



Title I-C Guidance for Equitable Services to Migrant Students in Private Schools

(Includes excerpts from U.S. Department of Education Guidance Documents as of
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SERVING MIGRANT CHILDREN WHO ATTEND PRIVATE SCHOOLS

H1. Must an SEA and local operating agency serve eligible migrant children who attend private schools?

Yes. Sections 9501 of the statute and 299.6 of the regulations require SEAs that receive MEP funds to provide special educational services or other benefits on an equitable basis to eligible children who are enrolled in private schools, and to their teachers and other educational personnel. This must be done after timely and meaningful consultation with appropriate private school officials.

H2. Who must comply with the consultation requirement – the SEA or the local operating agency?

The agency that operates the local MEP project must comply with this requirement.

H3. How does an agency meet the consultation requirement with private school officials?

To meet this requirement, the agency must consult with private school officials before making any decision that affects the opportunities of eligible private school children to participate in a MEP project. Consultation must cover all phases of the design and development of the MEP project, including:

- How the agency will identify the children's needs;
- What services the agency will offer;
- How and where the agency will provide those services;
- Who will provide the services;
- How the agency will assess the services and how it will use results of the assessment to improve those services;
- Amount of funds available for services;
- Size and scope of the services to be provided; and
- How and when the agency will make decisions about the delivery of services.

H4. Which children who attend private schools are eligible to receive MEP services?

Children who attend private school are eligible to receive MEP services if they: 1) meet the statutory and regulatory definition of a migrant child; 2) meet the priority for services criteria in section 1304(d); and 3) have special educational needs identified through the State’s comprehensive needs assessment and service delivery plan.

H5. May a local operating agency decide not to serve eligible migrant private school children because there are too few of them to serve?

Yes. The SEA and local operating agency have the discretion to determine what number of eligible students is too few to serve, so long as this determination is made on an equitable basis (i.e., on the same basis as public schools). If it is feasible and equitable, agencies may adopt alternative methods that are cost-effective to serve small numbers, such as individual tutoring programs, professional development activities with the classroom teachers of eligible migrant students, or other strategies.

H6. If private school officials do not wish to have their children participate in the MEP, is the SEA or local operating agency still required to serve these children?

No. If, after consultation with private school officials, the officials do not wish to have their students participate in the MEP, neither the SEA nor the local operating agency are required to serve these children. However, in its consultation, the local operating agency should explain the various ways in which the agency can help provide services to children attending private schools.

H7. Should the SEA assess the needs of private school children residing in the State?

Yes. Through the consultation process with private school officials, the local operating agency may assess the needs of eligible migrant children enrolled in private schools in its service area. These children would then be included in the statewide needs assessment.

H8. Must the services the SEA provides private school children be the same as those it provides public school children?

No. Although the statute and regulations require SEAs to provide services on an equitable basis, the services do not have to be the same in order to be equitable. If the needs assessment reveals that private school children have different

special educational needs than public school migrant children, the services offered should address those needs. (See 34 CFR 299.7(c).)

H9. How does an agency determine whether services are equitable?

Section 299.7(b)(2) of the regulations provides that services are equitable if the agency:

1. Addresses and assesses the specific needs and educational progress of private school children on a comparable basis as public school children;
2. Determines the number of students to be served on an equitable basis;
3. Meets the equal expenditure requirements; and
4. Provides private school children with an opportunity to participate that –
 - Is equitable to the opportunity and benefits provided to public school children; and
 - Provides reasonable promise that participating private school children will meet the challenging academic standards called for by the State’s student performance standards (or equivalent standards applicable to private school children and agreed upon during consultation between public and private school officials).

H10. What happens if, after offering to provide equitable services to private school children, participation is low or the children participate only in some of the services?

If the private school children’s participation is low or they choose to participate only in some of the services the agency offers, the agency should examine why this is so and, if appropriate, modify the project in a manner that increases participation. If modification of the project does not increase participation and the agency determines that it is not cost-effective to provide services, the agency may terminate the services, so long as this decision is made on an equitable basis. (See Question G5 of this chapter.)

H11. If children reside in a geographical area served by one local operating agency but their school is located in a geographical area served by another agency, which agency is responsible for serving them?

The local operating agency that serves the geographical area where the school is located is responsible for serving the children. (See section 9501(a)(1) of the statute.)

H12. How might an SEA ensure that local operating agencies collaborate with private school officials to provide appropriate services to migrant children enrolled in private schools?

SEA might use its subgrant application process as one way to ensure that local operating agencies consult with private school officials in providing services to eligible migrant children. For example, the SEA could establish procedures for refusing to award a subgrant unless the application addresses whether and how the local operating agency consulted with private school officials in designing and developing its migrant education project. Alternatively, the SEA might use its monitoring process to ensure that local operating agencies meet this requirement.

H13. May MEP personnel go on the premises of religiously affiliated private schools to provide MEP instructional services?

Yes. MEP personnel may provide direct services to eligible private school migrant students on site at private schools, including religiously affiliated schools.

H14. What can a small rural local operating agency with a small MEP allocation do to provide equitable services to private school children?

Rural local operating agencies may have special problems because of small allocations, large distances between private schools, and few locations to provide services. These agencies may consider leasing rather than purchasing equipment, renting a neutral site, or using home tutoring to provide equitable services. They may also consider setting up a joint project with neighboring operating agencies and submitting a combined application.