



COLORADO

Department of Education

Equitable Services to Non-public Schools under the Every Student Succeeds Act

January 19, 2018

The Every Student Succeeds Act (ESSA) was signed into law by President Obama on December 10, 2015, and represents good news for our nation's schools. This bipartisan measure reauthorizes the 50-year-old Elementary and Secondary Education Act (ESEA), the nation's national education law and longstanding commitment to equal opportunity for all students.

U.S. Department of Education

ESSA: Non-Regulatory Guidance

[USDE released non-regulatory guidance](#) for equitable services requirements under the ESSA in November 2016. The ESSA makes a number of updates to the equitable services requirements for private school students in Title I and Title VIII. This document discusses these specific updates, including:

- Ombudsman
- Consultation Requirements
- Expenditure Determination
- Notice of Allocation
- Compliance: Complaint Procedures and State Provided Services

Non-Public Schools Ombudsman

Ombudsman

- To help ensure equity for private school children, teachers, and other educational personnel, the State educational agency (SEA) shall designate an ombudsman to monitor and enforce the requirements of providing equitable services.
- An ombudsman should serve as an SEA's primary point of contact for addressing questions and concerns from private school officials and local educational agencies (LEAs) regarding the provision of equitable services under Titles I and VIII.
- Colorado Department of Education Non-Public Schools Ombudsman: [Colleen Brooks](#)

Non-public Schools Working Group

Non-public Schools Working Group

- The [Colorado Non-public Schools Working Group](#) exists to enhance and facilitate communication and collaboration among non-profit private schools, LEAs, and the Colorado Department of Education.
- The group discusses key topics and activities that address issues of mutual interest to Colorado's public and non-public school communities, as well as provides feedback on pertinent guidance addressing the provision of equitable services in Colorado.
- Meet quarterly in-person throughout the year

Consultation

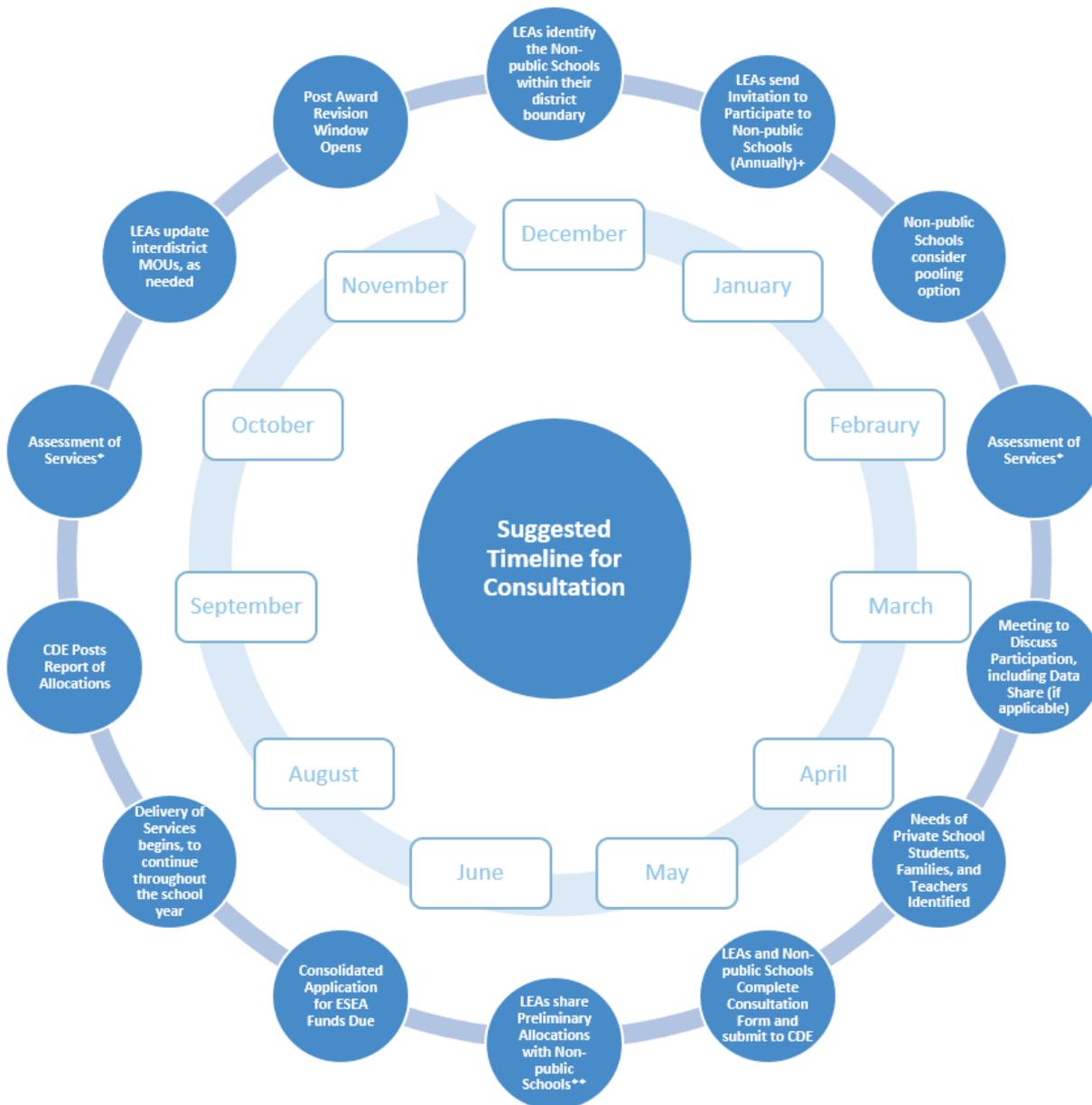
Consultation

- The “goal of reaching agreement” between an LEA and appropriate private school officials is grounded in timely, meaningful, and open communication between the LEA and the private school officials on key issues that are relevant to the equitable participation of eligible private school students, teachers and other education personnel, and families in ESEA programs.
- LEAs must document and provide affirmation of consultation with nonpublic officials. This information is currently collected in the Consolidated Application for ESEA Funds.

Consultation Timeline

- CDE developed a [timeline for consultation](#) jointly with the Colorado Non-public Schools Working Group
- Reinforces the premise that consultation is not a one-time meeting, but rather an ongoing series of interactions designed to meet the timely and meaningful requirements in statute and guidance, as well as implement meaningful services for students, families, and staff
- Identifies the rights and responsibilities for each party

Consultation Timeline



+ If a non-public school has not received communication from the LEA regarding the invitation to participate during the spring, the non-public school should notify the LEA of its interest in participating in Federal programs.

* Assessment of services includes progress monitoring of student academic performance (pre-assessment and midyear) and the evaluation of program implementation. LEAs and private school officials should determine which party will be responsible for the activities within the assessment of services during consultation, the outcome of which should be included in the consultation form that is submitted to the Ombudsman for Equitable Services.

** Preliminary allocations are subject to change; LEAs should update participating non-public school representatives if/when allocations are updated and substantially impact the programming and ability to provide equitable services.

Consultation Form

- Collected annually as a part of the in-take process for the Consolidated Application for ESEA Funds
- LEAs must submit [Consultation Forms](#) for all known non-public schools prior to receiving substantial approval
- Colorado's Consultation Form incorporates the:
 - requirement to submit affirmation of consultation (or indicate that invitation was sent but was either met in decline or non-response),
 - selection of programs in which the non-public school will participate,
 - topics of discussion that must be addressed during consultation,
 - summary of services to be provided,
 - ability for each party to indicate whether they agree to the services described,
 - requirement to describe reasons for disagreement between the LEA and non-public school, and
 - signature of each party.

Consultation Form

COLORADO DEPARTMENT OF EDUCATION

Equitable Services to Non-public Schools

Consultation for the 2018-2019 School Year



Goal of Consultation

The goal of consultation is agreement between the LEA and appropriate private school officials on how to provide equitable and effective programs for eligible private school children. The “goal of reaching agreement” between an LEA and appropriate private school officials is grounded in timely, meaningful, and open communication between the LEA and the private school officials on key issues that are relevant to the equitable participation of eligible private school students, teachers and other education personnel, and families in ESEA programs.

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. This assumes that the LEA has not made any decisions that will impact the participation of private school students and teachers in applicable programs prior to consultation, or established a blanket rule that precludes private school students and teachers from receiving certain services authorized under applicable programs. An LEA must 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.

Note: Consultation forms must be submitted to the Ombudsman for Equitable Services to Non-public Schools after timely and meaningful consultation. LEAs must submit a consultation form for every non-public school, regardless of whether the school chooses to participate. If the private school elects not to participate in the ESSA programs, select the appropriate option as provided below.

FAQs

Question: What does the LEA need to submit to the non-public school ombudsman?

Answer: The results of the consultation must be submitted to the non-public schools ombudsman no later than May 30th each year.

Question: May an LEA reserve funds off the top of its Title I allocation before it allocates funds for equitable services?

Answer: No. An LEA must determine the amount of funds available for providing equitable services prior to any expenditures or transfers of funds. This includes all reservations previously taken “off the top” of an LEA’s Title I, Part A allocation, including reservations for administration, parental involvement, and district-wide initiatives.

Question: Who should I contact for more information about the requirements regarding the provision of equitable services to students attending a non-public school?

Answer: For more information, please contact the Ombudsman for Equitable Services, [Colleen Brooks](#), in the Office of ESEA Programs.

For more answers to FAQs, please visit the [Equitable Services to Non-public Schools webpage](#).

COLORADO DEPARTMENT OF EDUCATION

Equitable Services to Non-public Schools

Consultation for the 2018-2019 School Year



Topics for Discussion (Continued)

TITLE I, PART A

- Method of determining the number of low-income children (select one below):
 - Using the same measure of low-income used to count public school children in the LEA (i.e. free or free and reduced)
 - Using the results of a survey that may be extrapolated if complete actual data are unavailable
 - Applying the low-income percentage of each participating public school attendance area to the number of private school children who reside in that school attendance area
 - Using an equated measure of low-income correlated with the measure of low-income used to count public school children
- Proportion of funds allocated for services based on the number of children from low-income families who attend private schools

TITLE I, PART C

- Identification of the regional contact in which services are provided to eligible migrant children and youth
- The amount of funding available to provide Title I, Part C services, including how the amount of funds set-aside to provide equitable services to non-public schools is determined

TITLE II, PART A

- The amount of funding available to provide Title II, Part A services, including how the amount of funds set-aside to provide equitable services to non-public schools is determined

TITLE III, PART A

- How private school students will be identified as English Learners (ELs)
- How the needs of eligible ELs, their teachers, and other educational personnel will be identified
- The services that the LEA will provide to meet the language development needs of identified ELs, as well as the professional development needs of their teachers and other educational personnel at the school who work with ELs
- Whether services will include initial identification of ELs and assessment of their language proficiency, as well as a determination of whether students should exit EL status

TITLE IV, PART A

- The amount of funding available to provide Title IV, Part A services, including how the amount of funds set-aside to provide equitable services to non-public schools is determined
- Requirement that the LEA retain control of all Title funds, materials, equipment, and property, including conference registration process



Additional Considerations and Frequently Asked Questions (FAQs)

Additional Statutory Updates under ESSA

- ESSA requires all funding for equitable services be obligated in the first fiscal year that the funds are available to districts.
- In the event that an extenuating circumstance arises and the LEA is unable to obligate all of the funds, the funds may remain available for the provision of equitable services under the respective program during the subsequent school year.
- CDE is currently working with the Non-public Schools Working Group to develop a carryover waiver process.

- **Question: Is the LEA required to consult with for-profit private schools?**
 - Answer: For-profit non-public schools are not eligible to receive equitable services under the ESEA. The LEA is only required to consult with non-profit non-public schools regarding the provision of equitable services.

- **Question: Are the students that generate the proportionate share under Title I, Part A the only students that may access the equitable services provided in the non-public school?**
 - Answer: The proportionate share is intended to calculate the amount of funds that must be set-aside to provide equitable services to at-risk students in non-public schools. The students that generate the funds may or may not necessarily be the students that are identified as at-risk of meeting grade-level academic standards who may then access the equitable services. The at-risk student count should not be used to calculate the proportionate share.

- **Question: What should I do if the LEA has not reached out for consultation?**
 - Answer: Consultation must include early discussions to prepare for the next school year so that there is a timely start of the Title program(s) at the beginning of each school year and should continue throughout its implementation and assessment of services. If the non-public school has not been invited to a consultation meeting or provided any information regarding the opportunity to participate in equitable services under the ESSA, the nonpublic school may initiate contact with the LEA or contact the Ombudsman for Equitable Services at the Colorado Department of Education.

- **Question: As a private school that accepts Title funding, therefore government funds, are we then bound to federal laws from which private schools are normally exempt?**
 - Answer: Generally no, private schools whose students or teachers receive equitable services under the ESSA are not subject to the same federal laws as LEAs unless the private school otherwise receives federal funds from a program administered by the U.S. Department of Education. Provisions under federal law apply to educational agencies and institutions that receive federal funds from programs administered by the U.S. Department of Education.

- **Question: As a private school that accepts Title funding, therefore government funds, are we then bound to federal laws from which private schools are normally exempt?**
 - Answer, cont.: A private school would be subject to federal laws only if it receives a payment of money from a program administered by the U.S. Department of Education. The private school is a recipient of equitable services under the ESSA, however, the private school is not a recipient of federal funds and will not receive payment of money from the LEA administering the Title programs under ESSA. The LEA must maintain control of the Title funds (including any equipment/materials purchased) that are set-aside to provide equitable services to non-public schools under the program(s) in which the private school participates and may not reimburse the private school for purchases or services. As such, the private school is not beholden to all of the same federal laws as the LEA; however, program requirements must be met as a participant of individual Title programs.

Resources and Training Opportunities

Resources: U.S. Department of Education

- U.S. Department of Education's Non-Regulatory Guidance
 - [Fiscal Changes and Equitable Services Requirements under the Elementary and Secondary Education Act of 1965 \(ESEA\), as amended by the Every Student Succeeds Act \(ESSA\)](#) *(Released November 2016)*
 - [Title IX, Part E Uniform Provisions - Equitable Services for Eligible Private School Students, Teachers, and Other Educational Personnel](#) *(Released March 2009)*
 - [Title III, Part A English Language Acquisition, Language Enhancement, and Academic Achievement Equitable Services to Private School Students, Teachers, and Other Educational Personnel](#) *(Released July 2015)*
 - [Title I Services to Eligible Private School Children](#) *(Released October 2003)*

- Office of ESEA Programs: [Equitable Services to Non-Public Schools Webpage](#)
 - Consultation Form
 - Timeline for Consultation
 - Equitable Services to Non-public Schools: Frequently Asked Questions
 - Complaint Procedure Form

Training Opportunities

- Equitable Services to Non-public Schools: Non-public Schools Principals Meeting
 - January 23, 2018
 - Archdiocese of Denver
 - 10:00am - 1:00pm
 - Registration information is available on [CDE's Equitable Services to Non-public Schools webpage](#)
- Equitable Services to Non-public Schools Webinar
 - February 5, 2018
 - 10:00am
 - Registration link will be available online soon!

Questions?



Contact Information

- Colleen Brooks
 - ESEA Policy Specialist, Ombudsman
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