

Equitable Services under ESSA

Office of ESEA Programs



COLORADO
Department of Education

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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: Is the non-public school required to submit a list of student addresses and income information to the LEA during consultation?

Where can I learn more?

- Office of ESEA Programs: Equitable Services under ESEA
<http://www.cde.state.co.us/fedprograms/equitableervicescolorado>
- Non-public Schools Ombudsman: [Colleen Brooks](#)

Answer: The LEA must discuss and obtain the information necessary to calculate the amount of funds to set-aside under the Title program(s) the non-public schools chooses to participate in during the timely and meaningful consultation. The information necessary to calculate the proportionate share under Title I, Part A includes student addresses, and may include income information depending upon the LEA's chosen method of determining the comparable number of low-income students attending the non-public school.

Question: Is the LEA required to obtain information from non-participating non-public schools to calculate the proportionate share?

Answer: If the LEA is able to obtain information from non-participating non-public schools, the LEA should also include this data when calculating the proportionate share under Title I, Part A. However, in Colorado, CDE has no mechanism to require and/or enforce a requirement that LEAs obtain this data from non-participating non-public schools. If the LEA includes information from non-participating non-public schools it will result in an additional amount of funds that the LEA must set-aside to provide equitable services and carry-over. Non-participating nonpublic schools are not obligated to provide any information to CDE, and must only submit an enrollment count, not inclusive of student level academic or income information, to the LEA upon request.

CDE would expect to see that the LEA has been collecting and verifying address and applicable income information for students from participating non-public schools; however, CDE is not mandating that LEAs obtain this information from non-participating non-public schools.

Question: Does the LEA need to have a data sharing agreement on file with the non-public school?

Answer: As the LEA engages in timely and meaningful consultation with the non-public school, they should be diligent to follow local data privacy policies when gather student level PII, which may include securing a data sharing agreement between the LEA and the non-public school. If the LEA chooses to collect comparable data from a survey as its method of determining the low-income students attending the non-public school, the U.S. Department of Education provides the following information in guidance:

- *In order to obtain the number of private school children from low-income families, an LEA may use a survey to obtain poverty data comparable to those used for public school students. **To the extent possible, the survey must protect the identity of families of private school students.*** The only information necessary for an LEA to collect in such a survey of private school children is- -
 - (1) geographic information verifying residence in a participating public school attendance area; (2) grade level of each child; and
 - (3) income level of parents.

Where can I learn more?

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Non-public Schools Ombudsman: [Colleen Brooks](#)



An LEA should not require that the private school officials give the names of low-income families.

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 30 days prior to the LEA's final submission of the consolidated application. The consultation template may be accessed on the [Equitable Services](#) webpage.

Question: What if the LEA is submitting the complete Consolidated Application on June 30, 2017 – are the results of consultation still due on May 30, 2017?

Answer: CDE recognizes that allocations will be released later than usual this year, which may prevent the LEA's ability to meet the 30 day deadline if the LEA is submitting the final version of the Consolidated Application on June 30, 2017. In this situation, the LEA should contact the non-public schools ombudsman prior to submitting the Consolidated Application. If the LEA plans to request an extension for submission, the 30 day deadline would still apply.

Question: Can the LEA carry-over funds to provide equitable services?

Answer: The LEA must obligate the funds set-aside to provide equitable services during the fiscal year for which the funds are received. The LEA may request to carry-over funds in extenuating circumstances; however, the funds must be carried over categorically. (i.e. Funds carried over to the next year must be used to provide equitable services.)

Question: Are the students that generate the proportionate share 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: Does the indirect cost rate apply to the entire Title I allocation?

Answer: Yes. The indirect cost rate is not impacted by the proportionate share.

Where can I learn more?

Office of ESEA Programs: Equitable Services under ESEA
<http://www.cde.state.co.us/fedprograms/equitableervicescolorado>

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Question: How should LEAs determine the amount of funds to provide equitable services to non-public schools under Title IV?

Answer: In alignment with the provisions under Title VIII of the Every Student Succeeds Act, LEAs should calculate the amount to set-aside to serve participating non-public schools by determining the per pupil amount based on the LEA's and non-public school(s)' enrollment count. This process is similar to the Title II, Part A calculation, which is discussed in more detail in the guidance and webinars currently posted on the [Equitable Services webpage](#).

Question: If an LEA does not collect the names of low-income families, how do LEA officials or auditors determine that the poverty numbers provided by the private school officials are accurate?

Answer: Private school officials should maintain the poverty data in their files. If LEA officials or auditors wish to review the poverty data, they may review the data at the private schools.

Question: How are the criteria for at-risk students served by Title I, Part A funds determined?

Answer: In consultation with private school officials, an LEA must establish multiple, educationally related, objective criteria to determine which private school children are eligible for Title I services, and, within the eligible group, which children will be served. To the extent appropriate, the LEA must select private school children who are failing, or most at risk of failing, to meet high student academic achievement standards

Question: May private school officials order or purchase materials and supplies needed for the Title I program and be reimbursed by an LEA?

Answer: No. Private school officials have no authority to obligate or receive Title I funds. The statute clearly states that the LEA must maintain control of Title I funds, materials, equipment, and property. No Title I funds may be paid to a private school.

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 allocation, including reservations for administration, parental involvement, and district-wide initiatives.

Where can I learn more?

Office of ESEA Programs: [Equitable Services under ESEA](http://www.cde.state.co.us/fedprograms/equitableervicescolorado)
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Non-public Schools Ombudsman: [Colleen Brooks](#)



Note: This is a change from how the funds were previously calculated to provide equitable services under the No Child Left Behind (NCLB) Act. LEAs will no longer use the school-level PPA to determine the amount of funds to reserve to provide equitable services under Title I.

Question: Is the LEA required to obtain data (i.e. addresses and income information) from nonparticipating non-public schools?

Answer: If the LEA is able to obtain information from non-participating non-public schools, the information should be included in the calculation. However, in Colorado, CDE has no mechanism to require and/or enforce a requirement that LEAs obtain this data from non-participating non-public schools. Currently, the only time the LEA is able to collect this information is upon the non-public school's indication, through consultation, that they want to participate in the LEA's Title I program and receive equitable services for their students. CDE would expect to see that the LEA has been collecting and verifying address and applicable income information for students from participating non-public schools; however, CDE is not mandating that LEAs obtain this information from nonparticipating non-public schools.

Question: How does the LEA calculate the proportionate share of Title I funds to be set-aside to provide equitable services to students in non-public schools?

Answer: CDE has developed a step-by-step guidance document to assist LEAs in calculating the proportionate share. LEAs may access the guidance at <http://www.cde.state.co.us/fedprograms/equitableervicescolorado>. In addition, the non-public schools ombudsman hosted a Virtual Academy work session to walk through how to calculate the proportionate share, as well as address additional updates to the equitable services provisions, on May 23, 2017. Please access the recording here: <http://www.cde.state.co.us/fedprograms/virtualacademy>

Question: Does the LEA set-aside additional Title I funds to provide parent and family engagement activities?

Answer: No. The parent and family engagement activities should be accounted for with funds already set-aside under the proportionate share, not in addition to the proportionate share. When budgeting within the Consolidated Application, the LEA will have three funding source options to reflect whether the funds are identified for the parent and family engagement activities, administration reservation, or the remaining amount of the proportionate share used to provide equitable services.

Question: What types of activities may an LEA now provide to private school participants under Title II, Part A?

Where can I learn more?

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Non-public Schools Ombudsman: [Colleen Brooks](#)

Answer: An LEA may continue to use Title II, Part A funds to provide professional development activities for teachers, principals, and other school leaders to address the specific needs of their students. Additionally, there may be other permissible uses of Title II, Part A funds for the benefit of private school participants.

Any use of Title II, Part A funds for the benefit of private school participants must:

- Be an allowable local use of Title II, Part A funds under the authorizing statute.
- Meet the specific needs of students enrolled in a private school, and not the school itself. Title II, Part A funds may not be used to meet the needs of a private school or the general needs of the students enrolled in the private school. In some instances, however, a program or activity that primarily benefits a private school's students (because it addresses specific, rather than general, needs of the students) will also incidentally benefit the school.
- Ensure that the LEA responsible for providing equitable services retains control of the funds used to provide such services.

Equitable services under Title II, Part A may not be used for class-size reduction in a private school because contracts for private school teachers and staff would be inconsistent with the requirements in ESEA regarding public control of funds and the supervision and control of employees or contractors.

Question: What are some examples of the Title III services that an LEA may provide to private school ELs, their teachers, and other educational personnel?

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

- Tutoring for ELs before, during, or after school hours;
- Professional development for private school teachers of ELs;
- Summer school programs to provide English language instruction for ELs;
- Administration of an ELP assessment for identification of ELs and/or for the purpose of evaluating the effectiveness of services, including the provision of test booklets, teacher training, and stipends to teachers to administer assessments; and
- Provision of supplemental instructional materials and supplies. These materials and supplies must be supplemental to what the private school would be required to provide in the absence of the Title III services. These materials and supplies must also be clearly labeled and identified as the LEA's property, and must be secular, neutral, and non-ideological. The LEA is required to maintain oversight of all materials and supplies purchased with Title III funds.

Where can I learn more?

Office of ESEA Programs: Equitable Services under ESEA
<http://www.cde.state.co.us/fedprograms/equitable-services-colorado>

Non-public Schools Ombudsman: [Colleen Brooks](#)

Question: Does REAPing or transferring funds from Title II and/or Title IV impact the consultation requirements?

Answer: Yes. The LEA must consult with the non-public school officials about the decision to REAP or transfer Title II and/or Title IV funds *before* the funds are REAPed or transferred. If the non-public school chooses to participate in Title II and/or Title IV, the LEA must determine the amount necessary to set-aside to provide equitable services to the non-public school, and may then REAP or transfer the remaining amount of Title II and/or Title IV funds.

Question: Should the LEA include charter schools and alternative high schools in the proportionate share calculation?

Answer: The proportionate share is calculated based on the number of low-income students residing in a Title I school boundary and attending either a public or private school. The funds set-aside as the “proportionate share” should be used to provide equitable services under Title I, part A to participating non-public schools. Charter schools and alternative high schools should be treated as district schools and are not impacted by the proportionate share calculation.

Question: If we are compensating another district for providing services to a student that resides in our boundary but attends private school in another district, do you include those students in the proportionate share?

Answer: Yes, the sending district should include the students in the proportionate share when possible. Districts should develop an interdistrict MOU to address how the two districts will work together to provide equitable services to students in private schools. CDE is currently developing guidance in consultation with the non-public schools working group regarding the MOU process and format.

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 non-public schools ombudsman, [Colleen Brooks](#), in the Office of ESEA Programs.

Where can I learn more?

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Equitable Services: Frequently Asked Questions

