title I-A only: Describe the method or sources of data that the LEA will use to determine the number of private school students from low-income families residing in Title I-participating public school attendance areas:

Describe the size and scope of equitable services to be provided to eligible private school students, teachers, and other educational personnel and the amount of funds available for those services:

Examples: "____ teachers and students are being provided services by ____," or "Since we are coordinating funds with different titles, we are identifying participating students and teachers by ____."

Section 3: Services

All equitable services, programs, and materials will be secular, neutral, and non-ideological.

☐ Yes

The private school has provided accurate, reliable and timely data for the purpose of allocating applicable federal funds and developing plans for services and understands that not doing so results in losing their ability to participate in equitable services for the school year.

☐ Yes

☐ Timeline established

☐ Deadlines shared

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tn.gov/education

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Describe what services will be provided, including how, when, where, and by whom:

Describe how decisions about the services will be made, how the services will be assessed, and how the results of the assessment will be used to improve those services. Include in your discussion how progress of the program will be monitored for effectiveness and how the LEA will ensure oversight (for issues including allowability, compliance with program requirements, inventories of equipment and materials, etc.):

Name of LEA

Name of Private School

Signature of LEA Representative

Date

Signature of School Representative

Date

If the LEA utilizes a third-party contractor or a separate LEA, through a MOU, to provide equitable services for the eligible non-public school students, teachers, and other educational personnel, the third-party contractor or separate LEA affirms this agreement for the _____ school year. Please attach the MOU or [executed third-party contract](#).

LEA Providing Services through MOU

Name of Third-party Contractor

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Other Required Documentation

- Signed intent to participate forms should be kept on file at the LEA level.
- If an LEA disagrees with the views of the private school official, it must provide written reasons to the private school.
- Meeting agendas, sign-in sheets, emails, consultation notes, and calendars with deadlines should also be kept on file.

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Frequently Discussed Topics of Equitable Services

Allowability

- Proportionate share for equitable services can provide a wide range of supplemental instruction, programs, materials, and professional development.
- The services must be supplemental in nature.
- The services must address an identified need.
- The services must be neutral, secular, and non-ideological.

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Title I, Part A Eligible Activities

For students identified as most at-risk for academic failure.

- Targeted instructional services provided by public school employees or third-party contractors
- Extended learning time (before and after school and in the summer)
- Family literacy programs
- Early childhood education programs
- Counseling
- Home tutoring
- Instruction using take-home computers
- Computer-assisted instruction



Title I, Part C Eligible Activities

Allowable uses of funds for migratory students include but are not limited to:

- Providing 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
- Ensuring that teachers and families of these children participate on an equitable basis in services and parent and family engagement activities.



Title II, Part A Eligible Activities

- Improving the knowledge of teachers, principals, and other educational personnel in one or more of the core academic subjects and in effective instructional teaching strategies, methods, and skills;
- Training in effectively integrating technology into curricula and instruction;
- Training in how to teach students with different needs, including students with disabilities or limited English proficiency, and gifted and talented students;
- Training in methods of improving student behavior, identifying early and appropriate interventions, and involving parents more effectively in their children's education;
- Leadership development and management training to improve the quality of principals and superintendents; and
- Training in the use of data and assessments to improve instruction and student outcomes.



Title III, Part A Eligible Activities

Some examples of Title III services an LEA may provide to private school ELs, their teachers, and other educational personnel include:

- Evaluating the effectiveness of services (test booklets, teacher training, stipends to teachers to administer assessments).
- Participation in LEA sponsored professional development (PD), or PD organized specifically to meet the needs of the private school teachers.
- Tutoring for students before, during, or after school hours.
- Participation of private school ELs in summer school and weekend programs.
- Purchase of supplemental instructional materials and supplies.



Title IV, Part A Eligible Activities

Allowable uses of funds under Well-Rounded Education, Safe and Healthy Students, and Technology include, but are not limited to:

- Direct services for students;
- Professional development for teachers and administrators;
- Salaries of personnel to carry out identified programs and services; and
- Supplemental educational resources and equipment.



Equitable Services Carryover (1)

- Funds allocated to an LEA for educational services and other benefits to eligible private school children shall be obligated in the fiscal year for which the funds are received by the LEA. See 20 U.S.C. § 7881(a)(4)(B).
- If an LEA is providing equitable services as required and meeting the obligation of funds requirement, it generally **should not have any, and certainly not significant, carryover.**
- ESEA does not prohibit carryover of funds for equitable services and, in most cases, requires it.

See U.S. Dep't of Educ., ["Title VIII, Part F of the Elementary and Secondary Education Act of 1965: Equitable Services for Eligible Private School Children, Teachers, and Other Educational Personnel, Non-Regulatory Guidance,"](#) Question B-10 (July 17, 2023).

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Equitable Services Carryover (2)

- Reasonable deadlines
 - As referenced in the Title I, Part A Equitable Services Non-Regulatory Guidance (Question B-31), an LEA may set a **reasonable deadline for usage funds** by a private school.
 - If a deadline is established in consultation and **in the context of the requirement to obligate funds generated for equitable services in the current fiscal year**, it would be reasonable for the LEA to inform private school officials that, if the deadline is not met and the private school officials have not notified the LEA of obstacles to meeting the deadline in a timely manner, the LEA may consider the private school to have declined services.



Equitable Services Carryover (3)

- Reasonable Deadlines
 - If a private school is determined to have declined services, the LEA may allocate the excess funds to provide equitable services to eligible children in other participating private schools.
 - **Note:** Unless there are no other participating private schools in the LEA, the LEA would not allocate any of the excess funds for services to public school students because the ESEA requires that all funds generated for equitable services remain a part of the overall private school proportional share. See 20 U.S.C. § 7881(a)(4)(A).



Complaints

- A private school may file a complaint with the state's ombudsman if it believes that:
 - Timely and meaningful consultation did not occur;
 - The LEA did not give due consideration to the views of the private school officials, or;
 - The funds generated or services to be provided are not equitable.
- The complaint process is outlined in the Official Equitable Services Complaint to Ombudsman form:
 - [ePlan](#) > TDOE Resources > ESSA/IDEA Non-Public/Private Schools Information and Documents > ESSA Non-Public/Private Schools Information and Documents > Samples and Templates for Providing Equitable Services to Non-Public/Private Schools & Complaint Form /Procedures > [Equitable Services Complaint to the Ombudsman](#)

See 20 U.S.C. § 7881(c)(6)(A).



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Questions for Understanding

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Scenario #1:

- ABC School District sent letters out early with an established deadline to all private schools. Two of the five private schools have not responded, despite sending a second reminder and leaving a voicemail. What should the LEA do?
 - A. The LEA will document that it made a good faith effort to contact school and offer services.
 - B. The LEA should continue reaching out to the private schools until they receive a response.
 - C. The LEA will reach out to the private schools next year with the annual Intent to Participate survey.
 - D. Both A and C

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Answer #1:

The answer is D.

In this situation, the LEA should document that it made a good faith effort to contact the private schools and offer services. However, the LEA must continue to contact the private school each year, even if it does not receive a response.



Scenario #2:

- ABC School District provides private schools with a menu of services from which they must choose. Has the LEA provided meaningful consultation?
 - A. Yes
 - B. No
 - C. Not Sure

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Answer #2:

The answer is B.

Consultation is meaningful when there are good faith efforts on all parties to have a genuine opportunity to express their view, have those views given serious consideration, and to discuss viable options to ensure equitable participation.



(1) True or False?

- Private schools receive ESEA funds directly to spend on identified needs.



(1) False:

- The **LEA remains in control of the federal funds** and maintains ownership of materials, equipment, and property purchased with such funds.
- Any services provided to an eligible private school or student must be provided by an employee of the LEA or a third party contracted by the LEA.
- The LEA must provide assurances that it will:
 - Administer the program in accordance with all applicable statutes and regulations; and
 - Maintain control of the program.

See 20 U.S.C. § 7881(d)(1); 34 C.F.R. § 299.9.



(2) True or False?

- A student attending a religious private school operating under a 501(c)(3) may be eligible to receive services.



(2) True:

- All private school students, enrolled in **nonprofit** private elementary and secondary schools, including those in religiously affiliated schools are generally eligible to receive services.



(3) True or False?

- A private school may file a complaint with the SEA if the LEA does not use equitable services funds for private school staff to attend a professional development in a different state.

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(3) False:

- A private school may file a complaint with the state's ombudsman if it believes that:
 - Timely and meaningful consultation did not occur;
 - The LEA did not give due consideration to the views of the private school officials; or
 - The funds generated or services to be provided are not equitable.





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Resources

Highlighted Resources

- [ESSA Equitable Services Toolkit](#)
- [Title IV, Part B Equitable Services Toolkit](#)
- [Written Affirmation of Meaningful Consultation](#)
- [Final Agreement Form](#)

Additional resources can be found under TDOE Resources.



Questions?

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What's Next?

- Trailblazing Strong Internal Controls (Room 3)
- Procurement & Contract Management (Room 4)
- Strengthening EL Program Models (Room 5)
- Family Engagement Strategies (Room 6)
- Comparability Compliance: A Practical Guide (Room 9/10)