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**EQUITABLE SERVICES TO NON-PUBLIC/PRIVATE SCHOOLS**

**GUIDEBOOK**

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EQUITABLE SERVICES TO NON-PUBLIC/PRIVATE SCHOOLS

**INTRODUCTION**

The purpose of this document is to provide support and guidance to Tennessee Local Education Agencies (LEAs) and private schools during the consultation process. This guidance document contains topics that should be discussed during the initial and ongoing consultations between LEAs and private schools. This guidance does not create for or confer on any person any rights or impose any requirements beyond those set forth under applicable laws and regulations.

**TERMINOLOGY**

**ASD:** Achievement School District (LEA)

**Equitable Services:** LEA provides private school students and teachers with an opportunity to participate in activities equivalent to the opportunities provided to public school students and teachers. These equitable services shall be provided in a timely manner.

**ESEA:** [Elementary and Secondary Education Act](https://www.tn.gov/content/dam/tn/education/asd/office-of-federal-programs/helpful-resources/ESEA%201003a%20-School%20Improvement%20Funding.pdf)

**ESSA:** [Every Student Succeeds Act](https://www.tn.gov/education/essa.html)

**LEA:** Local Education Agency (interchangeable with “district”)

**Meaningful:** There is a genuine opportunity for private school officials to express their views.

**Non-Public/Private**: Both non-public and private school terms are used interchangeably per TDOE guidance found [here](https://www.tn.gov/education/school-options/non-public-schools/non-public-school-categories.html). Non public/private schools are an elementary or secondary school within the state, other than a public school, offering education for grades kindergarten through 12, or any combination of them wherein any child may legally fulfill compulsory school attendance requirements and which complies within the requirements of Title VI of the Civil Rights Act of 1964.

**SEA**: State Education Agency – TN Department of Education

**TDOE**: Tennessee Department of Education

**Timely:** The LEA and private school official consult before the LEA makes a decision that affects the opportunities of eligible private school students.

**Title I, A**: Economically Disadvantaged Students

**Title II, A:** Preparing, Training, Recruiting High Quality Educators

**Title III**: English Learners and Immigrants

**Title IV, A:** Student Support and Academic Enrichment

**Title IV, B**: 21st Century

**IDEA:** Students with Disabilities

**PARTICIPATION**

LEAS must solicit information from all non-public schools located within the physical boundaries of the district regarding participation (Intent to Participate). ESSA requires that districts provide equitable services to eligible participating public-school students, teachers, and their parents. Non-public schools can choose to participate in each eligible ESSA Title program.

**CONSULTATION**

Consultation involves communication and discussions between LEAs and private school officials on key issues that are relevant to the equitable participation of eligible private school students, teachers, and other education personnel in Every Student Succeeds Act (ESSA) programs. ESSA require that timely and meaningful consultation occur between the local education agency (LEA) and private school officials prior to any decision that affects the opportunities of eligible private school children, teachers, and other educational personnel to participate in programs subject to equitable participation. ESSA requires that consultation continue throughout the implementation and assessment of activities in programs subject to equitable participation requirements.

**PROGRAMS REQUIRING CONSULTATION**

The following ESSA program require consultation between the LEA and private school representatives:

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

• Title I, Part C - Education of Migratory Children

• Title II, Part A – Supporting Effective Instruction Grants

• 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 - 21st Century Community Learning Centers

• IDEA, B – Special Education

**PROPERTIES OF CONSULTATION**

Meaningful consultation provides ample time and a genuine opportunity for all parties to express their views, to have their views seriously considered, and to discuss viable options for ensuring equitable participation of eligible private school students, teachers and other education personnel, and families.

Consultation for all programs must be conducted before the LEA has made any decisions that will impact the participation of private school students and teachers in applicable programs and shall continue throughout implementation and assessment of services provided. Additionally, with respect to Title I, Part A programs, consultation must also be conducted during the design and development of the LEA’s Title I, Part A programs. An LEA should consult with private school officials about the timeline for consultation and provide adequate notice of such consultation to ensure meaningful consultation and the likelihood that those involved will be well prepared with the necessary information and data for decision-making.

Successful consultation begins well before the implementation of services, establishes positive and productive working relationships, makes planning effective, continues throughout implementation of equitable services, and serves to ensure that the services provided meet the needs of eligible students and teachers. In addition, consultation must be ongoing - not just a one-time conversation. Consultation starts with outreach initiated by the district. Consultation must continue throughout the school year whereby district personnel and private school representatives confer regarding the expenditure of funds and the continuing implementation of the services. Consultation is finalized with an evaluative conversation, which can serve as the springboard for services in the next school year.

**GOAL OF CONSULTATION**

The purpose of consultation is to engage in timely and meaningful communication with non-public schools as required by ESSA, share information about programming options, discuss the needs of non-public schools, receive input from non-public partners, discuss expectations, and review important dates. This consultation will take place with LEA representatives and administrators from non-public schools that indicated their intent to participate. Meaningful consultation will occur before the ASD makes decision that would affect the services to participating non-public schools and includes the consideration of input and needs of non-public schools. Timely and on-going consultation and communication between non-public schools and the ASD will take place via in-person meetings, emails, surveys and calls. Meaningful consultation will take place to determine:

* How the non-public school needs will be identified
* What services will be offered
* How, where, and by whom the services will be provided
* When the services will begin
* How the services will be assessed
* How the results of the assessment will be used to improve those services
* Address program-specific concerns
* Costs for administering and overseeing the program

In order to receive services, non-public school actual needs must be in alignment with identified needs, begin at the same time as services to public school students, must be evaluate for effectiveness and most follow the ASD policies and procedures. The ASD serves as a fiscal agent providing services, NO directing funding will be provided.

**DOCUMENTATION OF CONSULTATION**

Each local educational agency must maintain in the agency’s records and provide to TDOE, a written affirmation signed by officials of each participating private school that the meaningful consultation required has occurred. The written affirmation shall provide the option for private school officials to indicate that timely and meaningful consultation has not occurred or that the program design is not equitable with respect to eligible private school children. If private school officials do not provide such affirmation within a reasonable period of time, the LEA shall forward the documentation that such consultation has, or attempts at such consultation have, taken place to TDOE.

**CONSULTATION TOPIC #1: IDENTIFYING CHILDREN’S NEEDS**

Private schools are best positioned to know the needs of student and staff. However, these needs must be discussed in consultation with the LEA relative to the amount of funds allocated to support the equitable services that will be provided. According to federal regulations, equitable services must address the specific needs of students enrolled in private schools. Documentation is required to verify needs.

**CONSULTATION TOPIC #2: SERVICES**

* Title I, Part A – Improving Basic Programs Operated by Local Education Agencies
* Title I, Part C – Education of Migratory Children
* Title II, Part A – Supporting Effective Instruction Grants
* 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 – 21st Century Community Learning Centers
* IDEA, Part B – Special Education

**Use of Funds and Allowability:** LEAS must retain control of the funds. Funds may only be used for authorized expenses. Any variation without prior approval runs the risk of not being eligible for payment. LEAS must not reimburse private schools.

**Evidence-Based:** ESSA programs require that entities using federal funds establish the evidence base of the interventions selected. This can be standardized testing results, report cards, progress reports, teacher feedback, etc.

**CONSULTATION TOPIC #3 TIMING OF SERVICES**

LEAS and private school officials need to discuss how, where, when and by whom equitable services will be delivered during the consultation meeting.

**Timing:** LEAS must ensure that services for private schools start at the same time as services are available to public school students and no later than the beginning of the school year unless otherwise agreed upon in consultation.

**Location:** Services are provided by the LEA on the private school campus based on the plan and timeline jointly developed by the LEA and private school official.

**Provider**: Following consultation, an LEA may provide Title I services directly or indirectly through contracts with individuals and public and private agencies, organizations, and institutions so long as those entitles are independent of the private school in the provision of those services. The LEA remains responsible, however, for the oversight of the programs. An LEA may not employ a private school teacher to provide services to private school participants.

**CONSULTATION TOPIC #4 EFFECTIVENESS**

The LEA and the private school must determine how the services will be academically assessed and how the results of that assessment will be used to improve those services.

**CONSULTATION TOPIC #5 SIZE AND SCOPE**

LEAS and private school officials must discuss the size and scope of the equitable services to be provided to the eligible private school children, the proportion of funds that is allocated for such services and how that proportion of funds is determined.

Each ESSA statute outlines which students are eligible and formulas that must be used to determine what funds are available for services in public and private schools.

**CONSULTATION TOPIC # 6 DISAGREEMENT**

The LEA welcomes the opportunities to discuss questions/concerns and to work together to resolve any problems. Private school officials have the right to file a written complaint with the state education department ombudsman asserting that the LEA did not engage in meaningful and timely consultation, give due consideration to the views of the private schools, or did not make a decision that treats the private school equitably.

**Danny Bounds, J.D. – Federal Programs Ombudsman**

**Division of Federal Programs and Oversight**

**Andrew Johnson Tower, 12th Floor**

**710 James Robertson Parkway, Nashville, TN 37243**

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**COMPLETING THE AFFIRMATION OF MEANINGFUL NON-PULIC SCHOOL CONSULTATION AND AGREEMENT FORM**

After the Annual Consultation Meeting, LEA’s that intend to participate will be required to submit the affirmation of meaningful non-public school consultation and agreement form.

* **Part I Meaningful Consultation Survey:** Check yes, no, or N/A that each topic included in the survey was discussed during the annual consultation. Be sure to only check yes for the title programs your school confirmed they intent to participate in.
* **Part II**: This section will be completed by both the LEA and the District/LEA Compliance Coordinator. Depending on the title programs selected, be prepared with the following information: how many staff are employed at your school, what assessment measures your school uses to determine academically at-risk students, what tools your school uses to determine staff professional development needs and what the professional development needs for your staff are.

ESSA PROGRAMS

**TITLE I, A: IMPROVING THE ACADEMIC ACHIEVEMENT OF THE DISADVANTAGED**

**Purpose:** Provides financial assistance to schools with high percentages of economically disadvantaged students to help ensure that all children meet challenging state academic standards.

**How Title I equitable services amounts are determined:**

* Determine the number of children from low-income families residing in each participating school attendance area who attend public schools and private schools.
  + Total number of public schools’ Title I, Part A eligible students and the total number of private schools’ Title I, Part A eligible students to determine the total number of eligible Title I, Part A eligible students.
* Determine the overall proportion of children from low-income families who reside in participating public-school attendance areas and attend public schools and private schools.
  + Divide the total number of Title I, Part A private school eligible students by the total number of Title I, Part A eligible students
* Determine the amount of funds that should be reserved for equitable services.
  + Multiply the total district Title I allocation by proportion of non-public low-income students
* Determine the Per Pupil Amount: Total amount of funds reserved for equitable services divided by the total number of non-public low-income students

**Title I Funds and Services**

* Non-public finds may be “pooled”
* Non-public funds may be allocated on a schoolboy-school basis, whereby, funds are allocated at each private school based on the number of Title I eligible low-income students enrolled at that private school.
* Funds generated by non-public school students must be used for instructional services
* Non-public schools cannot receive funds, only services
* LEA maintains fiscal control of all non-public funds
* LEA arranges all non-public services
* Equipment and items purchased with federal funds for non-public users remains the property of the LEA

**Title I Service Providers**

* The LEA may provide services to eligible private school children either directly or through arrangements with another LEA or third-party provider.
* If the LEA contracts with a third-party provider, the provider must be independent of the private school and the contract must be under the control and supervision of the LEA.
* After timely and meaningful consultation, the LEA must make the final decisions with respect to the services it will provide to eligible private school children.

**Services may include:**

* On-site small group and/or one-on-one training that employs methods and instructional strategies based on the students’ achievement gaps
* Computer-based instructional programs
* Materials/supplies used for providing Title I services
* Computer equipment and other technology used for providing Title I services and
* Professional development opportunities and/or materials for teachers, other school personnel and families of Title I eligible students

Services are provided by the LEA on the private school campus based on the plan and timeline jointly developed by the LEA and private school official. The LEA and private school official consult before the LEA makes any decisions that affects the opportunities of the eligible private school students.

**Students who can receive Title I services:** Eligible students must:

* Reside in a participating Title I public school attendance area

AND

* Demonstrate academic need. Need is based on multiple academic, developmentally appropriate criteria (not poverty or behavior) like standardized test results, grades, academic progress reports and/or teacher recommendations.

**Size and Scope of Title I, A Services**

Private school officials determine student’s needs based on results gleaned from school level student data. The LEA and private school discuss data and jointly determine and agree up multiple, educationally-related, objective criteria that will be used for identifying students within the eligible group of students that are greatest at risk of failing or failing to meet the state’s standards or standards relevant to the private school. Students identified as greatest at risk (those who rank lowest) based on the ranking of the multiple, educationally-related, objective criteria are identified for participation. The LEA and private school official will jointly develop the size and school of the Title I program based on the student academic data.

**TITLE II, A: SUPPORTING EFFECTIVE INSTRUCTION**

**Purpose**: Title II, A is designed to increase student achievement, improve the quality and effectiveness of school leaders (teachers, principals, etc.), increase the number of school leaders who are effective at improving student academic achievement and provide students from low-income families and minority students greater access to effective school leaders.

The purpose of Title II, A is primarily professional development

* Secular; based on identified needs
* Conferences, professional subscriptions and books, and more

**Title II, A Services**

Title II, Part A funds may be used for professional development activities for teachers, instructional leadership teams, principals, and other school leaders to address the specific needs of their students and is in accordance with the purposes of Title II. Equitable services under Title II, Part A MAY NOT be used for class size reduction in a private school because private school’s contracts for its teacher and staff would be inconsistent with the requirements in ESEA section 8501(d) regarding public control of funds and the supervision and control of employees or contractors.

**Title II, A Funding**

The Title II amounts depend on the number of students enrolled in participating private schools that are physically located in the boundaries of the district. The total number of students in the participating private schools is noted on the Intent to Participate form.

**Title II, A Travel Policy and Procedure**

**All** travel procedures must adhere to the State of Tennessee Travel Regulations that can be found [here](https://www.tn.gov/content/dam/tn/finance/documents/fa_policies/policy8.pdf).

Before any travel or documentation can begin, the non-public/private school is responsible for confirming that the desired conference/event they desire to attend is a Tennessee state approved vendor. This can be accomplished by sending a current W-9 from the desired conference/event host to [Supplier.Maitenance@tn.gov](mailto:Supplier.Maitenance@tn.gov) . Once the W-9 has been received and approved, send documentation of confirmation to the ASD Compliance Coordinator.

Pre-approval must be received by the LEA at least 45 days prior to departure date for any desired travel. Complete the Title II Travel Pre-Approval Form no later than 45 days prior to the departure date. This form is to be filled out by each individual traveler that is requesting participation in the conference/event. Be sure to include all details on this form as well as attaching a copy of the conference overview which should include the dates of the conference and the registration fees. Please also attach the conference agenda which includes meals provided. In the expense and estimated cost column of the form, document all estimated costs associated with travel. If traveling by vehicle, use RandMcNally.com to estimate mileage in the expense portion and attach documentation. If traveling my plane, provide a copy of the website page showing the dates and times of the flight to and from, as well as the cost of the flight per person. For hotel accommodations, provide quotes for 3 mid-range hotels. Along with the completed Pre-Approval Form and all accompanying documentation, provide a completed conference registration form; if you registered on-line a copy of the registration confirmation must be included. Be sure to include all accompanying documentation and its associated costs in the estimated expense portion of the pre-approval form. Once submitted and if approved, the LEA will return the Pre-Approval Form in 7-10 business days. Any forms not approved will be returned for adjustments to rectify information/documentation need for approval. In addition, each traveler must submit a current W-2 along with the Pre-Approval Form and accompanying documentation.

At the conclusion of the trip, travelers have 30 days to complete and submit the Non-Employee Travel Expense Invoice. This form must include a copy of the airline itinerary, original itemized hotel receipt with a zero balance and original baggage, shuttle and taxi receipts if applicable. Travelers should expect reimbursement in 15-30 days after the form is submitted.

**All receipts must be in the traveler’s name. Reimbursements will be made to the individual traveler.**

**TITLE IV, PART A: STUDENT SUPPORT AND ACADEMIC ENRICHMENT GRANTS**

**Purpose**: Title IV, A is intended to increase the capacity of schools to provide all students with access to a well-rounded education, improve school conditions for student learning and improve the use of technology in order to improve the academic achievement and digital literacy of all students.

The district in which the non-public school is located is responsible for providing equitable services. The LEA’s allocations are based on the Title I funding formula with amounts based on total student enrollment. The LEA is the fiscal agent and will manage the funding. The LEA cannot transfer funds or retain them just for the purpose of equitable services. For the ASD, Title IV, A funds are transferred into Title I funds with the result being an increase in Title I allocations.

**TITLE III, PART A: ENGLISH LANGUAGE ACQUISITION, LANGUAGE ENHANCEMENT, AND ACADEMIC ACHIEVEMENT**

**Purpose**: Title III, Part A funding and services are provided to assist English learner students in attaining English proficiency. The process for receiving these services is as follows:

* The private school administers the Home Language Survey (HLS) to enrolled students. The private school notifies the LEA of potential students who require ESL screening to determine eligibility.
* The private school notifies the LEA of the number of enrolled ESL students via the Intent to Participate Form.

**Title III, A Services**

If students are eligible:

* The LEA and non-public school official will consult to determine and agree upon the best way to address needs of eligible students.
* It should be noted that the provision for Title III includes services and benefits, NOT FUNDING.
* Non-public schools will provide the LEA staff with an assessment data report to determine annual progress of participating students.

The following services are available:

* Supplemental EL materials provided by the ASD
  + Imagine Learning
  + BrainPOP ELL
* Professional Development – EL supported PD
  + Effective Instructional Strategies for EL’s
  + Developing Appropriate Individual Learning Plans (ILP) for EL
  + WIDA Standards Training
  + Using Summative Assessments/School-Level Data to Drive EL Instruction and Supports
  + Effective Strategies for Engaging EL Families
  + Strategies for Enhancing Collaboration with Content Teachers

**Title III, A Funding**

The Title III amounts depend on the number of English language learner students enrolled in participating private schools that are physically located in the boundaries of the district. The total number of English language learner students in the participating private schools is noted on the Intent to Participate forms.

**ASSESSMENT OF ESSA TITLE PROGRAM SERVICES**

ESSA program services are evaluated annually. The ASD will request for private school officials to complete a survey. The results of the survey can be used to aid the LEA and school official in planning services strategically and for the greatest impact.

**IDEA, B: SPECIAL EDUCATION**

**Purpose**: The LEA has an obligation to provide parentally placed private school students with disabilities an opportunity for equitable participation in the services funded with Federal Part B formula funds that the LEA has determined, after consultation, to make available to its population of parentally placed private school students with disabilities. The amount of Part B funds available for those services is based on the proportionate share calculation per the IDEA regulations.

The LEA where the private school is located is responsible for conducting child find for parentally placed private school children. The child find requirements for parentally placed children make clear that the LEA, after timely and meaningful consultation with private school representatives, must conduct a thorough and complete child find process to determine the number of parentally placed children with disabilities attending private schools located in the LEA.

**Idea, Part B Funding**

The IDEA student count is conducted annually. Federal funds can be used to provide services on the grounds of the private school; state and local funds cannot. IDEA funds are not given to the private school to use at its discretion. The LEA must determine the services, pay for them, and monitor vendors/providers as they would any service provider. The LEA can adjust services throughout the year. Decision-making is a collaborative process. Any non-disposable items purchased with IDEA funds belong to the LEA, not the private school. the LEA is the fiscal agent and will manage the funding.

Potential services include

* Speech and Language Services
* Physical Therapy Services
* Occupational Therapy (related service option when speech/language services are offered)
* Professional Development and Consultation Opportunities (available for school sites with students who have been identified with a disability)

QUESTIONS AND ANSWERS

**Q: Who is responsible for initiation the consultation process?**

**A**: The obligation to initiate the consultation process lies with the LEA that is responsible for providing equitable services. In most cases, the LEA contacts officials of private schools located within its geographic boundaries to begin the consultation process on key issues that are relevant to the equitable participation of private school students, and teachers. If this does not occur, private school officials should contact the LEA in which their school is located and ask to speak to the individual(s) responsible for administering ESSA programs.

**Q: What is meant by “timely and meaningful” consultation?**

**A**: Timely and meaningful consultation is required in order to ensure the equitable participation of private school students, teachers, and, in some programs, parents. Timely consultation begins early enough for the entire process of program design and development to be completed, for exploring the option of third-party providers, and for services to begin by the start of the school year.

Timely consultation requires that LEAs provide advance notice of consultation meetings to private school officials. Meaningful consultation covers all required topics and affords private school officials a genuine opportunity to express their views. Effective consultation is ongoing, two-way communication and discussion of the best ways to meet the needs of private school students and teachers under the provisions of the particular program. Consultation is significantly enhanced when public school officials provide an agenda of consultation topics, along with information about the amount of funds available for services, in advance of any consultation meeting, in order for private school officials to have the opportunity to adequately prepare for discussions.

**Q: May an LEA request that private school officials provide relevant documentation in order to participate in ESSA programs?**

**A**: Yes. LEAs may request documentation, as needed, from private school officials to identify students who are eligible under the applicable ESSA program and the appropriate services that meet the needs of those private school students and their teachers. Such documentation might include, but not be limited to, counts of eligible students, addresses of students identified as low-income (for the purposes of Title I, Part A), data indicating the academic needs of students, as well as the professional development needs of teachers.

**Q: What is an “Intent to Participate” form?**

**A**: An “Intent to Participate” form is a document that an LEA sends annual to private school officials inquiring to determine each private school official’s interest in having their students and teachers participate in ESSA programs. Such a form can assist the LEA in identifying, early in the planning process, those private school officials that are interested in ESSA programs.

**Q: Should an LEA contact private school officials every year even if the private school officials have declined ESSA benefits and services in the past?**

**A**: Yes. The LEA must contact private school officials on an annual basis and inquire as to whether the private school will participate in the ESSA programs available to them.

**Q: May an LEA set deadlines for submission of requests from private school officials for services and materials?**

**A**: Yes. Assuming that the lEA has provided clear and sufficient notice of the deadlines, identified potential consequences for not meeting the deadlines, and given adequate time for private school officials to gather the data and respond, LEAs may set a time limit for submission of requests for services and materials by private school officials.

**Appendix**

**Form A:** [Intent to Participate Form FY22](Forms%20for%20Guidebook/Intent%20to%20Participate%20Form-FY%2022.pdf)

**Form B:** [Affirmation of Meaningful Non-Public Consultation and Agreement](Forms%20for%20Guidebook/Affirmation%20&%20Service%20Agreement%20Form.pdf)

**Form C:** [Title II Travel Pre-Approval Form](Forms%20for%20Guidebook/Title%20II%20PD%20Travel%20Pre-Approval%20Form.xlsx)

**Form D:** [Title II Post-Travel Expense Invoice](Forms%20for%20Guidebook/Non-employee%20travel%20expense%20invoice.xls)