



Equitable Services for Nonpublic Students and Teachers: Process and Procedures Guidance

Consolidated Application for ESEA Title Programs

Introduction

Since its passage in 1965, the Elementary and Secondary Education Act of 1965 (ESEA) has required local education agencies (LEAs) to provide equitable services to eligible nonpublic school students and teachers in certain ESEA programs after engaging in “timely and meaningful” consultation with the appropriate nonpublic school officials. The reauthorization of the ESEA by the Every Student Succeeds Act (ESSA) in 2015 continues this equitable services requirement under two provisions: Title I, Part A (Title IA) and Title VIII, Part F, Subpart 1 (Title VIII).

Title IA

Title IA requires each LEA participating to provide eligible nonpublic school students with equitable special educational services, instructional services, counseling, mentoring, one-on-one tutoring, or other Title IA benefits (e.g., dual or concurrent enrollment, educational radio and television, computer equipment and materials, other technology, mobile educational services and equipment) that address their needs. The LEA must also ensure that teachers and families of these students participate in equitable services and activities developed according to the parent and family engagement requirements of section 1116.

Title VIII and Its Covered Programs

Title VIII requires each LEA participating in a Title VIII-covered program to provide eligible nonpublic school students and their teachers or other educational personnel equitable special educational services or other benefits that address their needs under the program after nonpublic consultation. The Title VIII-covered programs include:

- Title I, Part C – Education of Migratory Children;
- Title II, Part A – Supporting Effective Instruction;
- Title III, Part A – English Language Acquisition, Language Enhancement, and Academic Achievement (English Learners [ELs] and Immigrant Students);
- Title IV, Part A – Student Support and Academic Enrichment Grants; and
- Title IV, Part B – Nita M. Lowey 21st Century Community Learning Centers (ESEA § 8501(b)(1); 34 Code of Federal Regulations (C.F.R.) § 299.6(b)).

Purpose

This Iowa Department of Education (Department) document guides area education agencies (AEAs) and LEAs (AEAs and LEAs will be referred to here forward as “public agencies”) and accredited nonpublic school officials in understanding their respective roles in fulfilling these equitable service requirements to eligible nonpublic school students, their teachers, and their families under Title IA and eligible nonpublic school students and their teachers or other educational personnel under Title VIII (here forward “eligible nonpublic school students and teachers”). Accordingly, this guidance document provides essential information about:

- The requirements of equitable services, including those related to ongoing nonpublic consultation;
- The appropriate equitable services consultation and provision process and complaint procedures; and
- Consolidated Application timelines and processes.

Equitable Services Requirements

Titles IA and VIII require each public agency to:

- Engage in timely and meaningful consultation with the appropriate nonpublic school officials throughout the school year.
- Oversee the plan, design, and implementation of equitable services to eligible nonpublic school students and table. The public agency:
 - Cannot delegate the oversight and implementation responsibilities to the nonpublic school or its officials (nor pay or reimburse the nonpublic school or its staff to provide equitable services).
 - Must make the final decisions regarding which services it will provide based on the specific needs identified by the nonpublic school and the method by which services will be provided (i.e., directly, indirectly through third-party vendors or another independent entity; 34 C.F.R. § 200.64(b)(4)).
- Provide equitable educational services and other benefits to eligible nonpublic school students and teachers that are supplemental, secular, neutral, and non-ideological beginning the first day of the school year (ESEA §§ 1117(a)(1)-(2) & 8501(a)(1)-(2)).

The following sections provide additional detail on these requirements. Table 1 provides the required consultation topics, and Table 2 outlines how the equitable service requirements fit into the overall Consolidated Application timeline.

Nonpublic Consultation for Equitable Services

Titles IA and VIII require each public agency to engage in timely and meaningful consultation with the appropriate nonpublic school officials before providing equitable services to eligible nonpublic school students and teachers within its boundaries (ESEA §§ 1117(a)(1) & 8501(a)(1)).

Responsibilities of Consultation Parties

The public agency and nonpublic school officials must:

- Know the legal requirements of the consultation process;
- Understand the legal requirements and allowable equitable services of each ESEA program;
- Attend all Department-sponsored trainings dealing with equitable services;
- Keep the consultation process focused on the specific needs of the eligible students and teachers (not a specific amount for services); and
- Make decisions about services provided in a collaborative manner.

Consultation Requirements

The nonpublic consultation must be:

- Timely and meaningful (see the following Timely and Meaningful Consultation section);
- Between representative parties that possess the authority to act on behalf of the public agency or accredited nonpublic school and seek to reach agreement on how to provide equitable and effective programs for eligible accredited nonpublic school students and teachers;
- Documented and provided to the state-designated ombudsperson through the Consolidated Application's Nonpublic Consultation Agreement or Nonpublic Consultation Agreement for AEA Title III, Part A—English Learners Consortium in the Consolidated Accountability and Support Application (CASA); and
- Maintained in the public agency's records (ESEA §§ 1117(b) & 8501(c)).

Timely and Meaningful Consultation

To ensure consultation is timely and meaningful, it must:

- Begin early to prepare for the upcoming school year so the start of program services is timely (ESEA §§ 1117(a)(3)(A) & (b)(3) & 8501(a)(3)(A) & (c)(3)).
- The public agency should consult with nonpublic school officials about the timeline for consultation and provide adequate notice of such consultation to ensure meaningful discussions and the likelihood those involved will be well-prepared with the necessary information and data for decision-making.
- Be ongoing and occur throughout the school year. Specifically, the public agency’s officials must consult with the appropriate nonpublic school officials:
 - During the design and development of the public agency’s covered programs;
 - Before the public agency makes any decisions that affect the opportunities of eligible nonpublic school students and teachers to participate in covered programs; and
 - Throughout the school year to ensure effective implementation, service delivery, and assessment of equitable services (ESEA §§ 1117(b)(3) & 8501(c)(3)).
- Provide ample time and a genuine opportunity for all parties to:
 - Express their views;
 - Have their views seriously considered; and
 - Discuss viable options for ensuring equitable participation of eligible nonpublic school students and teachers.
- Focus on specific student and teacher needs (see the following Identification of Specific Student and Teacher Needs section).

Successful consultation:

- Begins well before the implementation of services,
- Establishes positive and productive working relationships,
- Makes planning effective,
- Continues throughout implementation of equitable services, and
- Serves to ensure the services provided meet the needs of eligible students and teachers.

Required Consultation Topics¹

Table 1. Required consultation topics.

Required Consultation Topic	Title IA	Title VIII
How the nonpublic student’s needs will be identified;	Yes	Yes
What services will be offered;	Yes	Yes
How, where, and by whom the services will be provided;	Yes	Yes
How the services will be academically assessed and how the results of that assessment will be used to improve those services;	Yes	Yes
The size and scope of the equitable services to be provided to the eligible nonpublic school students or teachers;	Yes	Yes
The method or sources of data that are used to determine the number of nonpublic school children from low-income families in participating school attendance areas;	Yes	No
How and when the public agency will make decisions about the delivery of services to nonpublic school students, including a thorough consideration and analysis of the views of the nonpublic school officials on the provision of services through a contract with potential third-party providers;	Yes	Yes

¹Officials can find the full list of questions in the [nonpublic consultation agreement content sheets](#). Iowa Department of Education guidance should be viewed as advisory unless it is specifically authorized by state statute, according to Iowa Code section 256.9A. This does not apply to administrative rules, declaratory orders, or materials required by federal law or courts.

Required Consultation Topic	Title IA	Title VIII
How, if the agency disagrees with the views of the nonpublic school officials on the provision of services through a contract, the public agency will provide in writing to such nonpublic school officials an analysis of the reasons why the public agency has chosen not to use a contractor;	Yes	Yes
Whether the public agency will provide services directly or through a separate government agency, consortium, entity, or third-party contractor;	Yes	Yes
Whether the public agency will provide equitable services to eligible nonpublic school children— <ul style="list-style-type: none"> By creating a pool or pools of funds with all of the funds allocated for services based on all the nonpublic students from low-income families in a participating school attendance area; or In the agency’s participating school attendance area who attend nonpublic schools with the proportion of funds allocated for equitable services based on the number of children from low-income families; 	Yes	Yes
When, including the approximate time of day, services will be provided; and	Yes	No
Whether to consolidate and use funds allocated for Title IA services in coordination with eligible funds available for services to nonpublic school children under applicable programs (i.e., Title VIII) to provide services to eligible nonpublic school children participating in programs.	Yes	No

Identification of Specific Student and Teacher Needs

Nonpublic consultation is an ongoing process that begins in the spring and continues throughout the school year. The lack of the specific dollar amount for services when the consultation begins does not prevent the consultation process from moving forward.² Instead, the public agency and nonpublic school officials must focus on the specific needs of the nonpublic school’s students and teachers—not on the needs of the nonpublic school itself—and how those services could be provided. After student and teacher needs are identified through a review of all pertinent data, the services should then be ranked based on priority.

After the Department publishes the dollar amounts for equitable services, the parties can revisit the identified needs of the nonpublic students and teachers to clarify what services can be provided based on the prioritized needs and the amount available to provide those services.

Equitable Services Process and Timeline

To assist in establishing a timely and meaningful consultation process, the Department recommends that public agency and nonpublic school officials engage in the following steps.

Table 2. The equitable services process and timeline.

Date(s)*	LEA Process or Deadline	AEA Process or Deadline
Between January and March 15	1. The LEA official contacts the nonpublic school to arrange for a time and place for the consultation as soon as possible and reviews the nonpublic consultation agreement questions . The LEA should consult with nonpublic school officials about the consultation timeline and provide adequate notice to ensure meaningful discussions.	1. The AEA official contacts the nonpublic school to arrange for a time and place for the consultation as soon as possible and reviews the nonpublic consultation agreement questions . The AEA should consult with nonpublic school officials about the consultation timeline and provide adequate notice to ensure meaningful discussions.

²The parties may use the previous year's amounts for equitable services as a guide to estimate the amount available. Iowa Department of Education guidance should be viewed as advisory unless it is specifically authorized by state statute, according to Iowa Code section 256.9A. This does not apply to administrative rules, declaratory orders, or materials required by federal law or courts.

Date(s)*	LEA Process or Deadline	AEA Process or Deadline
	<ol style="list-style-type: none"> 2. The nonpublic school official reviews their data pertinent to each program to identify the specific nonpublic student and teacher needs, prioritizes those needs, and reviews the nonpublic consultation agreement questions so it is well-prepared with the necessary information and data to make decisions about program participation. 3. At the beginning of consultation, the nonpublic school official presents the specific student and teacher needs identified through the data review. 4. The LEA and nonpublic school officials discuss the agreement questions and how best to meet the identified needs, including if the needs of nonpublic students are best met by “transferring” (in use only) services to the alternate program. 5. The LEA official informs the nonpublic school official of the ESEA Title program services the LEA plans to offer eligible students and teachers for the upcoming school year that may address their needs. <ol style="list-style-type: none"> a. If the nonpublic school official believes there are specific needs not addressed through the proposed LEA-provided offerings, the official may request the eligible students and teachers receive equitable services through a third-party contractor or other independent entity (see the following Process for Third-Party Contractor Services section). 6. The LEA official enters information about the agreed-upon services into the Nonpublic Consultation Agreement in the Consolidated Application and submits it for nonpublic confirmation. 7. The head nonpublic administrator either— <ol style="list-style-type: none"> a. Confirms the entered information is accurate by March 15, <i>finalizing (i.e., making permanent) program participation for the upcoming year;</i> or b. Sends the agreement back for edits as soon as possible so the LEA official can make the necessary edits and the head nonpublic administrator can confirm by March 15. 	<ol style="list-style-type: none"> 2. The nonpublic school reviews its data pertinent to Title III, Part A—English Learners program to identify the specific nonpublic school student and teacher needs, prioritizes those needs, and reviews the nonpublic consultation agreement questions so it is well-prepared with the necessary information and data to make decisions about program participation. 3. At the beginning of consultation, the nonpublic school official presents the specific student and teacher needs identified through the data review. 4. The AEA and nonpublic school officials discuss the nonpublic consultation agreement questions and how best to meet the identified needs. 5. The AEA official informs the nonpublic school official of the English learner program services the AEA plans to offer eligible students and teachers for the upcoming school year that may address their needs. <ol style="list-style-type: none"> a. If the nonpublic school official believes there are specific needs not addressed through the proposed AEA-provided offerings, the official may request the eligible students and teachers receive equitable services through a third-party contractor or other independent entity (see the following Process for Third-Party Contractor Services section). 6. The AEA enters information about the agreed-upon services into the Nonpublic Consultation Agreement for AEA Title III, Part A—English Learners Consortium in the Consolidated Application and submits it by March 15. <i>Once submitted, the AEA official cannot change the Title III, Part A program participation response.</i>
March 15	Nonpublic Consultation Agreement due for the upcoming school year in the Consolidated Application. This means that	Nonpublic Consultation Agreement for AEA Title III, Part A—English Learners

Date(s)*	LEA Process or Deadline	AEA Process or Deadline
	the head nonpublic school administrator must confirm the information is correct and submit the agreement as complete by March 15.	Consortium due for the upcoming school year in the Consolidated Application.
March 16	8. The LEA and nonpublic school officials continue consultation for the upcoming school year.	7. The AEA and nonpublic school officials continue consultation for the upcoming school year.
September 1	Consolidated Application for ESEA Title Programs opens for the current school year.	Consolidated Application for ESEA Title Programs opens for the current school year.
After September 15	The Department publishes the dollar amounts for equitable services to the nonpublic school's students and teachers and notifies the LEA and nonpublic school officials when the amounts are populated into the nonpublic consultation agreement. If the LEA official indicated that transferability may be appropriate in the spring agreement, the Department updates the agreement's status to "Action Required of the LEA" so the LEA can complete the agreement's Transferability questions. All other LEAs may choose to reopen their agreement to finalize equitable service descriptions.	The Department publishes the dollar amount for equitable services to the nonpublic school's students and teachers and notifies the AEA and nonpublic school officials when the amount is populated into the agreement. At this time, the AEA official may reopen the consultation agreement to update equitable service descriptions for any participating eligible nonpublic school within their consortium.
After September 15 to October 1	<p>9. The LEA official reaches out to the nonpublic school official again to arrange for a time and place for consultation to finalize the description of services it (or a third-party contractor) will provide under each program.</p> <p>10. The LEA and nonpublic school officials revisit the identified student and teacher needs to clarify what services can be provided based on the prioritized needs and the amount available to provide those services. If the spring nonpublic consultation agreement indicated that transferability may be appropriate, the LEA must indicate whether it will transfer funds. If the LEA intends to transfer funds, it must discuss with the nonpublic school official whether the identified needs are best met by transferring services to an alternate program before the LEA finalizes its transfers.</p> <p>11. The LEA completes the transferability questions and adjusts the equitable service descriptions in the nonpublic consultation agreement (as necessary) in the Consolidated Application and submits it for nonpublic confirmation.</p> <p>12. The head nonpublic administrator either—</p> <ol style="list-style-type: none"> a. Confirms the LEA-entered information is accurate by October 1; or 	<p>8. The AEA official reaches out to the nonpublic school official again to arrange for a time and place for consultation to finalize the description of services it (or a third-party contractor) will provide under the Title III, Part A program.</p> <p>9. The AEA and nonpublic school officials revisit the identified needs of the eligible nonpublic students and teachers to clarify what services can be provided based on the prioritized needs and the amount available to provide those services.</p> <p>10. The AEA adjusts the equitable service descriptions in the nonpublic consultation agreement (as necessary) in the Consolidated Application and submits it.</p>

Date(s)*	LEA Process or Deadline	AEA Process or Deadline
	<p>b. Sends the agreement back for edits. If the head nonpublic administrator is unable to confirm the accuracy of the entered information, they must send it back as soon as possible so the LEA official can make the necessary edits and the head nonpublic official can confirm by October 1.</p>	
October 1	Final nonpublic consultation agreement due for the current school year.	Final nonpublic consultation agreement due for the current school year.
Throughout implementation and assessment of activities	<p>13. The LEA (or its third-party contractor) provides equitable services to the eligible nonpublic school students and teachers. The LEA remains responsible for the oversight of the program.</p> <p>14. The LEA and nonpublic school officials continue consultation to ensure effective implementation, service delivery, and assessment of equitable services (ESEA §§ 1117(b)(3) & 8501(c)(3)).</p>	<p>11. The AEA (or its third-party contractor) provides equitable services to the eligible nonpublic school students and teachers. The AEA remains responsible for the oversight of the program.</p> <p>12. The AEA and nonpublic school officials continue consultation to ensure effective implementation, service delivery, and assessment of equitable services (ESEA § 8501(c)(3)).</p>

Third-Party Contractor Services

The public agency may provide equitable services directly or indirectly through third-party contracts with individuals and public and private agencies, organizations, and institutions so long as those entities are independent of the nonpublic school in the provision of those services. The public agency remains responsible for the oversight of the program. However, *the public agency must provide the equitable service directly if it already provides the service and the service meets the specific needs of the eligible nonpublic students and their teachers, unless impractical.*

Process for Third-Party Contractor Services

As part of the consultation process, the public agency may hire a third-party contractor or other independent entity to provide equitable services to eligible nonpublic students and teachers on behalf of the public agency. The process to request third party contractor is as follows:

1. During the consultation process between January and March 15th, the nonpublic school may request to receive equitable services through a third-party contractor;
2. The nonpublic school's request should include the Title program(s) associated with the request;
3. The public agency should inform the nonpublic school how and when a decision will be made about the delivery of services to eligible children;
4. The public agency should thoroughly consider the views of the nonpublic school officials on the provision of services through a contract with a potential third-party provider before deciding; and
5. If the public agency disagrees with the views of the nonpublic school officials on the provision of services through a contract, the public agency officials must provide in writing to the nonpublic school officials, how the equitable services will be provided with an analysis of the reasons why it has chosen not to use a contractor. (Typical reason – the public agency has the ability to provide the service, plans to provide the service, and can provide the service in a more cost-effective manner.)

Equitable Services Complaint Procedures

The nonpublic school official may only file a formal complaint with the Department's state ombudsperson through the Nonpublic Equitable Services Complaint Form, which is located in the CASA system after they have made reasonable efforts to resolve the dispute with the public agency's officials and provided the [designated Department consultant for the program](#) an opportunity to resolve the dispute between the parties.

Complaints Related to Department Allocations and Fiscal Questions

If the nonpublic school official has a programmatic or fiscal question dealing with how a specific federal program operates or how the Department calculates a federal program's allocation, the nonpublic school official must reach out to the identified program consultant. No formal complaint should be filed.

Complaints Related to Nonpublic Consultation and Provision of Equitable Services

The nonpublic school official must complete the complaint procedure that follows if they believe the public agency did not:

- Engage in consultation that was meaningful and timely,
- Give due consideration to the views of the nonpublic school's officials, or
- Make a decision that treats the nonpublic school students equitably as required by Title IA or Title VIII (ESEA §§ 1117(b)(6) & 8501(c)(6)).

Procedure

The specific steps of the complaint procedure are as follows:

1. Should a dispute arise between the public agency and the nonpublic school in the provision of equitable services, the public agency and nonpublic school officials should attempt to resolve the issue themselves.
2. Should resolution of the issue between the public agency and nonpublic school officials be unobtainable through negotiations, the nonpublic school official should contact the [identified Department consultant](#) to assist in resolving the issue.
3. The identified program consultant will discuss the issue with both the nonpublic school and public agency officials and let each school know how the issue should be resolved based upon interpretation of the law.
4. If the public agency or nonpublic school official believe the issue was not appropriately resolved by the identified program consultant, the nonpublic school official can file a complaint with the state ombudsperson for up to 30 calendar days from the date indicated on the consultation agreement through the Consolidated Application's Nonpublic Equitable Services Complaint Form, which is located in the Applications and Waivers folder. (The state ombudsperson will not consider complaints filed beyond the 30-calendar day time limit.)
5. The state ombudsperson will review the complaint to determine the issue to be resolved.
6. After reviewing the complaint, the state ombudsperson must contact the nonpublic school official, the public agency official, and the identified program consultant to get a complete understanding of the issue.
7. The state ombudsperson must issue a written response to the complaint, which resolves the dispute, no later than 30 days from the date of submission of the complaint.
8. The state ombudsman must make available a summary of all complaint resolutions to assist the field in resolving future disputes.

Questions and Additional Guidance

For additional equitable services guidance and state ombudsperson contact information, please see the Contacts and Equitable Services for Nonpublic School Students headings of the [ESSA Guidance and Allocations page](#).