



Arkansas Department of Education  
Division of Elementary and Secondary Education  
Special Education & Federal Programs

# Equitable Services under ESSA

## Frequently Asked Questions

For LEA Federal Program Coordinators  
And  
Private School Officials

Updated 09/08/2023



# Table of Contents

## General Information

- Definition of Equitable Services. .... 5
- Federal Programs & Equitable Services. .... 5

## Frequently Asked Questions

1. What is the purpose of each Title program? ..... 6
2. Who is eligible for each Title program? ..... 7
3. Which private schools need to be contacted by the LEA? ..... 8
4. Is there a list of private schools in Arkansas? ..... 8
5. What steps does an LEA take when a new private school opens? ..... 9
6. When should consultation take place? ..... 9
7. Is there a suggested consultation timeline for LEAs? ..... 10
8. What should be discussed during consultation? ..... 12
9. If a private school has declined services in the past, does an LEA still need to contact them every year? ..... 13
10. What documentation is needed by an LEA? ..... 13
11. How are allocations calculated? ..... 14
12. How does an LEA determine the number of private school children from low-income families that reside in the Title I public school attendance zone? ..... 17
13. How does an LEA choose private school students to participate in the Title I program? ... 18
14. How can equitable services funds be used? ..... 19

15. May an LEA set deadlines for submission of requests from private school officials for services and materials? .....	22
16. Can an LEA carry over equitable services funds?.....	23
17. What are the laws for transferring funds? .....	24
18. How can a small budget be maximized? .....	24
19. Do Title I funds have to be used for parent and family engagement activities for equitable services?.....	26
20. What does an LEA need to do in Indistar and Federal Grants Management?.....	27
21. What steps does a private school official take when they have an equitable services complaint? .....	29
22. Can Title I equitable services funds cross state lines? .....	29
23. Are private schools required to hold an annual Title I meeting for parents? .....	30
24. Are charter schools required to consult with private schools and submit an Affirmation of Consultation with Private Schools Form? .....	30

## Resources

• SAMPLE-Arkansas Department of Education Affirmation of Consultation with Private School Officials... ..	31
• Arkansas Department of Education Affirmation of Consultation Information Sheet.....	31
• ADE List of Known Arkansas Private Schools by County.....	31
• Arkansas Public Schools and Districts Boundaries Map.....	31
• Sample Title I Non-Public Family Income Survey... ..	31
• U.S. Department of Education Office of Non-Public Education Website... ..	31
• Title I, Part A of the Elementary and Secondary Education Act of 1965, as Amended by the Every Student Succeeds Act: Providing Equitable Services to Eligible Private School Children, Teachers, and Families Updated Non-Regulatory Guidance; May 17, 2023... ..	32

- Title VIII, Part F of the Elementary and Secondary Education Act of 1965, as Amended by the Every Student Succeeds Act: Equitable Services for Eligible Private School Children, Teachers, and Other Educational Personnel Non-Regulatory Guidance; July 17, 2023.... 32
- Book Resource: Serving Private School Students, Families and Teachers: A Compliance Guide for Title I Practitioners..... 32
- Arkansas Department of Education Division of Elementary and Secondary Education (DESE) Spending Handbook for ESEA/ESSA Funds 2022-2023... 32
- Education Department General Administrative Regulations (EDGAR) and Other Applicable Grant Regulations... 33

# General Information

## Definition of Equitable Services

The Elementary and Secondary Education Act (ESEA) requires a participating Local Educational Agency (LEA) to provide eligible children attending private elementary and secondary schools, their teachers, and their families with Title I services or other benefits that are equitable to those provided to eligible public school children, their teachers, and their families. These services are considered to be assistance to students and teachers and not to private schools. While the Arkansas Department of Education (ADE) provides funding to LEAs for entitlement services to students attending private schools who choose to accept funding and abide by the regulations of such funding, the ADE does not accredit or provide oversight of private schools.

## Federal Programs and Equitable Services

- Title I Part A - Educational Assistance to At-Risk Students
- Title I, Part C - Education of Migratory Children
- Title II, Part A - Professional Development/Supporting Effective Instruction
- Title III, Part A - Language Instruction for English Learners and Immigrant Students  
Title IV, Part A - Student Support and Academic Enrichment Grants
- Title IV, Part B – Nita M. Lowey 21st Century Community Learning Centers (21st CCLC)

# Equitable Services Frequently Asked Questions

## 1. What is the purpose of each Title program?

### **Title I, Part A: Educational Assistance to At-Risk Students**

Title I, Part A provides supplemental educational services for eligible private school students in need of instructional support who are educationally disadvantaged and failing or most at risk of failing to meet high academic standards. The funding formula is based on the number of students identified as low-income.

### **Title I, Part C: Education of Migratory Children**

Title I, Part C supports educational programs and services that address the unique needs of migratory children (the children of migrant agricultural/fishery workers). Supplemental instructional services are designed for eligible students who are most at risk due to their high mobility and/or limited proficiency in English.

### **Title II, Part A: Professional Development/Supporting Effective Instruction**

The goal of the Title II, Part A, program is to provide assistance for preparing, training, recruiting and retaining high quality teachers, principals, and other school leaders. Funds are made available to improve teaching and student learning, addressing specific student needs. Activities include the provision of sustained and intensive evidence-based professional development that can help students achieve high academic standards. The funding formula is based on K-12 private school student enrollment data.

### **Title III, Part A: Language Instruction for English Learners and Immigrant Students**

The Language Instruction for English Learners (EL) and Immigrant Students program provides funds for helping EL students attain English proficiency and meet the same challenging State academic standards required of all students. Supplemental educational services for eligible private school students who are identified as English Learners may be provided. Qualification criteria will be discussed during consultation. Funds may also be used to provide professional development to teachers of English Learners.

The Title III funding formula is based on K-12 private school EL student data.

## **Title IV, Part A: Student Support and Academic Enrichment Grants**

The Title IV, Part A, program is intended to increase the capacity of local educational agencies, schools, and local communities to provide all students with access to a well-rounded education, improve school conditions for student learning, and enhance the use of technology in order to improve the academic achievement and digital literacy of all students. The funding formula is based on K-12 private school student enrollment data

## **Title IV, Part B: 21st Century Community Learning Centers (CCLC)**

The 21st CCLC program is a competitive program that supports the creation of community learning centers that will provide academic enrichment opportunities during non-school hours for children, particularly students who attend high-poverty and low-performing schools. The program helps students meet state and local standards in core academic subjects, such as reading and mathematics; offers students a broad array of enrichment activities that can complement their regular academic programs; and offers literacy and other educational services to the families of participating children.

## **2. Who is eligible for each Title program?**

<b>Title I-A</b>	Eligible private school students must live in the Title I participating public school attendance area.
<b>Title I-C</b>	Services are based on the migratory status of eligible students and are only available from the district or Co-Op in which the private school is located.
<b>Title II</b>	Funds are only available from the district in which the private school is located.
<b>Title III</b>	The school district must have qualified for this grant. Services are based on the EL and/or immigrant status of eligible students.
<b>Title IV-A</b>	Funds are only available from the district in which the private school is located.
<b>Title IV-B</b>	The school district must have qualified for this grant. The private school must be located within the public school attendance area.

### 3. Which private schools need to be contacted by the LEA?

According to Title I, Part A of the Elementary and Secondary Education Act of 1965, as Amended by the Every Student Succeeds Act: Providing Equitable Services to Eligible Private School Children, Teachers, and Families, 119 LRP 38894 (EDU 10/07/19) Updated Non-Regulatory Guidance (2019 Non-Regulatory Guidance), LEAs have "a responsibility to contact all private schools within the district that might have students eligible to participate in Title I programs -- i.e., students who live in a participating Title I public school attendance area in the LEA." (2019 Non-Regulatory Guidance, A-5). Private schools must also be a nonprofit corporation.

"An LEA also has a responsibility to contact private schools outside the district if the LEA has reason to believe students who reside in a participating Title I public school attendance area attend those schools. An LEA may not be aware, however, of every instance in which a student who resides in a participating Title I public school attendance area attends a private school outside of the district." For this reason, a private school official may contact the LEA directly if they believe they have students eligible for Title I services that reside in the participating public school attendance area.

### 4. Is there a list of private schools in Arkansas?

Please refer to the ADE List of Known Arkansas Private Schools by County on the [Federal Programs Private School website](#). Since new private schools may be added or closed without ADE's knowledge, it is important for LEAs to keep informed of any new schools that may open in their area in order to start building relationships. If you are aware of a new private school opening or one not listed, please contact the ADE Equitable Services Program Advisor to add it to the list.

### 5. What steps does an LEA take when a new private school opens?

According to the [Title I Equitable Services Non-Regulatory Guidance section A-16](#), "an LEA is not required to provide equitable services in the current year to eligible students who attend a new private school if the school opens after the LEA's deadline for indicating an intent to participate in Title I equitable services, but the LEA may do so." Once the LEA becomes aware of a new private school in your attendance area, you can go ahead and make contact with them to begin developing a relationship. An invitation could also be extended to the staff for any professional development opportunities that could be beneficial.



LEAs will then extend an invitation to consult with the private school officials during initial consultation time.

## 6. When should consultation take place?

Meaningful consultation must begin before an LEA makes any decisions that affect the opportunities for eligible private school students, their teachers, and their families to participate, as well as before any services are provided. An **ongoing consultation** process should begin well before the start of the school year, and should continue throughout the full implementation and evaluation of services provided to private schools.

The **initial consultation** should begin generally at or near the beginning of each school year. Remember, services for private school students should begin at the same time as services for public school students in order to be equitable, presumably at the start of the school year ([Title I Equitable Services Non-Regulatory Guidance section C-20](#)). In order for this to happen, all of the necessary steps need to have taken place prior to this. You might need to make a change to the student roster at the beginning of the school year, but this should not be when you are deciding what services will be offered.

Consultation should continue throughout the school year on the status of programs and services through the evaluation process. Consultation is not a one time event. It is an ongoing collaboration (ESEA section 1117(b)(3)).

## 7. Is there a suggested consultation timeline for LEAs?

School Year Suggested Consultation Timeline for LEAs	
<b>March/ April</b>	<ul style="list-style-type: none"> <li>• Ongoing communications with private school officials about the status of current programs and services.</li> <li>• Complete initial plans for programs and services for the upcoming school year.</li> <li>• Identify additional eligible students that received services during the school year and update data for next school year funding.</li> <li>• Consult with private school officials to identify students' and teachers' needs (based on needs assessment), discuss services and estimated funding figures for next school year.</li> <li>• Report updated private school data in SIS cycle 6.</li> </ul>
<b>May</b>	<ul style="list-style-type: none"> <li>• Ongoing communications with private school officials about the status of current programs and services.</li> <li>• Assess student progress and evaluate program effectiveness.</li> <li>• Make suggestions for modifying programs that will be implemented in the next school year.</li> <li>• Fill out the Affirmation of Consultation with Private Schools Officials form. It should be uploaded in Indistar in the Form Uploads folder for the year of services. (Ex. The consultation form due in May of 2023 will be uploaded in the 23-24 Form Uploads folder.) <ul style="list-style-type: none"> <li>◦ Please submit one form for each private school, participating and nonparticipating.</li> </ul> </li> </ul>
<b>June/ July</b>	<ul style="list-style-type: none"> <li>• If part of the consultation process during the SY provide services to expand learning time, including before- and after-school programs, summer school programs, etc.</li> <li>• Finalize any action related to program and services provided during the school year.</li> <li>• Initial consultation meeting.</li> <li>• Provide a general overview of programs that will be available to non-public students and teachers in the next school year.</li> <li>• Identify additional private schools in your area that need to be contacted.</li> <li>• Contact private school officials to set up a consultation calendar for the upcoming school year.</li> </ul>

<p><b>August</b></p>	<ul style="list-style-type: none"> <li>• Determine preliminary equitable services allocations based on number of eligible students residing in Title I attendance areas and total enrollment (please use prior year data provided in the last Affirmation of Consultation with Private Schools Officials form). This number will be entered into the preliminary budget in Federal Grants Management.</li> <li>• Provide equitable services program funding figures to private school officials.</li> <li>• Establish service start date (the same as the public school start date).</li> <li>• Finalize roster of participating students.</li> <li>• Consult with private school officials to identify additional students' and teachers' eligible for services and their needs (based on needs assessment).</li> <li>• Refer to FAQ Question 8 for an in-depth overview of what should be discussed during initial consultation.</li> </ul>
<p><b>September/ March</b></p>	<ul style="list-style-type: none"> <li>• Identify private schools that need to be contacted.</li> <li>• Contact private school officials to set up a consultation calendar for the upcoming school year.</li> <li>• Make needed changes to the student roster.</li> <li>• Begin services.</li> <li>• Begin professional development and parental involvement activities.</li> <li>• Consult with private school officials to identify additional students' and teachers' eligible for services and their needs (based on needs assessment).</li> <li>• Ongoing communications with private school officials about the status of current programs and services.</li> <li>• Conduct professional development and parental involvement activities.</li> <li>• Conduct professional development and parental involvement activities.</li> <li>• Assess student progress and evaluate program effectiveness.</li> <li>• Make suggestions for modifying or improving the programs.</li> </ul>

## 8. What should be discussed during consultation?

In order for an equitable services program to start at or near the beginning of the school year (the same time as the public school start date), an LEA must complete initial consultation with private school officials, collect poverty data and determine allocations, select students, design the Title I program, assign teachers or engage an independent provider, and order supplies and materials. The following items should be discussed during a consultation with private school officials:

- Identification of children's needs, connected to the school's needs assessment.
- What services will be offered. Services, including materials and equipment, must be secular, neutral, and non-ideological.
- How, where, and by whom the services will be provided.
- How services are assessed and how the results of the assessment will be used to improve those services.
- The size and scope of the equitable services provided to eligible private school children, teachers, and other educational personnel.
- The proportionate share of funding allocated for services and how the funding is allocated is determined.
- How and when decisions about the delivery of services will be made and how the private school will be notified of those decisions.
- Whether services shall be provided by the school district directly or through a separate government agency, consortium, entity, or through a third-party contractor.
- Whether to provide equitable services to eligible private school children by pooling funds allocated for the program's purpose.
- Administrative costs of providing equitable services.
- Indirect costs.
- Services and activities for teachers of participating private school students.
- Family engagement activities for families of participating students or students receiving Title services.
- Any funds available for carryover.
- Transfer of funds from one program to another and implications for private schools.
- What methods or sources of data will be used to determine the number of children from low-income families in participating school attendance areas who attend private schools for Title I.

- How, if the LEA disagrees with the views of the private school officials on the provision of services through a contractor, the LEA will provide in writing to the private school officials an analysis of the reasons for the decision.
- When services will be provided (including the approximate time of day).
- Whether to coordinate and use Title I funds for equitable services with other applicable Title programs.

The private school officials will need to collaborate with the LEA to determine needs and eligibility criteria. This includes sharing the results of the school's needs assessment or any other useful data. Collaboration also needs to occur when determining evaluation methods.

## 9. If a private school has declined services in the past, does an LEA still need to contact them every year?

**YES.** The [Title I Equitable Services Non-Regulatory Guidance section A-17](#) states, "The LEA must contact each private school every year to determine the private school's intent to participate in Title I programs." If a private school does not respond to an LEA's request to consult, the LEA has no further responsibility to provide equitable services to that school during that school year. The LEA "must be able to demonstrate that it made a good faith effort to contact all the private schools in the district and those outside the district that may enroll eligible private school students who reside in the district." (See Equitable Services FAQ Question 3) LEA's need to make at least 3 attempts to contact the private school. Keep all documentation of attempted contacts (telephone log, e-mails, certified mail, etc.) in your records. The LEA will still need to upload an Affirmation of Consultation form into Indistar for any private schools that do not respond, marking the box that the private school has not responded to your good faith efforts.

## 10. What documentation is needed by an LEA?

Under ESEA Section 1117(b)(5), an LEA is required to maintain in its records a written affirmation signed by officials of each private school. The ADE Affirmation of Consultation with Private School Officials is also required to be uploaded into Indistar in the Upload Folder for the correct year. For example, the 2023-2024 form would be uploaded into the 2023-2024 Form Uploads Folder. This document is usually the first document to be uploaded into the folder each year.

The folder will not appear in the list of folders in the “Document Upload” page until at least one document is placed into that folder. When you click “Upload a New File,” you will select the next year’s Form Uploads folder from the “Select Folder” drop-down menu.

An LEA should maintain detailed records of its efforts to engage with private school officials. The following important documents should be kept on file, according to the [Title I Equitable Services Non-Regulatory Guidance section A-12](#):

- Copies of letters annually informing private schools of the right to participate in the Title programs, invitations sent to engage in consultation, as well as logs of follow-up phone calls and any responses received.
- Notes indicating topics discussed and any decisions made during consultation. Retain meeting agendas and sign-in sheets.
- Documentation identifying the needs of private school students, teachers, and families, as well as allocation amounts for services.
- Documentation of provided services, programs, and resources and how the program was evaluated for effectiveness. Include copies of contracts, purchase orders, invoices, etc.
- Documentation of annual inventory of all property located in private schools. This should include a description, amount, and location of all property, as well as the program and purpose of each item. LEA’s must maintain ownership/control of all property and materials.
- If applicable, adequately addressed complaints from private school officials.

## 11. How are allocations calculated?

Educational services and other benefits provided to private school students and educators must be equitable in comparison to the benefits for public school students and educators [ESEA Section 1117(a)(3)(A)]. ESEA Section 1117(a)(4)(A) requires an LEA to ensure that its expenditures for equitable services are equal to the proportion of funds generated by children from low-income families who reside in participating Title I public school attendance areas and attend private schools. They must also determine the proportional share of Title I funds available for equitable services for eligible private school children based on the total amount of Title I funds received by the LEA prior to any allowable expenditures or transfers of funds (See Equitable Services FAQ Question 17).

When determining preliminary and final allocation amounts, prior year data will be used. For example, in planning for school year 2023-2024 allocations, an LEA would use its data from the school year 2022-2023 participating Title I public school attendance areas or schools and the number of children from low-income families residing in those attendance areas using poverty data collected during the 2022-2023 school year. Through consultation, the LEA may need to adjust the services it will provide to eligible private school students accordingly without setting aside additional funds other than those calculated while doing the preliminary budget.

Title I, Part A Proportional Share Calculation Formula

- 1. Determine the total number of children from low-income families **residing in each participating public school attendance zone** who attend public AND private schools from prior year data.
- 2. Determine the overall proportion of these children who attend private schools.
- 3. Finally, 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)).

EXAMPLE-DETERMINING THE PROPORTIONAL SHARE OF \$1,000,000 TITLE I ALLOCATION		
# of Public School Low-Income Children (Prior SY data)	# of Private School Low-Income Children (Reside in LEA’s attendance (Prior SY data)	Total # of Low- Income Children
3000	20	3020
Proportionate Share: 99%	Proportionate Share: 1%	
\$993,377.48	\$6,622.52	

## Title II & IV Equitable Services Calculation Formula

Title II and Title IV allocations are determined using total enrollment of students in the private school, regardless of their resident district. When determining preliminary allocation amounts, prior year data will be used.

1. Determine the total LEA enrollment and private school enrollment from the data provided in the prior school year Affirmation of Consultation with Private School Officials form data; add together for combined total enrollment.
2. Subtract any admin costs from the total LEA allocation.
3. Determine a per pupil rate by dividing the LEA allocation by the total combined enrollment.
4. Multiply the per pupil rate by the private school enrollment to determine the amount of funds available for equitable services for Title II or Title IV.

EXAMPLE-DETERMINING TITLE II & TITLE IV EQUITABLE SERVICES FUNDING	
<b>(A) Number of Students (prior year data)</b>	
(A1) LEA Enrollment	15,600
(A2) Participating Private School Enrollment	400
(A3) Total Enrollment = A1 + A2	16,000
<b>(B) Title II or IV Allocation</b>	
(B1) Total LEA Allocation	\$200,000.00
(B2) Admin Cost	-
(B3) LEA Allocation minus Admin Cost = B1 - B2	\$200,000.00
<b>(C) Per Pupil Rate = Cost Per Child</b>	
(C1) Per Pupil = B3/A3	\$12.50
<b>Equitable Services</b>	
Amount LEA Must Reserve for Equitable Services = A2 x C1	\$5,000.00



## Other ESEA Equitable Services Allocations

Equitable services allocations for other Title programs are based on eligibility.

- Title I, Part C is based on the migratory status of eligible students.
- Title III is based on the number of identified and served English Learners.
  - Use the same formula listed for Title II and IV, but replace the total enrollment numbers of public and private school students with total eligible EL public school students and total eligible EL private school students.
- Title IV, Part B is based on the location of the private school within a 21st Century Community Learning Center attendance area.

## 12. How does an LEA determine the number of private school children who are from low-income families that reside in the Title I public school attendance zone?

The ESEA permits an LEA to use the following methods to collect an accurate count of children from low-income families who attend private schools (the [Title I Equitable Services Non-Regulatory Guidance section B-11](#)):

1. The same measure of poverty used to count public school children. If the same measure of poverty used to count public school children is available for private school students (ex. Free and Reduced-Price Lunch-FRPL) and produces an accurate count, it is recommended to use this measure.
2. Comparable poverty data from a survey and allowing such survey results to be extrapolated if complete actual data are unavailable. Since many private schools do not use the FRPL program, a survey to collect data could be used. A *SAMPLE Title I Non-Public Family Income Survey* is available on the [Federal Programs Private Schools website](#).
3. Comparable poverty data from a different source. An LEA may use poverty data for private school children that are from a different source than the data it uses for public school children as long as the income threshold in both sources is generally the same.

4. Proportionality. An LEA may apply the low-income percentage of each participating Title I public school attendance area to the number of private school children who reside in that school attendance area to derive the number of private school children from low-income families.
5. An equated measure. An LEA may use an equated measure of low-income by correlating sources of data—that is, determining the proportional relationship between two sources of data on public school children and applying that ratio to a known source of data on private school children.

During consultation with private school officials, determine which method will be used to collect poverty data. The LEA has the final authority to make the decision (ESEA section 1117(c)(1)).

## 13. How does an LEA choose private school students to participate in the Title I program?

Once the proportional share has been determined for equitable services, private school students need to be chosen to participate in the Title I program. The LEA and private school officials will work together to determine multiple, educationally related, objective criteria to determine which private school students are eligible for services. Criteria could include achievement tests, teacher referrals and recommendations, grades, and other educationally related criteria. From the list of eligible students, those in greatest academic need will be identified to receive services ([Title I Equitable Services Non-Regulatory Guidance section C-1 to C-5](#)). The low-income students who generate the funding for equitable services may or may not be the most at-risk students who receive services as poverty is not a criterion for eligibility of services.

## 14. How can equitable services funds be used?

When determining use of funds for equitable services, make collaborative decisions based on the private school's needs assessment. The supplement, not supplant rule must be applied to all Title services. An LEA remains in control of the federal funds and maintains title to materials, equipment, and property purchased with such funds. LEAs should label property and equipment placed in private schools. These materials must be returned to the LEA when a program ends or when they are no longer needed to operate the program. Private school officials need to work with the LEA prior to any obligation of funds and to arrange for billing and payment of services, activities, and materials. The LEA may wish to reimburse an individual(s) for

costs associated with services and professional development or they may pay the costs directly. Private schools CANNOT be reimbursed for costs. All activities, including conferences, should be preapproved and the costs must be reasonable, necessary, and tied to the private school's needs assessment. The LEAs and private school officials should continue ongoing communication throughout the year to stay up to date on use of funds and account balances.

## Title I Services

Services may include, but are not limited to, the following:

- Instructional services and tutoring provided by public school employees or third-party contractors
- Expanded learning time, including before- and after-school programs
- Summer school programs
- Family literacy programs for families of participating students or students receiving Title services
- Counseling and/or mentoring programs
- Computer-assisted instruction
- Tutoring
- Instruction using take-home computers
- Equipment and instructional materials and supplies to assist with services
- Any combination of the above

Any equipment, materials, or supplies purchased must be reserved only for the use of the Title I teacher to serve those students receiving Title I services.

Title I services may only be provided to the grades that are being served at the Title I public school. For example, if the Title I public school attendance area serves grades K-5, a private school 6th grader would not be eligible for services.

**Remember, in order to meet the equitable services requirements under Title I, an LEA can not simply provide a private school with ONLY instructional materials and supplies.** Services should be equitable to public schools. When dealing with a small budget, this can be challenging. Refer to Equitable Services FAQ Question 18 for ideas for a small budget.

Refer to the list below for some examples of services provided under Title I:

- Order an online teaching subscription program for the private school students that includes a diagnostic assessment so it is individualized to each student. This can be the same program being offered to the LEA's public school students. Examples include i-Ready, Lexia, and Khan Academy.
- Provide professional development for private school teachers (only for teachers with Title I students) that meets their needs assessment. This can be especially beneficial if no Title II services are being used.
- Inquire about any possible retired private school teachers (that meet certification and licensure requirements) who could be hired for tutoring and/or intervention during the day or after school.
- Hire a private school teacher to provide Title I services, as long as the services occur outside of the time he or she is employed by the private school. The private school teacher would be under the direct supervision of the LEA with respect to all Title I services (ESEA section 1117(d)(2)).
- Purchase materials necessary to assist students with increasing their achievement (computers, calculators, etc.).

## Title II Services

LEAs must consult with private school officials located within their respective attendance zone to identify the needs of eligible private school students and teachers consistent with the requirements in section 8501 of ESEA.

- All activities, including conferences, should be preapproved and the costs must be reasonable, necessary, and tied to the private school's professional development plan that is based on their needs assessment.
- Funds may be used to provide professional development activities for teachers, principals, and other school leaders, as well as materials to support professional development.
- Any other use of these funds for the benefit of private school participants must be an allowable local use of Title II, Part A funds under the authorizing state (ESEA Section 2103(b)(3)).
- An LEA might invite private school teachers and leaders to participate in professional development

that the public school is attending or hosting. If the private school's needs are different from the public school's, the LEA can work with private school officials for staff to attend separate professional development opportunities.

- Funds may NOT be used for class size reduction.
- Before making the decision to transfer Title II funds, LEAs MUST consult with private schools.

## Title IV, Part A Services

LEAs must consult with private school officials located within their respective attendance zone to identify the needs of eligible private school students and teachers consistent with the requirements in section 8501 of ESEA. Title IV, Part A services for equitable services follow the same three content areas for student support and academic enrichment, as follows:

- Well-Rounded Education: Provide enriched curriculum and educational experiences to all students.
- Safe and Healthy Students: Improve conditions for student learning.
- Effective Use of Technology: Improve the use of technology in order to improve the academic achievement and digital literacy of all students.

There is no requirement that the portion an LEA spends for equitable services separately meet the distribution requirements in Title IV, Part A (i.e., no less than 20 percent for well-rounded education, no less than 20 percent for safe and healthy students, and some portion for effective use of technology).

Examples of use of funds for Title IV, Part A include, but are not limited to:

- Instruction in music, art, and language programs
- Robotics and engineering programs
- STEM competitions
- 3D printer, along with the curriculum to use it
- Field trips and museum programs tied to instruction
- Counseling and mental health services
- Social-emotional learning
- Training and professional development for teachers in any of the content areas
- Student health/PE equipment
- Speakers on safety and healthy, drug-free environments

LEAs MUST consult with private schools before making the decision to transfer Title IV-A funds.

## Other Title Services

Other Title programs (Title I, Part C, Title III, and Title IV, Part B) are available to eligible students enrolled in private schools located in the area served by the ESEA program. Since not all LEAs receive these grants, they may be restricted based on the purpose of the ESEA program. Where funding and resources may limit the number of children who can participate in the program, the LEA must consult with private school officials on this matter. (ESEA sections 8501(a)(1) and 8501(b)(2)).

## 15. May an LEA set deadlines for submission of requests from private school officials for services and materials?

Yes. LEAs may set a time limit for submission of requests for services and materials by private school officials if:

- The LEA has provided clear and sufficient notice of the deadlines.
- The LEA has identified potential consequences for not meeting the deadlines.
- The LEA has given adequate time for private school officials to gather the data and respond.

If the deadline is not met and no obstacles for meeting the deadline have been communicated by private school officials, the LEA can inform the private school officials that this could be considered as the private school declining services. If there has been ongoing consultation throughout the year and a solid relationship has been developed, though, this can easily be avoided ([Title I Equitable Services Non-Regulatory Guidance section B-31](#)).

## 16. Can an LEA carryover equitable services funds?

"Funds allocated to an LEA for educational services and other benefits to eligible private school children, teachers and other educational personnel, and families must be obligated in the fiscal year for which the funds are received by the LEA." (ESEA sections 1117(a)(4)(B) and 8501 (a)(4)(B)).

Every effort should be made to provide equitable services in the fiscal year for which the funds were appropriated in order to ensure services are being offered in a timely manner. An LEA may continue to obligate funds generated for equitable services for the previous school year during the summer after the school year ends and at the start of the next school year, as long as the obligations occur by September 30, which is end of the federal fiscal year.

"There may be extenuating circumstances, however, in which an LEA is unable to obligate all funds within this timeframe in a responsible manner. Under these circumstances, the funds may remain available for the provision of equitable services under the respective program during the subsequent school year. In determining how such carryover funds will be used, the LEA must consult with appropriate private school officials." (ESEA section 1117(b) and 8501(c)).

If services were delayed due to an extenuating circumstance leaving some funds unobligated, then the LEA must use those funds for equitable services in the affected private school the following year. For more information on carryover please refer to [Title I Equitable Services Non-Regulatory Guidance section B -27 to B-31](#) & [Title VIII Equitable Services Non-Regulatory Guidance section B-9 to B-12](#).

## 17. What are the laws for transferring funds?

ESEA section 5103 gives LEAs flexibility to transfer funds from Title II, Part A and Title IV, Part A into, for example, Title I, Part A. Before making the decision to transfer funds, LEAs MUST consult with private school officials in order to give due consideration to their views. The final decision to transfer funds lies with the LEA.

If funds are transferred into Title I, then those funds are subject to the proportional share for equitable services. For example, if an LEA's initial Title I allocation was \$750,000, and the LEA decides to transfer

\$250,000 from Title IV, Part A, the LEA would calculate the Title I proportional share based on the allocation after the transfer, \$1,000,000. If funds are transferred, the LEA must provide services to public and private school students and teachers in accordance with all of the requirements of the program(s) to which and from which the funds are transferred.

Keep in mind, LEAs are not able to transfer funds into the Title I program solely to provide services for private school students. Also, LEAs may not retain funds in a program from which it transfers funds to Title I solely to provide equitable services under that program (ESEA section 5103(e)(1)).

## 18. How can a small budget be maximized?

In the rural areas of Arkansas, one issue a lot of LEAs face is working with a very small budget for equitable services. As stated earlier, simply providing a private school with instructional materials and supplies using Title I funds does not meet equitable services requirements (ESEA section 1117(a)(1)(A), (a)(3)(A)). There are many options available, though, in order to use those funds in the most efficient and effective ways.

### Provide Title I Services Other Than Direct Instruction

When the funds allocated for private school children is not sufficient to provide quality direct instructional services, the LEA needs to consult with private school officials to decide if other services would be appropriate to assist those children identified as most at risk. Other services include counseling, activities for staff to improve instruction, and parent engagement activities. Even if the LEA is not providing direct instruction, they must still assess the services and measure the academic achievement of the participating students (ESEA section 1117(a)(1)(A), (b)(1)(D)).

### Coordinate Funds with Other Title Programs

Another great way to maximize a small budget is to use Title I Funds in coordination with eligible funds available for equitable services from other programs covered under Title VIII. If the amount of funds available to each program is not enough to provide adequate services in each program alone, coordinating services among each program could impact those most at-risk eligible students.

An LEA with limited funds could:

- Use Title I funds to provide instructional services to eligible Title I private school students.
- Use Title II funds to provide professional development to the teachers of those eligible students, rather than all teachers at the private school.



- Use Title III funds to improve the English proficiency of English learners among those participating students.
- Use Title IV funds to provide counseling services to the most at-risk eligible students.

This is a great way to provide the best services possible to those most at-risk students. Keep in mind, the funds must still be used for allowable activities under each program.

## Pooling Funds

Many LEAs provide equitable services on a school-by-school basis. When that budget is small, or when an LEA services small numbers of students in multiple private schools, pooling is an option. Each private school involved in the pool must agree during consultation; it cannot be a decision solely made by the LEA. An LEA may provide equitable services to eligible private school children with Title I funds by:

- **Pooling within an LEA:** Pool Title I funds generated by children from low-income families who reside in participating Title I public school attendance areas and attend private schools that are part of a group of private schools.
- **Pooling across LEAs:** When multiple LEAs serve eligible Title I students that attend the same private school, pooling those funds among LEAs could be a way to provide more robust services for those low-achieving private school children in the greatest needs.

For more information on pooling funds, refer to the [Title I Equitable Services Non-Regulatory Guidance section B-8](#) & [Title VIII Equitable Services Non-Regulatory Guidance section B-13 to B-16](#).

## Other Ideas

Working with a small budget will take ongoing collaboration between the LEA and private school officials in order to provide the most effective services. Other ideas to consider when dealing with a small budget are:

- Use Title I funds for professional development rather than direct services for the private school teachers that are teaching those eligible Title I students. The professional development needs to be connected to the private school's needs assessment.

- Create a plan during consultation in which the private school takes ownership of overseeing an online subscription purchased with Title I funds to be used by eligible students. Write in the plan that a teacher is responsible for overseeing the online program the students are using.
- Direct instruction could still be provided, but the time in which the students receive the instruction might be limited to once a week or once a month in order to be covered by the funds available.

## 19. Do Title I funds have to be used for parent and family engagement activities for equitable services?

If an LEA's Title I allocation is less than \$500,000, they are not required to use a portion of the proportional share for equitable services for parent and family engagement. During consultation with private school officials, though, an agreement can be made to still reserve a portion of that proportional share for those services. The amount would be determined during consultation.

If an LEA's Title I allocation exceeds \$500,000, ESEA section 1116(a)(3)(A) requires that at least 1% be reserved and spent on parent and family engagement activities. This requirement would also apply to the proportional share for equitable services to ensure that parents and families of private school children participate, on an equitable basis, in such services and activities (ESEA section 1117(a)(1)(B)).

Examples of parent and family engagement activities for families of identified students include: parent meetings, parent-teacher conferences, communication between the Title I teachers and parents on students'

academic progress, parent education, parent training activities on how to work at home with children on content and skills, reasonable access to Title I staff to receive information about their child's progress, and private school parent representation on a district-wide private school working group. Light refreshments may be included, as appropriate, in order to facilitate attendance at these activities.

## 20. What does an LEA need to do in Indistar and Federal Grants Management?

### Indistar: Affirmation of Consultation with Private Schools Officials Form

- The Affirmation of Consultation with Private School form needs to be uploaded into Indistar in the correct Form Upload folder. (Ex. The 23-24 Consultation Form should be uploaded in the 23-24 Form Uploads folder.)
- This document is usually the first document to be uploaded into the Form Upload folder each year in Indistar. The folder will not appear in the list of folders in the “Document Upload” page until at least one document is placed into that folder. When you click “Upload a New File,” you will select the next year’s Form Uploads folder from the “Select Folder” drop-down menu.
- May 1st of each year is the deadline for the Private School Consultation Form to be uploaded. (Ex. May 1, 2023 is the deadline for the 23-24 Consultation Form to be uploaded.)
- The Private School Data collected on the consultation form will be the most current data provided during the ongoing consultation throughout the school year. It should include all eligible students in that private school. Private School data collected during the SY 2022-2023 and provided to DESE in the Affirmation of Consultation with private school officials form on May 1, 2023, should match what is entered in FGM for SY 2023-2024 preliminary budget.

### Federal Grants Management (FGM): Preliminary Budget

- Once preliminary Title allocations are posted (around August 1), Federal Grants Management (FGM) will be open for submission for 30 days.
- The equitable services allocation amount in FGM will be pre-generated from the prior year's final budget numbers that were entered. Then, LEA should update the private school data using the data provided on the prior school year Affirmation of Consultation with Private School Officials, which should be based on the prior year’s data of eligible private school children, their teachers, and their families served.

- If no equitable services were offered the previous year, the allocation amount will not pre-generate, showing zero. The LEA will need to use the calculation formulas to determine equitable service allocations. Contact the Equitable Services program advisor at ADE if you need assistance.
- To make these changes in FGM, please follow the steps below:
  - Title I Budget:
    - LEAs will click “Alter Prerequisites.”
    - LEAs will then click on the button labeled ESSA Private School Enrollment to enter current low-income private school numbers from the prior school year Affirmation of Consultation with Private School Officials data.
    - Click the blue “+” sign to enter the number of low-income private school students for each school building.
    - If the LEA has no private school students to enter, click the green check mark.
  - Title II and IV Budgets:
    - Under the Equitable Services section, the LEA will enter the K-12 **total enrollment** of students at participating private schools using the prior school year Affirmation of Consultation with Private School Officials data. (This number will be different from the number entered in the Title I budget.)
  - Title III Budgets:
    - Under the Equitable Services section, the LEA will enter the total number of EL students at participating private schools using the prior school year Affirmation of Consultation with Private School Officials data.

## Federal Grants Management (FGM): Final Budget

- FGM will open for final budget submission in February after final allocations have been determined.
- The deadline for final budget submission is April 1<sup>st</sup> or the Monday after the 1<sup>st</sup> if it falls on a weekend day.
- Private school data will be generated from the amounts entered from prior year data during preliminary budgets. This data will not need to be updated at this point since allocation is always calculated based on prior year numbers. Any data update on new eligible student for that school year will be included in the Affirmation of Consultation with Private School Officials

and in FGM during the preliminary budget. Please, remember that services can be provided even if the student was not counted before.

## 21. What steps does a private school official take when they have an equitable services complaint?

Developing positive relationships between the LEA and private school officials should create an environment where concerns and complaints can be handled accordingly. The private school official should address concerns and complaints to the LEA in an attempt to solve any problems. If a complaint cannot be resolved, private school officials have the right to file a complaint with the SEA if they think that the LEA has not engaged in consultation that was meaningful and timely, has not given due consideration to the views of the private school official, or has not made a decision that treats the private school students equitably (ESEA section 1117(b)(6)(A)). These complaints will go to the Equitable Services Ombudsman, April Jarvis.

- **Elizabeth Gomez, Equitable Services Ombudsman**

Phone: 501-682-5295

Email: [elizabeth.gomez@ade.arkansas.gov](mailto:elizabeth.gomez@ade.arkansas.gov)

- Refer to the Equitable Services Ombudsman website for the complaint, resolution and appeals process, as well as to access a complaint form:

<https://dese.ade.arkansas.gov/Offices/Office-of-Special-Education-and-Federal-Program/federal-programs/federal-programs-ombudsman-equitable-services>

## 22. Can Title I equitable services funds cross state lines?

Yes, since the money follows the child, an LEA should contact private schools that are over state lines IF they have reason to believe that they have students that live in their attendance zone but attend those private schools. In this case, pooling those Title I funds with the LEA where the private school is located could be an option in order for that LEA to provide the services with more ease.

## 23. Are private schools required to hold an annual Title I meeting for parents?

No. This is only a requirement for public schools.

## 24. Are charter schools required to consult with private schools and submit an Affirmation of Consultation with Private Schools Form?

In most cases, no.

Since charter schools do not have a set attendance area, the private schools will be contacted by the public school LEA that has a set attendance area, not the charter schools. However, if a charter school is applying for and receiving a 21st Century Community Learning Centers (CCLC) grant, ESEA requires the charter school to consult with private schools and submit a consultation form. In this case, the charter school would reach out to the private schools that are located in the LEA's attendance area in which the charter school is located. Private schools would be entitled to 21st CCLC services rather than an allocation of funds.

# Resources

- Sample ADE Affirmation of Consultation with Private Schools. Refer to the Commissioner's Memo or the [Federal Programs Private Schools website](#).
- **Arkansas Department of Education Affirmation of Consultation Information Sheet.** LEAs can give this to private school officials to help explain each Title program and provide information on who is eligible for each program. Refer to the annual Commissioner's Memo or the [Federal Programs Private Schools website](#)
- **ADE List of Known Arkansas Private Schools by County.** LEAs may use this list to help determine which schools they need to contact. If an LEA knows of any private school in their attendance zone that is not on the list, please contact the Equitable Services Program Advisor. This list will be updated annually. Refer to the annual Commissioner's Memo or the [Federal Programs Private Schools website](#)
- **Arkansas Public Schools and Districts Boundaries Map:**  
<https://www.arcgis.com/apps/mapviewer/index.html?webmap=5e7a6d86fdc94b6f99b430ea4bc43048>
- **Sample Title I Non-Public Family Income Survey.** This survey may be used if needed to collect an accurate count of children from low-income families who attend private schools. This sample survey will be updated annually to reflect accurate data. Refer to the [Federal Programs Private Schools website](#)
- **U.S. Department of Education Office of Non-Public Education Website:**  
<https://www2.ed.gov/about/inits/ed/non-public-education/index.html>

- ***Title I, Part A of the Elementary and Secondary Education Act of 1965, as Amended by the Every Student Succeeds Act: Providing Equitable Services to Eligible Private School Children, Teachers, and Families Updated Non-Regulatory Guidance; May 17, 2023:***  
<https://oese.ed.gov/files/2023/05/Title-I-ES-guidance-revised-5-2023.pdf>
- ***Title VIII, Part F of the Elementary and Secondary Education Act of 1965, as Amended by the Every Student Succeeds Act: Equitable Services for Eligible Private School Children, Teachers, and Other Educational Personnel Non-Regulatory Guidance; July 17, 2023:***  
<https://www2.ed.gov/about/inits/ed/non-public-education/files/esea-titleviii-guidance-2023.pdf>
- **Bornel, Claude. *Serving Private School Students, Families and Teachers: A Compliance Guide for Title I Practitioners*. LRP Publications, 2020.**
- ***Arkansas Department of Education Division of Elementary and Secondary Education (DESE) Spending Handbook for ESEA/ESSA Funds 2022-2023:***  
[https://dese.ade.arkansas.gov/Files/DESE Spending Handbook for ESA ESSA Funds 2022-2023 PS A.pdf](https://dese.ade.arkansas.gov/Files/DESE_Spending_Handbook_for_ESA_ESSA_Funds_2022-2023_PS_A.pdf)
- ***Education Department General Administrative Regulations (EDGAR) and Other Applicable Grant Regulations:*** <https://www2.ed.gov/policy/fund/reg/edgarReg/edgar.html>