

Use this guide to prepare for and carry out consultation and planning with private nonprofit (nonpublic) schools interested in equitable services under Title I, Part A of the Elementary and Secondary Education Act (ESEA).

Title I Equitable Services for Private Nonprofit Schools

Program Design and Planning
Guide for LEAs



Utah State Board of Education

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1.Introduction

Section 1117 of the [Elementary and Secondary Education Act \(ESEA\)](#) requires participating local educational agencies (LEAs), in consultation with applicable private nonprofit school officials, to provide eligible students, teachers, and in some instances, their families with services that are equitable (fair, effective, and responsive to needs, but not necessarily identical) to those provided to eligible public school students, teachers, and families.

This guide follows the same outline as the Program Design and Planning Template but with more context and support. Federal nonregulatory guidance, [Providing Equitable Services to Eligible Private School Children, Teachers, and Families](#), may be a helpful resource as you design equitable service programs with private school officials.

2.Private Nonprofit Verification

Related Definitions – EDGAR Title 34, Subtitle A, Part 77.1

Private – the school is not under federal or public supervision or control.

Nonprofit – the school is owned and operated by one or more corporations or associations whose net earnings do not benefit, and cannot lawfully benefit, any private shareholder or entity.

Nonpublic – the school is nonprofit and is not under federal or public supervision or control.

Utah Board of Education Rule [R277-426](#) Definition of Private and Non-Profit Schools for Federal Program Services

(2) "Nonprofit school" means a school which:

- a) is not a part of the public school system;
- b) is operated with no intention of making a profit;
- c) does not primarily provide educational services to students enrolled in for profit residential programs;
- d) **possesses:**
 - i) **a State of Utah tax exemption number;**
 - ii) **a DUNS number - [lookup tool](#)**
 - iii) **a United States Internal Revenue Service Employer Identification Number (EIN); and**
 - iv) **a favorable Exempt Organization Determination Letter** (the official IRS document validating the nonprofit's tax-exempt status, e.g., 501(c)(3));
- e) teaches the required subjects on each grade level as designated by the Board for the same length of time as students must be taught in the public schools if required by the federal program.

3. Proportionate Share Calculation

Identification of Students

- A. Private schools must share addresses and grade levels (no names) of students living within the boundaries of Title I schools. Consider notifying private schools to come prepared with this information.
- B. LEAs determine which method or sources of data will be used to determine the number of students from low-income families in participating school attendance areas who attend private schools. This topic must be discussed during consultation. LEAs may calculate the number of students from low-income families who attend private schools in several ways:
 - Use the same measure of poverty as public schools (e.g., free/reduced price lunch data);
 - Use comparable poverty data from a survey or other source (e.g., tuition scholarship application, declaration of household income); or
 - Use proportionality (apply the low-income percentage of each participating Title I-A public school attendance area to the number of private school students who reside in that attendance area).

Estimated Proportionate Share for Upcoming School Year

A private school's proportionate share is determined before any other reservations to an LEA's Title I-A allocation are made. Remind private school officials that the LEA is required to maintain control of the federal funds. Any materials, equipment, and/or property purchased with such funds remain the property of the LEA and must be clearly labeled to reflect federal funding and ownership. See page 7 for a Title I-A Equitable Services Calculator.

4. Program Design

Consultation Timeline

Spring – initial outreach/communication and consultation → Summer – program design → Fall – implementation → Ongoing – assessment of program effectiveness, services adjustments as needed

Consultation Must be Timely and Meaningful

Timely – Adequate notice is provided and participants have time to prepare and gather relevant data before any decisions are made.

Meaningful – All participants have an opportunity to share their views and to discuss viable options for ensuring equitable participation. Good faith effort and assuming best intent are keys to successful program design.

Successful Plans and Program Design

- Planning centered on student needs helps keep the focus on equitable program design.
- Consistent communication and regular data sharing will positively impact the LEA's ability to serve private school students equitably and effectively.
- Strong relationships based on trust and transparency are key to overcoming implementation barriers. [State education agency \(SEA\) support](#) can enhance efficiency and compliance.

Responsibility for Design and Implementation

After meaningful consultation with private school officials, the LEA is responsible for planning, designing, and implementing Title I-A equitable services for private school students and may not delegate that responsibility to the private schools nor to their officials. (ESEA section 1117(a)(1)(A), (b)(1), and (d); 34 C.F.R. § 200.64(b)(4)).

Characteristics of Services

- Services, materials, and equipment must be secular, neutral, and non-ideological.
- Services must be supplemental in nature; they may not supplant what the private school would otherwise provide without the federal education services.
- The services must be allowable (under Title I, Part A), reasonable, and necessary in meeting the needs of private school students, teachers, and in some cases, parents.

Students Eligible for Services

1. Students must reside in a participating Title I public school attendance area, and
2. Students are identified as meeting one or more of the following criteria:
 - Low achieving on the basis of multiple, educationally related, objective criteria (determined during the consultation process); or
 - Homeless; a migratory child; in a local institution/day program for neglected or delinquent children; have, within the prior two years, participated in Head Start; a Title I preschool program; or a literacy program under Title II.
3. Low-income status is NOT a criterion for a student to receive Title I-A funded services.

POVERTY COUNTS VS STUDENT ELIGIBILITY

Student residence, grade level, and low-income data are used to determine proportionate share while residence, grade level, and academic risk criteria are used to select participating students.

5. Elements of Consultation and Equitable Services Plan

A. The following elements must be included in the plan:

1. What are the needs of students who are failing or most at risk of failing? Which criteria will be used to select students for Title I-funded services?
 - Consider notifying private schools prior to consultation that this topic/information will be discussed so they can come prepared with ideas.
 - Which educationally related, objective criteria will be used to qualify students for services?
 - What kinds of formative assessments, screeners, benchmark assessments, progress monitoring, could be used to best determine the needs of students?
2. What data have been collected to help identify students' needs? Are there other data that could provide additional insight into students' needs? How will the data be collected?
 - Consider notifying private schools prior to consultation that this topic/information will be discussed so they can come prepared.
 - What additional data does the LEA need in order to provide appropriate services to students?

3. What services will best address the identified student needs? (who, what, where, when, how, etc.) Will the services be provided directly by the district, through a separate government agency, consortium, or third-party provider?

Work with the private school officials to create a detailed plan—the more specifics that are identified, the greater chance of implementation success. Details should include:

- ☐ Time of day and frequency of services.
- ☐ Does the district have personnel who can provide the requested services or is there a third party provider that might provide the services?
- ☐ Will services be provided in person or virtually?

Note: if a staff member from the private school is contracted by the district, any services they provide must occur outside of the employee's regular working hours.

Examples of services provided via the private school's proportionate share:

Instructional services outside of classroom instruction; one-on-one tutoring; expanded learning time (before/after school, summer school); counseling/mentoring; computer-assisted instruction; materials, supplies, equipment, and property if necessary and reasonable to provide equitable services (but not materials and supplies alone); transportation if necessary and reasonable; professional learning for teachers/other staff members; family literacy programs; etc.

4. If the LEA disagrees with the views of the private school officials on providing services through a contracted provider, how will the LEA provide in writing an analysis of the reason(s) why the LEA has chosen not to use a contractor?

- The district may choose to provide the services directly rather than contracting with a third-party provider for a variety of reasons (e.g., the cost is determined to be unnecessary, unreasonable, and/or unallowable under Title I, Part A.; the third-party provider does not use evidence-based strategies; etc.)
- Faith-based organizations (apart from the private school) can act as contractors to provide secular, neutral, and nonideological services.

5. What is the size and scope of the equitable services to be provided to eligible private school students, teachers, other educational personnel, parents/family members?

- How will the proportionate share be budgeted among the required services (e.g., student services/supports, administrative costs, possibly parent & family engagement) and other services (e.g., professional learning for teachers based on student needs/data).
- If the LEA receives \$500,000 or more in Title I-A funding, at least 1% of a private school's proportionate share must be allocated for family engagement.
- Determine what services/resources will be provided to those parents/family members of students identified for services (e.g., training on literacy strategies to use at home with their child, training on intervention software to use at home, recorded tutorials on using math manipulatives to support student success, etc.)

6. How will the effectiveness of these services be measured? How will the measurement results be used to improve the services?

- What kinds of formative assessments, benchmark assessments, progress monitoring, etc. will be used?
- How will the results be used to modify, adjust, and/or improve the services?

7. How and when will decisions about delivery of services be made by the LEA?

- Decisions to include consideration and analysis of the private school officials' views.
- What will be the turnaround time for solidifying the equitable services plan?
- How much time will the LEA need to find personnel and/or compare costs for contracted work, follow the district procurement process, etc.

B. The following fiscal elements must be discussed and agreed upon during consultation:

8. Whether to provide equitable services to eligible private school students (requires agreement)

A. ☐ By creating a pool or pools of funds from the proportionate shares of multiple private schools within an LEA or across multiple LEAs, or

B. ☐ On a school-by-school basis.

Pooling involves combining funds from multiple private schools (within an LEA) or across multiple districts to provide services to qualifying students. LEAs and private school officials might consider pooling funds if individual private schools receive very small proportionate shares (e.g., less than \$1,000 - \$2,000) or if multiple districts provide services to the same private school(s). If two or more LEAs pool funds, a memorandum of understanding (MOU) should detail how the managing LEA will purchase services and how non-managing LEAs will handle invoicing. The LEA(s) must work with schools to establish common, objective criteria to identify which students in the pool have the greatest educational needs.

9. Whether to coordinate Title I funds with other eligible ESEA programs that provide services to private school students (i.e., Titles I-C, II-A, III-A, IV-A, and IV-B).

Does the private school participate in other ESEA equitable services programs for which the LEA is eligible? Does it make sense to coordinate those funds? (e.g., combined tutoring and language instruction, professional learning opportunities, integrated technology services, family engagement support/resources, etc.)

10. What are decisions made by the LEA that may affect the private school's proportionate share? (i.e., required administrative costs, indirect costs, family engagement, transferability of ESEA funds, etc.)

Administrative costs (must be necessary and reasonable) might include the time the LEA Title I Director (or other staff member) spends communicating with private school officials, conducting consultations with the private school, designing the equitable services program (including contracting with and overseeing third-party providers), ensuring the plan is implemented, assessing the effectiveness of program strategies, etc.

Family engagement – if the LEA receives \$500,000 or more in Title I-A funding, the private school is also required to use at least 1% of its proportionate share for family engagement.

Transferability – An LEA must calculate the proportionate share based on its entire Title I allocation (including any Title II-A or Title IV-A funds that an LEA transfers into Title I-A).

11. Carryover procedures (when funds are not obligated by the end of the fiscal year for which they were appropriated) this should be rare and minimal.

If funds remain at the end of the year due to delayed services or cost(s) less than expected, they should remain designated for equitable services for the original private school for which they were reserved and expended in the subsequent year.

C. The following elements are NOT required but may be helpful:

Are there policies and/or timelines that the LEA and/or private school need to be aware of?

Consider discussing the LEA's procurement policy/procedures and any necessary documentation, timelines for generating a purchase order, other timelines for coordinating the program, etc.

What is the preferred method(s) of ongoing communication/consultation?

Do in-person or virtual meetings work better? Are phone calls or emails preferred? What are secure methods for sharing data the LEA and private school might use?

Other? Record any other topics discussed that apply to the equitable services program design.

6. Formal Complaint

If the private school believes that timely and meaningful consultation has not occurred, the LEA did not give due consideration to the views of the private school, or that equitable services have not been provided, it has the right to file a formal complaint.

Step 1: Work with the LEA to resolve the concern(s). Note: the LEA might consider providing any complaint processes it has in place to private school officials including open and ongoing communication with the Title I Director (or other staff member).

Step 2: If it is not possible to resolve the issue at the LEA level, the private school can file a [formal written complaint](#) with the ombuds at the State Education Agency (SEA).

7. SEA Monitoring

The LEA must maintain on file:

1. A written affirmation that consultation occurred including whether timely and meaningful consultation has occurred.
 - [Title I-A Affirmation of Consultation](#) (form for consultation on Title I-A only)
 - [ESEA Programs Affirmation of Consultation](#) (form for consultations on multiple ESEA Title programs)
2. The results of consultation—whether the agreed upon plan or the reasons for disagreement. Note: a completed and signed equitable services program design/plan may be uploaded to the Desktop Monitoring Instrument (DMI) in lieu of the Affirmation of Consultation form as long as the plan allows the private school official to indicate whether timely and meaningful consultation took place.

ESEA Title I, Part A Equitable Services Proportionate Share Calculator*

Program Requirement	Calculation Information	LEA Response (Complete fields and check boxes)
A. Allocation for Equitable Service to Private School Students ESEA, 1117(c)(1) Refer to page 2, Proportionate Share.	Determines the percentage of qualifying private school students living within the boundaries of Title I schools and the corresponding proportionate share for equitable services.	+ = Total number of low-income public students Total number of qualifying private students Total low-income students within Title I boundaries X = Total Title I Funds % Private low- income students Total proportionate share private services
B. Parent and Family Engagement set-aside Refer to page 4, Item 5 of the Elements of Consultation and Equitable Services Plan.	LEAs receiving \$500,000 or more: Of the total proportionate share (from step A), determine the amount the private school must reserve and use for parent and family engagement (P&FE).	Is the LEA's Title I allocation ≥ \$500,000? ☐ Yes If no, go to section C; if yes, note the following: X = Total proportionate share 1% Set-Aside Amount for private P&FE services Total proportional share minus P&FE
C. Other Costs Administrative Costs Indirect Costs Refer to page 5, Item 10 of the Elements of Consultation and Equitable Services Plan.	In consultation with the private school, determine the amount of funds that will be reserved for LEA administration of the equitable services. This reservation is required and must be necessary and reasonable. Apply the LEA's indirect cost rate as applicable.	Determine the LEA administrative costs and if applicable, the indirect cost rate. -- -- Total proportionate share LEA admin costs Applicable indirect costs Total private share, after admin and indirect costs Including P&FE

*Make sure JavaScript is enabled to complete the form fields

LEAS MAY NEVER PROVIDE FEDERAL FUNDS DIRECTLY TO PRIVATE SCHOOLS OR REIMBURSE PRIVATE SCHOOLS

1. The LEA shall provide only allowable “services” or “goods” (i.e., personnel to provide instructional services, instructional materials, or technology necessary to provide services to the eligible students).
 2. For example, if the private school requests that supplemental tutoring, behavior support, or counseling be provided for eligible students, the district must contract directly with a qualified individual or a third-party provider to deliver the services. The LEA may not reimburse the private school for personnel costs or services.
 3. If the private school requests durable goods such as computers, electronic tablets, etc., the LEA must procure the device(s) and retain the title to the items.
 4. Simply providing a private school with instructional materials and supplies does not meet equitable services requirements because the focus must be on educational services.
- For additional guidance, please refer to