



New Hampshire

# Department of Education

2024 Spring ESEA Title Programs Conference

## Providing Equitable Services to Non - Public Schools

NH Department of Education  
Office of ESEA Programs  
Bureau of Instructional Support

*Complete program details at [Equitable Services for ESEA Title Programs | Department of Education \(nh.gov\)](#)*



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# *Agenda* | Providing Equitable Services

*Part 1* | **Key Points for Consideration**

*Part 2* | **Meaningful Consultation**

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*Part 4* | **Delivery of Equitable Services**

*Part 5* | **Other Requirements Related to Non-Public Schools**

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# *Part 1* | Key Points for Consideration

## ***The Elementary and Secondary Education Act (ESEA)***

The ESEA requires LEAs to provide for the equitable participation of non-public school students, teachers and, in some cases, parents and other education personnel in most of the ESEA's major programs.

*ESEA Section 1117(a)(3)(B), which outlines those requirements of Title I, Part A and 8501(a)(3)(B), which covers the other Title programs.*



# *Part 1* | Key Points for Consideration

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

- Ensures all children have a fair, equal, and significant opportunity to obtain a high-quality education; and
- Provides equitable services to non-public school students to improve the achievement of students who are failing or most at risk of failing to meet challenging academic achievement standards and who reside in participating public school attendance areas with high concentrations of students from low-income families.



# *Part 1* | Key Points for Consideration

***Under the ESEA, the Title VIII equitable services provisions cover the following programs:***

- 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
- Title IV, Part F, Section 4631 - Project SERV



# Part 1 | Key Points for Consideration

## *Important Points to Remember:*

- In key ESEA programs, the law provides for equitable participation of non-public school students, teachers and other educational personnel, and, in some cases, families.
- Consultation must be timely and meaningful.
- Funds generated for equitable services must be equal on a per-pupil basis.
- A public agency must control funds. Non-Public schools do not receive funds.
- Services must be secular, neutral, and non-ideological; supplemental; and costs must be allowable, necessary, and reasonable.



## *Part 2* | Meaningful Consultation

### ***Goal of Consultation***

An LEA must consult with appropriate non-public school officials regarding equitable services under covered ESEA programs. The goal of consultation is agreement between the LEA and appropriate non-public school officials on how to provide equitable and effective programs for eligible non-public school children and educators.

*(ESEA section 8501(c)(1)).*

The keyword is “**meaningful**”.

Consultation is more than just signing the form and agreeing to participate.

Consultation is a **continuous improvement process**.

Consultation should **continue throughout the year**.



## Part 2 | Meaningful Consultation

**Timely and meaningful** consultation between the LEA and non-public school officials during the design and development of the services is required on such issues as:

- How the students' and teachers' **needs** will be identified;
- What **services** will be offered;
- **How and where** the services will be provided;
- How the services will be **evaluated** and how the results of that **evaluation** will be used to improve those services;
- What **service delivery mechanisms** will be used to provide equitable services;
- Who will **provide the services**;





## Part 2 | Meaningful Consultation

- The **amount of funds** available to serve non-public school students and teachers;
- The **size and scope** of the services to be provided;
- **How and when** the agency will make decisions about the delivery of services;
- **Consideration** of the views of the non-public school officials regarding use of **third-party providers**; and
- Where the LEA disagrees with the views of the non-public school officials on the provision of services through a contract, receiving from LEA the required **written explanation** of the reasons why the local education agency has chosen not to use a contractor.



## Part 2 | Meaningful Consultation

- Such consultation shall occur **before** the local education agency **makes any decision** that affects the opportunities to participate of eligible non-public school children, teachers, and other education personnel.
- Consultation must **include** the LEAs **intentions to flex funds** into another Title Program, as the flex affects the equitable services owed to the non-public schools.
- Services, materials and equipment must be **secular, neutral, non ideological and supplemental** in nature, **not supplanting** what the non-public school would otherwise provide absent the federal education services.
- The services must be **allowable, reasonable and necessary** in meeting the needs of non-public school students and teachers.



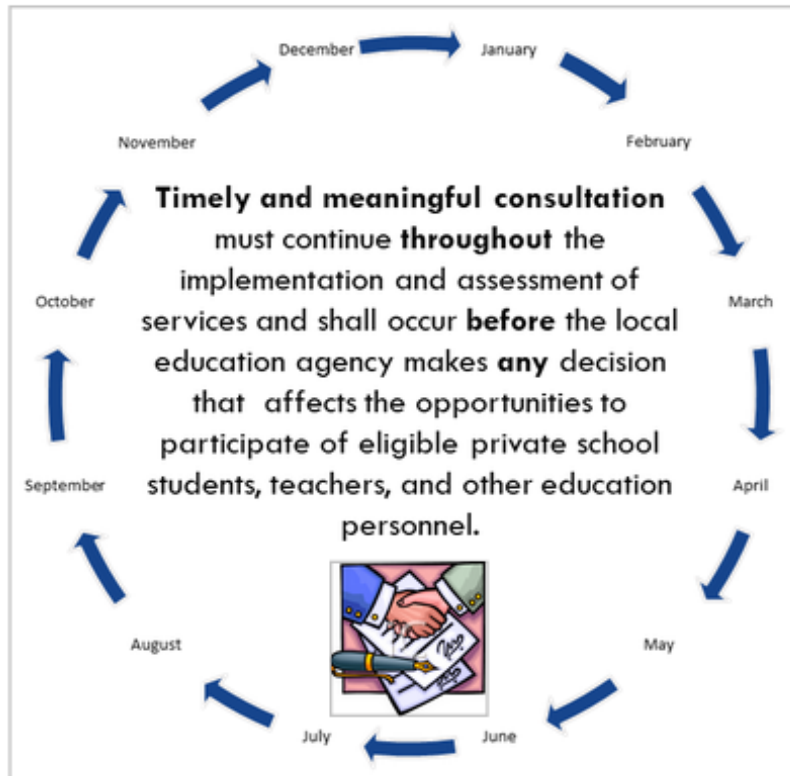
Needs of Private School Students and Teachers

Amount of Funds Available for Services and How the Amount Is Determined

How, Where, When and By Whom Services Are Provided

Use of 3<sup>rd</sup> Party Provider and Written Explanation for Not Using 3<sup>rd</sup> Party Provider

### Written Affirmation of Consultation Required



Pooling of Funds

Size and Scope of Services

Providing Services Directly or Via Another Entity

How and When Decisions are Made

Assessment of Services



# Part 3 | Allocations and Expenditures

## *Allocating Funds for Equitable Services*

The ESEA requires an LEA to ensure that its expenditures for equitable services for eligible non-public school children and educators under covered ESEA programs 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 section 8501(a)(4); 34 C.F.R. § 299.7(a)).*



# Part 3 | Allocations and Expenditures

## *LEA Responsibility*

An LEA remains in control of the federal funds and maintains title to materials, equipment and property purchased with such funds.

*ESEA sections 1117(d)(1) and 8501(d)(1).*



# Part 3 | Allocations and Expenditures

## *Title I, Part A Proportional Share*

An LEA must determine the proportional share of Title I, Part A funds available for equitable services based on the **total amount** of Title I, Part A funds received by the LEA prior to any allowable expenditures or transfers of funds:

1. Determine the total number of children from low-income families residing in each participating public school attendance area who attend public and non-public schools.
2. Determine the overall proportion of these children who attend non-public schools.
3. Based on this proportion, determine the amount of funds available for equitable services based on that proportion of the LEA's total Title I allocation.

*ESEA section 1117(a)(4)(A).*



# Part 3 | Allocations and Expenditures

## *Title I, Part A Eligibility*

Child **resides in a Title I, Part A participating public school attendance area**, attends a non-public school, **AND** is identified by the LEA as:

- **Low achieving on the basis of multiple, educationally related, objective criteria**; or
- Homeless, in the prior 2 years participated in Head Start, a literacy program under Title II, a Title I preschool program, or Title I, Part C, or is a child in a local institution or community day program for neglected or delinquent children.

*ESEA sections 1115(c)(1)(B) and 1117(a)(1).*



# Part 3 | Allocations and Expenditures

## ***Title VIII Equitable Share***

Expenditures for services for programs for non-public school students and teachers must be equal to those of public school students on a per-pupil basis, taking into account the number and the educational needs of children to be served.

*ESEA section 8501(a)(4)(A).*





# Part 3 | Allocations and Expenditures

## *Title VIII Eligibility*

Students enrolled in non-public schools located in the area served by the ESEA program are eligible to participate.

- May be restricted based on the purpose of the ESEA program (ex. Title III, Part A).
- Where funding and resources may limit the number of children who can participate in the program, LEAs must consult with non-public school officials on this matter.

ESEA sections 8501(a)(1) and 8501(b)(2).



# Part 3 | Allocations and Expenditures

## ***Obligation of Funds***

Funds allocated to an LEA for educational services and other benefits to eligible non-public school children and educators must be obligated in the fiscal year for which the funds are received by the LEA.

*(ESEA section 8501(a)(4)(B); 34 C.F.R. § 299.7(a)(3)).*

## Part 3 | Allocations and Expenditures

### ***Notice of Allocation – Publicly Reporting Prortional Shares***

An SEA, NHED, must provide notice - in a timely manner to appropriate nonpublic school officials - the proportional share of funds that the LEAs have determined are available for eligible non-public school children, their teachers, their families, and/or other educational personnel. To meet this requirement, NHED collects semi-annually the [proportional share calculations form](#) for each ESEA program in a consolidated format organized by District/School/Non-Public School, which is then shared publicly on the NHED website.

*(ESEA section 8501(a)(4)(C); 34 C.F.R. § 299.7(a)(4)).*



# Part 3 | Allocations and Expenditures

## *Semi-Annual Reporting*

LEAs with non-public schools that have chosen to participate in the available ESEA programs and indicated participation on the 2024-2025 Equitable Services Affirmation, will report to the NHED, Office of ESEA Programs, the funds allocated for equitable services semiannually (August and February) to meet this requirement.

2023-2024 Proportional Shares Reported by District -

[23\\_24-esea-equitable-services-affirmation-v4\\_final.pdf \(nh.gov\)](#)



# Part 3 | Allocations and Expenditures

## ***Consultation and Transferability***

Before transferring any funds, an LEA must engage in timely and meaningful consultation with appropriate non-public school officials and give due consideration to the views of these officials prior to making decisions regarding transfers.

*(ESEA section 5103(e)(2)).*



# Part 3 | Allocations and Expenditures

## *Non-Public Allocation Adjustments*

After the LEA has calculated the non-public proportional shares for each non-public school, if there are additional equitable service funds available, the LEA must adjust each non-public school's per-pupil amount to evenly distribute the left-over funds.

As mentioned prior, an LEA may have Title II or Title IV, Part A funds transferred into their Title I, Part A allocation during the year. If a transfer takes place, the LEA must re-calculate the equitable services proportional share for the non-public schools that they have obligations to provide Title I, Part A funding.

# Part 3 | Allocations and Expenditures

## *Title I, Part A Equitable Services Proportional Share Calculator*

LEAs should coordinate with the participating non-public schools to appropriately budget for the correct share of equitable services the district must provide to the non-public schools. NHED has developed a [Title I, Part A Equitable Services Proportional Share Calculator](#) that can be used to calculate the appropriate share for a non-public school. **The calculator is not a requirement of the LEA, it is intended to be a useful resource for the LEA to utilize.**

Refer to the [Title I, Part A Equitable Services Proportional Share Guidance](#) for more information.

Refer to the [Title I, Part A Non-Regulatory Guidance for Equitable Services](#) for additional information pertaining to equitable services requirements of the LEA who receives Title I, Part A funds.

## **Part 4 | Allocations and Expenditures**

### ***Title I, Part A - Determining Methods and Sources of Poverty Data***

An LEA is required to consult with non-public school officials on the method or sources of data that are used to determine the number of children from low-income families in participating school attendance areas who attend non-public schools; this data is used to calculate the proportional share of Title I, Part A funds available for equitable services.



# Part 4 | Allocations and Expenditures

## ***Title I, Part A - Determining Methods and Sources of Poverty Data***

ESEA permits an LEA, based on timely and meaningful consultation, to use the below five methods to allocate the non-public school proportional share. After consultation, the LEA has the final authority to decide which method it will use to calculate the eligible number of low-income families residing in the Title I, Part A public school attendance areas attending non-public schools.

*Method 1 - The same measure of poverty used to count public school children*

*Method 2 - Comparable poverty data from a survey*

*Method 3 - Comparable poverty data from a different source*

*Method 4 - Proportionality*

*Method 5 - An equated measure*



# Part 4 | Allocations and Expenditures

## *Title VIII, Part F Equitable Services Proportional Share Calculator*

LEAs should coordinate with the participating non-public schools to appropriately budget for the correct share of equitable services the district must provide to the non-public schools. NHED has developed a [Title VIII, Part F Equitable Services Proportional Share Calculator](#) that can be used to calculate the appropriate share for a non-public school. **The calculator is not a requirement of the LEA, it is intended to be a useful resource for the LEA to utilize.**

Refer to the [Title VIII, Part F Equitable Services Proportional Share Guidance](#) for more information.

Refer to the [Title VIII, Part F Non-Regulatory Guidance for Equitable Services](#) for additional information pertaining to equitable services requirements of the LEA who receives Title I, Part A funds.

### ***School Choice***

Participation in a Federal or State non-public school choice program does not affect a non-public school student's eligibility for equitable services under an ESEA program. Regardless of the source of funds paying a non-public school student's tuition, a student is eligible for equitable services under the ESEA if the student meets the eligibility requirements of the respective program.

## ***Equitable Services Affirmation***

1. **Meaningful consultation** with all applicable non-public (non-profit) entities **must occur prior to June 1, 2024** when the Affirmation document is due to NHED. Consultation is an on-going process.
2. Fully complete the document including all checkboxes and signatures.
3. The LEA must upload the affirmation as part of the 2024-2025 ESEA Consolidated Application within the Grants Management System (GMS) no later than **June 1, 2024**.
4. The document will be reviewed and approved by NHED.

# Part 6 | Resources

[Equitable Services for ESEA Title Programs | Department of Education \(nh.gov\)](#)

2022 Draft Non Regulatory Guidance Title VIII, Part F Equitable Services for Eligible Private School Children, Teachers, and Other Educational Personnel

<https://oese.ed.gov/files/2022/03/Draft-Title-VIII-Equitable-Services-Guidance.pdf>

2019 Title I Non Regulatory Guidance Providing Equitable Services to Eligible Private School Children, Teachers, and Families

<https://www2.ed.gov/about/inits/ed/non-public-education/files/equitable-services-guidance-100419.pdf>

2016 non Regulatory Guidance: Fiscal Changes and Equitable Services

<https://www2.ed.gov/policy/elsec/leg/essa/essaguidance160477.pdf>



## *Part 7* | Questions?

How can we help?

