



# Equitable Services Process and Procedures

Consolidated Application for Federal 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

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;
- Title IV, Part A - Student Support and Academic Enrichment Grants;
- 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

The purpose of this document is to guide area education agencies and LEAs (here forward “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 appropriate nonpublic consultation process and complaint procedures,
- Responsibilities of consultation parties,
- General rules of equitable services,
- The elements of timely and meaningful consultation, 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 for nonpublic school students. 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 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 or benefits of each ESEA program;
- Attend all Iowa Department of Education (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 children and teachers;
- Documented and provided to the state-designated ombudsperson through the Consolidated Application's Nonpublic Consultation Agreement; and
- Maintained in the public agency and nonpublic school'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 consultation 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 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 Topics*

The consultation must include discussion on issues such as:

- How the nonpublic student's needs will be identified;
- What services will be offered;
- How, where, and by whom the services will be provided;
- How the services will be academically assessed and how the results of that assessment will be used to improve those services;
- The size and scope of the equitable services to be provided to the eligible nonpublic school students or teachers, the amount of funds available for equitable services, and how that amount is determined;
- 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;
- 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.
- 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.
- Whether the public agency will provide services directly or through a separate government agency, consortium, entity, or third-party contractor.
- Whether to provide equitable services to eligible nonpublic school children—
  - 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;
- When, including the approximate time of day, services will be provided (Title IA only); and

- 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 (Title IA only).

The full list of questions is in the [Nonpublic Consultation Agreement content sheet](#).

## 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.<sup>1</sup> 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 can 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 prioritization of needs and the amount available to provide those services.

## Equitable Services Consultation Agreement Process and Timeline

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

*Table 1. The equitable services consultation agreement process and timeline.*

Date(s)	Process or Deadline
Between January 1 and March 15	<ol style="list-style-type: none"> <li>1. The public agency contacts the nonpublic school to arrange for a time and place for the consultation and reviews the <a href="#">nonpublic consultation agreement questions</a>. The public agency should consult with nonpublic school officials about the timeline for consultation and provide adequate notice of such consultation to ensure meaningful consultation and the likelihood those involved will be well prepared with the necessary information and data for decision-making.</li> <li>2. The nonpublic school reviews its data pertinent to each program to identify the specific nonpublic school student needs, prioritizes those needs, and reviews the <a href="#">nonpublic consultation agreement questions</a> so it is well-prepared with the necessary information and data to make decisions about program participation.</li> <li>3. At the beginning of consultation, the nonpublic school presents the specific student needs identified through its review of student data.</li> <li>4. The public agency and nonpublic school discuss the <a href="#">nonpublic consultation agreement questions</a> 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.</li> <li>5. The public agency informs the nonpublic school of the Title program services it plans to offer students and teachers for the upcoming school year that may address their needs.</li> <li>6. If the nonpublic school believes there are specific needs not addressed through the proposed public agency-provided offerings, it may request to receive equitable services through a third-party contractor or other independent entity (see the following Process for Third-Party Contractor Services section).</li> <li>7. The public agency enters information about the agreed-upon services into the initial nonpublic agreement in the Consolidated Application and submits it for nonpublic review.</li> </ol>

<sup>1</sup> To assist the parties during the beginning of the consultation process, the previous year's nonpublic equitable services amount can be used as a guide to establish an amount available for services.

*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)	Process or Deadline
	8. The nonpublic head administrator either confirms the information entered by the public agency into the initial agreement is accurate or send the agreement back for edits in CASA by March 15. <b>Once confirmed, program participation cannot be changed.</b>
March 15	Nonpublic consultation agreement due for the upcoming school year.
March 16	9. Continue nonpublic consultation for the upcoming school year.
September 1	Consolidated Application for Federal Title Programs opens for the current school year, which re-opens the Nonpublic Consultation Agreement for all participating eligible nonpublic schools.
After September 15	The Department publishes the dollar amounts for equitable services to the nonpublic school's students and teachers and notifies the public agency and nonpublic school when the equitable shares for services information is populated into the nonpublic consultation agreement.
After September 15 to October 1	<p>10. The public agency reaches out to the nonpublic school 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>11. The public agency and nonpublic school revisit the identified needs of the nonpublic students and teachers to clarify what services can be provided based on the prioritization of needs and the amount available to provide those services. If the spring nonpublic consultation agreement indicated that transferability may be appropriate, the public agency must indicate whether the public agency will transfer funds. If the public agency intends to transfer funds, it must discuss with nonpublic school whether the identified needs are best met by transferring services to an alternate program before the public agency finalizes its transfers.</p> <p>12. The public agency adjusts the equitable service descriptions in the nonpublic consultation agreement (as necessary) in the Consolidated Application and submits it for nonpublic review.</p> <p>13. The nonpublic head administrator either confirms the information entered into the final agreement is accurate or sends the agreement back for edits.</p>
October 1	Final nonpublic consultation agreement due for the current school year.
Throughout implementation and assessment of activities	<p>14. The public agency (or its third-party contractor) provides equitable services for the nonpublic school's students and teachers. The public agency remains responsible for the oversight of the program.</p> <p>15. The public agency and nonpublic school continue to engage in nonpublic consultation to ensure effective implementation, service delivery, and assessment of equitable services (ESEA §§ 1117(b)(3) &amp; 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 1st 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 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 – public agency has ability to provide the service, plans to provide the service, and can provide 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 Consolidated Application's Nonpublic Equitable Services Complaint Form 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

Below are the specific steps of the complaint procedure:

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 representatives should attempt to resolve the issue themselves.
2. Should resolution of the issue between the public agency and nonpublic school representatives be unobtainable through negotiations, the nonpublic school representative 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 representatives and let each school know how the issue should be resolved based upon interpretation of the law.
4. Should the public agency or nonpublic school representative believe the issue was not appropriately resolved by the identified program consultant, the nonpublic school representative can file a complaint with the state ombudsperson for up to 30 calendar days from the date indicated on the consultation agreement. (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 representative, the public agency representative, 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

If you have questions, please contact Rachel Bosovich at [rachel.bosovich@iowa.gov](mailto:rachel.bosovich@iowa.gov). For additional equitable services guidance and information, please visit the Department's [Equitable Services for Nonpublic Schools webpage](#).