

EQUITABLE SERVICES TO PRIVATE SCHOOLS: Guidance for Districts

As authorized under the ESEA, as amended by ESSA,
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Contents

Equitable Services in General	3
What are equitable services?	3
Which private schools are eligible to participate?	3
Who is responsible for determining the existence of a private school in Alaska?	3
Intent to Participate.....	4
What is an “Intent to Participate form?	4
May a school district set a deadline for private school officials to indicate their intent to participate?	4
Must a school district collect an affirmation of consultation if a private school indicated they do not intend to participate?	4
Consultation	4
Who is responsible for initiating consultation?.....	4
When should consultation occur?.....	4
What topics must be discussed during the consultation process?	4
What documentation of consultation must a district maintain?	5
Determining Private School Share	6
Title I, Part A	6
Title VIII, Part F	6
Providing Services in General	7
Who is responsible for planning and designing equitable services?	7
Where will the services take place?	7
Providing Services Under Title I, Part A	7
Which students are eligible for services under Title I, Part A?.....	7
What are the “educationally related, objective criteria” that are used to determine eligibility?.....	7
What types of services may districts provide for private school participants under Title I, Part A?.....	8
Providing Services Under Title VIII, Part F	8
Which students are eligible for services under Title VIII, Part F?	8
A. Title I, Part C.....	8
B. Title II, Part A.....	8
C. Title III, Part A.....	8
D. Title IV, Part A	8
What types of services may districts provide for private school participants under Title VIII, Part F?	9
Fiscal Considerations.....	9
Who controls the program funds?	9
Can ESEA funds be used to pay stipends to private school staff who participate in services and activities funded by covered ESEA programs?.....	9
If the district chooses to REAP/transfer all its Title II, Part A and/or Title IV, Part A funds, is it still required to provide equitable services to private schools under those programs?	9
Additional Resources	9
Appendix	10
Appendix A - Acronyms	10
Appendix B – Sources for Collecting Low-Income Data from Private School Students.....	10

Equitable Services in General

What are equitable services?

The Elementary and Secondary Education Act (ESEA) requires districts to provide equitable services for eligible private school children, teachers and other educational personnel, and families. Equitable services are provided from applicable federal program funds in private schools that choose to participate in these services. Titles I and VIII of ESEA, as reauthorized by the Every Student Succeeds Act (ESSA) outline the requirements for providing equitable services under these programs:

- Title I, Part A – Improving the Academic Achievement of the Disadvantaged
- Title I, Part C – Education of Migratory Children
- Title II, Part A – Supporting Effective Instruction
- Title III, Part A – Language Instruction for English Learners and Immigrant Students
- Title IV, Part A – Student Support and Academic Enrichment
- Title IV, Part B – 21st Century Community Learning Centers

Equitable services must be –

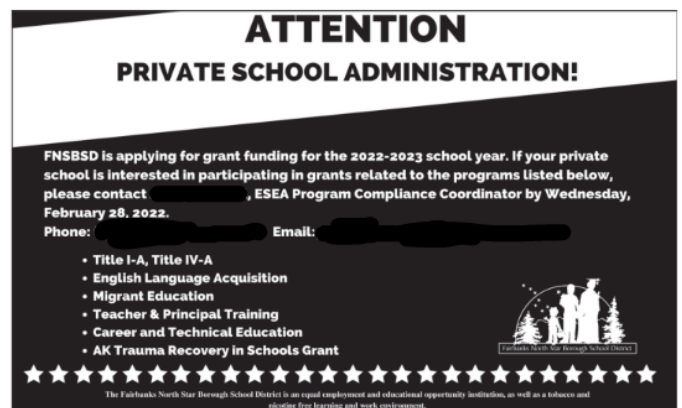
1. secular, neutral, and non-ideological for all educational services, materials, and equipment;
2. equitable educational services compared to public school; and
3. provided in a timely manner.

Which private schools are eligible to participate?

Eligible private schools are those that are non-profit, and serve any grades K-12. Standalone early learning, preschool, or pre-K schools are not eligible for equitable services. It is the responsibility of the school district to determine eligibility, based on consultation with private school officials. Some covered ESEA programs restrict eligibility or participation to a particular group of children (e.g., English learners (ELs) under Title III, Part A), in which case the eligibility or participation of private school children is also restricted.

Who is responsible for determining the existence of a private school in Alaska?

It is the school district's responsibility to determine which private schools exist in its boundaries. The Alaska Department of Education & Early Development (DEED) does not require private schools to register with the State. DEED relies on districts to report existing private schools and their operating status in the district's GMS ESEA Consolidated Application. Districts should have procedures in place for identifying new private schools (e.g., media advertisements).



Example media advertisement to private school officials that ran in the local newspaper.

Intent to Participate

What is an “Intent to Participate form?”

An “Intent to Participate” form is a document that some districts may choose to send annually to private school officials to determine their interest in receiving equitable services for eligible private school children and educators under one or more covered ESEA programs. The form might include a brief description of the programs for which equitable services are available as well as a list of allowable activities, services, and benefits. Some districts send this form by registered mail to document receipt of the form by private school officials. A district might also send such form by email with read receipt.

May a school district set a deadline for private school officials to indicate their intent to participate?

Yes. A school district may set a reasonable deadline, taking into consideration private school schedules, for private school officials to indicate their intent to participate. A district should provide clear and sufficient notice of the deadline, identify potential consequences for not meeting the deadline, and give adequate time for private school officials to respond.

Must a school district collect an affirmation of consultation if a private school indicated they do not intend to participate?

No. If the private school has indicated through an “Intent to Participate” form that they do not intend to participate, then the district does not need to collect an affirmation of consultation. Consultation is only required with schools who intend to participate.

Consultation

Who is responsible for initiating consultation?

School districts must initiate the consultation process. (ESEA section 8501(c)(1)). One way to accomplish this is for the district to extend an invitation to officials of each private school that indicates an intent to participate and to convene a meeting at a time and place determined in consultation with private school officials.

When should consultation occur?

To ensure timely and meaningful consultation, the district must consult with appropriate private school officials during the design and development of the district’s programs (ESSA Section 1117[b][1]; 34 Code of Federal Regulations [CFR] 200.63). For example, if the district is developing their ESEA programs in February for the following school year, this is when consultation with private school officials should occur.

What topics must be discussed during the consultation process?

The following topics should be discussed:

- How the children’s and educators’ needs will be identified;

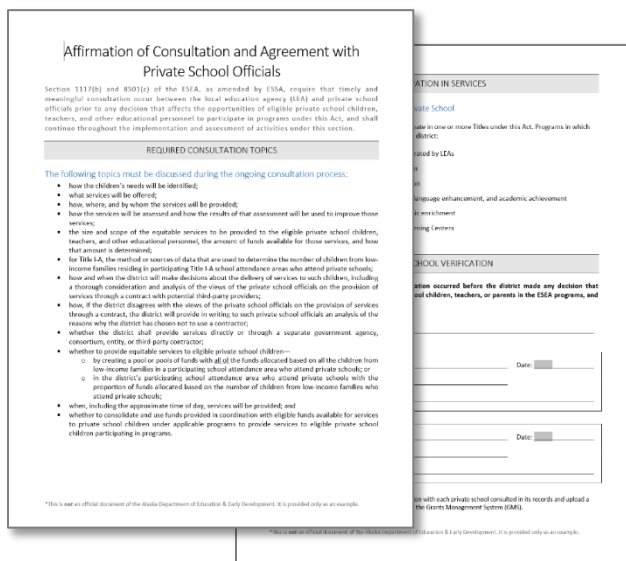
Sample Private School Intent to Participate form. This form is available at: education.alaska.gov/esea/private_schools/Sample%20Intent%20to%20Participate%20Form.docx

- What services will be offered;
- How, where, and by whom the services will be provided;
- How the services will be assessed and how the results of the assessment will be used to improve those services;
- The size and scope of the equitable services to be provided to eligible private school children and educators and the amount of funds available for those services, and how that amount is determined;
- How and when the LEA will make decisions about the delivery of services, including a thorough consideration and analysis of the views of the private school officials on the provision of contract services through potential third-party providers;
- Whether the agency, consortium, or entity will provide services directly or through a separate government agency, consortium, or entity or through a third-party contractor; and
- Whether to provide equitable services to eligible private school children and educators (1) by creating a pool or pools of funds with all of the funds allocated under a program or (2) on a school-by-school basis based on the equitable share of funds available to provide services in each school. (ESEA section 8501(c)(1)).

Other topics of consultation must include, as appropriate:

- Administrative costs, including indirect costs;
- Family engagement activities;
- Any funds available for carryover; and
- Transferring/REAPing funds from Title II, Part A and Title IV, Part A.

What documentation of consultation must a district maintain?



The ESEA requires school districts to maintain, and provide to DEED in their consolidated application each year, the following documentation about the consultation process:

Written Affirmation: Each district must maintain in their records, and provide to DEED, a written affirmation signed by officials of each *participating private school* that meaningful consultation has occurred. The written affirmation must provide the option for private school officials to indicate such officials' belief that timely and meaningful consultation has not occurred or that the program design is not equitable with respect to eligible private school children and educators. If the private schools do not provide such affirmation within a reasonable period of time, the district must provide documentation that such consultation has, or attempts at such consultation have, taken place to the SEA. (ESEA section 8501(c)(5)).

Sample Affirmation of Consultation template.
education.alaska.gov/ESEA/Private_Schools/Sample_Affirmation_of_Consultation.docx

Reason for Disagreement on Use of Contractor (if applicable): If

a school district disagrees with the views of the private school officials on the provision of services through a contract, the district must provide in writing to such private school officials the reason why the district has chosen not to use a contractor. An adequate explanation would address concerns expressed by private school officials about the district's direct services and fully explain the reasons why the district chose not to use a third party.

Determining Private School Share

Title I, Part A

To calculate the proportional share, the district determines the overall number of children from low-income families who reside in participating Title I public school attendance areas and attend public schools and private schools. Using the proportion of children from low-income families who attend private schools, the district determines the amount of funds available for equitable services based on that proportional share of the district's total Title I allocation. For example, the table at right shows a district with four Title I public school attendance areas and a total Title I allocation of \$100,000.

Example Title I-A			
Title I Public School	# Public Low-Income	# Private Low-Income	Total # Low-Income
A	50	12	62
B	30	2	32
C	20	3	23
D	35	3	38
Total	135	20	155
Proportional Share	87%	13%	
Proportional Share	\$87,000	\$13,000	

To determine the number of low-income private school students, districts, based on timely and meaningful consultation with private school officials, may use the following data sources:

- The same data used to for public school children, such as Free & Reduced-Price Lunch (FRPL) data.
- Comparable poverty data from a survey and allowing such survey results to be extrapolated if complete actual data are unavailable. The survey only needs to collect -
 - 1) verification the child lives in a Title I school attendance area,
 - 2) grade level and age of each child, and
 - 3) income level of parents.
- Comparable data from a different source, such as eligibility for means-tested tuition scholarship programs.
- Proportionality
- An equated measure by correlating data, such as FRPL and Temporary Assistance for Needy Families (TANF).

For more information on these data sources, see [Appendix B](#). Although the district has final authority to decide which method it will use, consultation with private school officials must occur prior to deciding. (ESEA section 1117(c)(1)).

Title VIII, Part F

Districts calculate the private school share based on the relative enrollments of public and private school children. For programs such as Title III, Part A, which limit services to a specific group of children, the district would use the number of eligible children in the defined group enrolled in both public and private schools. The district's consolidated application in GMS will calculate this share once the number of public and private school children are entered. The table to the right shows an example of the amount that must be reserved for equitable services based on a district's Title II-A allocation.

Example Title II-A	
A. Number of Eligible Children	
A1. District enrollment	900
A2. Participating Private Schools' Enrollment	100
A3. Total Enrollment	1000
B. District Allocation	
B1. Total District Allocation	\$20,000
B2. Admin Costs	\$2,000
B3. Allocation less Admin Costs	\$18,000
C. Per Pupil Rate	
C1. B3 divided by A3	18
D. Equitable Services	
Amount district must reserve for equitable services = A2 x C1	\$1800

Providing Services in General

Who is responsible for planning and designing equitable services?

After meaningful consultation with appropriate private school officials, the school district is responsible for planning, designing, and implementing equitable services for private school children and may not delegate that responsibility to the private schools or their officials. (ESEA section 1117(a)(1)(A), (b)(1), and (d); 34 C.F.R. § 200.64(b)(4)).

Where will the services take place?

Services may be provided at various locations, including the private school, neutral sites, or public schools. The ESEA requires school district officials to consult with private school officials before any decision is made that affects the opportunities of private school students to participate in Title I services, such as the location of those services. (ESEA section 1117(b)(1)(C)). If appropriate space is available, services should be in the least disruptive and least expensive location, which is often the private school that the participating children attend.

Providing Services Under Title I, Part A

Which students are eligible for services under Title I, Part A?



Private school students who live in a participating Title I public school attendance area and are identified by the school as low achieving on the basis of multiple, educationally related, objective criteria are eligible for services. (ESEA sections 1115(c)(1)(B) and 1117(a)(1)). **Poverty is not a condition for services.** Additionally, children may be eligible based on their status as follows: homeless children; children who in the preceding two years had participated in Head Start; a literacy program under Title II, Part B, Subpart 2; a Title I preschool program, or a Title I, Part C (Migrant Education) program; and children in a local institution for neglected or delinquent children and youth or attending a community day program for such children. (ESEA section 1115(c)(2)(B)-(E)).

What are the “educationally related, objective criteria” that are used to determine eligibility?

The school district must consult with the private school officials to establish the criteria to determine which private school children are eligible for Title I services, and, within the eligible group, identify those children in greatest academic need who will be served. (ESEA section 1115(a), (c)(1)(B)). Example criteria could include:

- achievement tests,
- teacher referrals and recommendations based on objective, educationally related criteria,
- grades.

These criteria may differ from the criteria the school district uses to identify public school students for services.

What types of services may districts provide for private school participants under Title I, Part A?

Services to improve the academic achievement for participating private school children could include:

- Instructional services provided by public school employees or third-party contractors;
- Expanded learning time, including before- and after-school programs;
- One-on-one tutoring;
- Summer school programs;
- Family literacy programs;
- Counseling programs;
- Mentoring programs;
- Computer-assisted instruction;
- Home tutoring;
- Instruction using take-home computers; and
- Any combination of the above.



Services must be based on the academic needs of the private school students. Title I services may be provided in subject areas or at grade levels that are different from those provided to public school students. These services must hold reasonable promise that the academic performance of private school participants will improve. (34 C.F.R. § 200.64(b)(2)(ii)(B)).

Providing Services Under Title VIII, Part F

Which students are eligible for services under Title VIII, Part F?

Children who are enrolled in private schools within the geographical area served by the school district that desire to participate are eligible for services. (ESEA section 8501(a)(1), (4)(A)). A child's residency within the district is not a factor. However, some covered ESEA programs restrict eligibility to a particular group of students, as noted below.

A. Title I, Part C

Only migratory children are eligible to receive services under Title I, Part C. ESEA section 1309(3) defines a "migratory child" as a child or youth who made a qualifying move in the preceding 36 months as a migratory agricultural worker or a migratory fisher, or with, or to join, a parent or spouse who is a migratory agricultural worker or a migratory fisher.

B. Title II, Part A

Private school teachers, principals, and other school leaders (that meet the definition provided in ESEA section 8101(44)) are eligible to receive equitable services under Title II, Part A. However, other educational personnel, including paraprofessionals, may also receive equitable services consistent with a specific allowable use of Title II, Part A funds.

C. Title III, Part A

To be eligible for Title III, Part A services for ELs, a private school student must be enrolled in a private elementary or secondary school in the geographic area served by a district that receives a Title III, Part A subgrant for ELs and must meet the definition of an EL under ESEA section 8101(20).

D. Title IV, Part A

Children who are enrolled in private schools within the geographical area served by the school district that desire to participate are eligible for services. (ESEA section 8501(a)(1), (4)(A)).

What types of services may districts provide for private school participants under Title VIII, Part F?

In consultation with private school officials, school districts determine which services to provide that meet the specific educational needs of the participating private school children and educators and that show reasonable promise of effectiveness. (ESEA section 8501(c)(1)(B)). The services may be different from those provided to public school children and educators but must be allowable under, and allocable to, the particular covered ESEA program, and reasonable and necessary as required by the Cost Principles in 2 C.F.R. Part 200.

Fiscal Considerations

Who controls the program funds?

The school district must always maintain control of program funds as well as title to all materials, equipment, and property purchased with Federal funds. (ESEA section 8501(d)(1)). Private school officials have no authority to obligate or receive federal funds, even as reimbursement. No ESEA funds may be paid to a private school.

Can ESEA funds be used to pay stipends to private school staff who participate in services and activities funded by covered ESEA programs?

Yes. ESEA funds may be used to pay for stipends for private school staff, if reasonable and necessary (e.g., time outside regular employment hours). School districts must pay such stipends directly to the private school staff and not to the private school. (ESEA section 8501(d)(1)).

If the district chooses to REAP/transfer all its Title II, Part A and/or Title IV, Part A funds, is it still required to provide equitable services to private schools under those programs?

No. However, the district must engage in timely and meaningful consultation with appropriate private school officials *prior* to REAPing or transferring these funds. (ESEA section 5103(e)(2)). The ESEA does not authorize a district to transfer or retain only the portion of funds available for equitable services for eligible private school children and educators from one or both of the programs whose funds are transferred. This means, for example, if a district REAPs all of its Title II, Part A funds to Title I, Part A, the district cannot provide services to private school students under Title II, Part A. Additionally, the district would then be required to provide equitable services to private school students based on the total amount of Title I, Part A funds *after* REAPing.

Additional Resources

[DEED Private School Webpage](https://education.alaska.gov/esea/private-schools)

education.alaska.gov/esea/private-schools

[Timeline for Equitable Services](https://education.alaska.gov/ESEA/private_schools/PS%20Equitable%20Services%20Timeline.pdf)

education.alaska.gov/ESEA/private_schools/PS%20Equitable%20Services%20Timeline.pdf

[Title I, Part A Equitable Services Non-Regulatory Guidance](https://www2.ed.gov/about/inits/ed/non-public-education/files/equitable-services-guidance-100419.pdf)

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

[Title VIII, Part F Equitable Services Non-Regulatory Guidance](https://education.alaska.gov/esea/private_schools/esea-titleviii-guidance-2023.pdf)

education.alaska.gov/esea/private_schools/esea-titleviii-guidance-2023.pdf

Appendix

Appendix A - Acronyms

CFR – Code of Federal Regulations

EL – English Learner

ESEA – the Elementary and Secondary Education Act

ESSA – the Every Student Succeeds Act

FRPL – Free & Reduced-Price Lunch

REAP – Rural Education Achievement Program

TANF – Temporary Assistance for Needy Families

Appendix B – Sources for Collecting Low-Income Data from Private School Students

The ESEA permits a district, based on timely and meaningful consultation, to use:

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 (e.g., FRPL data) and a district concludes, after consultation with appropriate private school officials, that the data will yield an accurate count of private school students, the Department recommends that the district use the same measure.
2. ***Comparable poverty data from a survey.*** A district may use a survey to obtain poverty data comparable to those used for public school students and need only send survey forms to families with children who reside in participating Title I public school attendance areas. In some cases, this may be the best or only source of poverty data available for a private school. To the extent possible, the survey must protect the identity of families of private school students. (ESEA section 1117(c)(1)(B)). A district should not require that private school officials give the names of low-income families. The only information necessary for an district to collect from such a survey of private school children is—
 - a) verification of residence in a participating Title I public school attendance area;
 - b) grade level and age of each child; and
 - c) household income.

If, in using a survey, an district is unable to obtain complete, actual data for private school children who reside in a Title I public school attendance area, but the district has a representative sample of survey data and decides to use the survey data for the count of private school children, the district must extrapolate full results based on the representative sample from the survey (34 C.F.R. § 200.64(a)(3)(i)(B)(2)). For example, if a private school enrolls 400 children who reside in Title I public school attendance areas within the district and the district receives survey data from a representative sample of 300 children, 150 of whom are from low-income families (50 percent), the district would extrapolate as follows:

$$\begin{aligned} &400 \text{ (children residing in Title I public school attendance areas)} \times 0.5 \\ &\text{(percentage of children from low-income families in representative sample)} = \\ &200 \text{ total children from low-income families} \end{aligned}$$

If a district conducts a survey, the district and private school officials may presume that the district has obtained a representative sample. The district must then extrapolate full results from the data, as required by the Title I regulations cited above.

If, however, during timely and meaningful consultation, a district or private school officials disagree with the presumption that the survey data are representative, the district must engage in further review to determine the representativeness of the survey data. In doing so, the district should consider the degree to which respondents are similar to non-respondents such as by using neighborhood or Title I public school attendance area characteristics. Once a district completes its analysis, it must share with private school officials its conclusion and supporting rationale.

If, based on this review, the district concludes that the survey data are representative, the district must extrapolate. If the district concludes the data are not representative, however, the district may not extrapolate from the survey data. Instead, the district must identify another source or sources of poverty data in addition to the survey data. Although the district may not use the survey data as its sole measure of poverty, it may still use the data as one of its measures because the data are still useful for the children for whom responses were provided. For example, if the district receives survey data for 25 out of 100 children in a private school who reside in participating Title I public school attendance areas, the district may count the 25 children on the completed surveys to determine, in part, the number of children from low-income families. For the remaining 75 children who reside in Title I public school attendance areas and attend the private school, the district could use other available poverty data, such as E-Rate or scholarship application data, or another authorized source of data such as proportionality (number 4 below), to determine those children who are from low-income families.

3. **Comparable poverty data from a different source.** A district may use poverty data for private school children that are from a different source than the data it uses for public school children so long as the income threshold in both sources is generally the same. For example, a district uses FRPL data, but private school children do not participate in the free and reduced-price lunch program; however, private school officials are able to provide a district with a count of children who are from low-income families using other comparable sources of poverty data such as eligibility for means-tested tuition scholarship programs.
4. **Proportionality.** A district 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. To do this, a district will need the addresses, grade levels, and ages of those students attending private schools. For example, if the percentage of poverty in a public school attendance area is 60 percent and there are 50 private school children residing in the public school attendance area, the district would derive 30 private school children from low-income families who reside in the attendance area.
5. **An equated measure.** A district 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. For example, a district uses FRPL data, but those data are not available for private school students. However, if TANF data are available, the district could determine an equated measure of low-income children in private schools based on FRPL data by correlating the two sets of data as follows:

$$\frac{\text{TANF (public)}}{\text{FRPL (public)}} = \frac{\text{TANF (private)}}{X \text{ (private)}}$$

In this example, the district may then use the equated number of private school children based on FRPL data (“X”) as the number of private school children from low-income families. (ESEA section 1117(c)(1); 34 C.F.R. § 200.64(a)(3)(i)).