



**THE ELEMENTARY AND SECONDARY  
EDUCATION ACT OF 1965, AS AMENDED  
BY THE EVERY STUDENT SUCCEEDS ACT**

---

**Title I, Part C**

**Education of Migratory Children  
(Migrant Education Program)**

**Equitable Services**

Office of Non-Public Education (ONPE)

U.S. Department of Education

# OVERVIEW

---

- **Office of Non-Public Education**
- **Six Key Points**
  - Equitable Participation
  - Consultation
  - Reaching Agreement
  - Equal Expenditures
  - Local Operating Agency (LOA) Control of Funds
  - Characteristics of Services
- **Additional Resources**

# Office of Non-Public Education (ONPE)

---



## Mission

To facilitate maximum participation of private school students and teachers in federal education programs and initiatives.



Student Loans

Grants

Laws

Data

ABOUT ED / INITIATIVES

## Office of Non-Public Education

*Liaison to the nonpublic school community for the U.S. Department of Education*

The roles and activities of the Office of Non-Public Education (ONPE) fall into two major categories: leadership and outreach. ONPE represents the interests, activities and needs of the private elementary and secondary school community, and also consults with the private school community on the participation of students and teachers in programs and initiatives at the U.S. Department of Education.

### Our Mission

ONPE fosters maximum participation of nonpublic school students and teachers in federal education programs and initiatives. Since the initial passage of the *Elementary and Secondary Education Act (ESEA)* in 1965, private school students and teachers have been eligible to participate in certain federal education programs. ONPE's activities reflect this mission and direction by:

- Representing the U.S. Department of Education to the nonpublic school community;
- Offering advice and guidance within the Department on all matters affecting nonpublic education;
- Communicating with national, state and local education agencies and associations on nonpublic education topics;
- Communicating the interests and concerns of the nonpublic school community to the Department;
- Providing parents with information regarding education options for their children; and
- Providing technical assistance, workshops and publications.

### Information About Non-Public Education

- [Equitable Services Implementation Plan](#)
- [Frequently Asked Questions – General Issues Related to Nonpublic Schools \(August 2019\) \[PDF, 710KB\]](#)
- [Federal Education Laws and Programs Affecting Nonpublic Education](#)
  - [Elementary and Secondary Education Act \(ESEA\)](#)
    - [As Reauthorized by the No Child Left Behind Act of 2001](#)
    - [As Reauthorized by the Every Student Succeeds Act of 2015](#)
  - [Individuals with Disabilities Education Improvement Act \(IDEA\)](#)
  - [Blue Ribbon Schools and Green Ribbon Schools](#)
  - [Policy Letters](#)
- [Non-Public Education Organizations](#)
- [Non-Public Education Publications](#)
- [Non-Public Education Statistics](#)
- [Other Federal Agency Laws and Programs](#)
- [Other Department of Education Programs and Resources](#)
- [Interactive Map for State Regulation of Private and Home Schools](#)
- [Search for Private Schools](#)
- [Selected U.S. Supreme Court Rulings Related to Private and Home Schools](#)

#### Additional Info

[Join Our Listserv](#)

[Every Student Succeeds Act \(ESSA\) Page](#)

[Ombudsman Corner](#)

[Emergency Management](#)

**New** [ESEA Title I, Part A Equitable Services Updated Non-Regulatory Guidance \[PDF, 878KB\]](#)

[Summary Response to Public Comments \[PDF, 264KB\]](#)

[Secretary's letter to Congress regarding ESEA provisions restricting religious organizations as contract providers of equitable services are unconstitutional \(March 11, 2019\) – Fact Sheet \[PDF, 258KB\]](#)

#### Contact

Office of Non-Public Education  
U.S. Department of Education  
400 Maryland Ave. SW  
Washington DC 20202  
202-401-1365  
[onpe@ed.gov](mailto:onpe@ed.gov)

### How Do I Find...

- Student loans, forgiveness
- College accreditation
- Every Student Succeeds Act (ESSA)
- FERPA
- FAFSA
- 1098, tax forms

[More >](#)

### Information About...

- [Transforming Teaching](#)
- [Family and Community Engagement](#)
- [Early Learning](#)

### Related Topics

- [Mission](#)

# Six Key Points

---

1. The Elementary and Secondary Education Act of 1965, as amended (ESEA), provides for equitable participation of private school students and their educators in the Title I, Part C program.
2. Consultation must be timely and meaningful.
3. The goal of consultation is agreement.
4. Expenditures must be equal on a per-pupil basis, taking into account the number and educational needs of the children to be served.
5. The LOA must retain control of funds.
6. Services must be secular, neutral and non-ideological, allowable, reasonable, and supplemental.

# Key Point #1

## *Equitable Participation*

---

The ESEA requires LOAs to provide for the equitable participation of private school students and educators in some of the ESEA's major programs, including Title I, Part C, Education of Migratory Children (MEP).

*ESEA § 8501*

# Factors Related to *Eligibility for Services*

---

- Residency – the residency of a private school child does not impact their eligibility for equitable services under MEP
- Homeschool – homeschool students are eligible for equitable services if state law considers a homeschool to be a private school
- Preschool – an LOA is not required to provide equitable services to preschool students unless preschool is considered part of elementary education under state law
- Parents – Title VIII does not require equitable services for parents, but parents of migratory children enrolled in private schools should be included in activities the LOA provides for parents of other migratory children.

# *School Choice*

---

Participation in a Federal or State private school choice program does not affect a private school student's eligibility for equitable services under an ESEA program. Regardless of the source of funds paying a private school student's tuition, a student is eligible for equitable services under the ESEA if the student meets the eligibility requirements of the respective program.

# *Equitable Services Defined*

---

- Services are equitable if the LOA:
- **Addresses and assesses the needs** of private school children and their educators on a comparable basis to public school children and their educators;
- Determines the **number** of students and educators to be served on an equitable basis;
- Spends an **equal amount of funds** per student to serve similar public and private school children and educators, taking into account the number and educational needs of those children and educators; and
- Provides private school children and their educators with an **opportunity to participate that is equitable to the opportunity provided public school children** and their educators.

*34 Code of Federal Regulations (CFR) 299.7(b)(2)*

# Key Point #2

## *Consultation*

---

- LOAs are **required to consult** with private school officials regarding the provision of equitable services.
- Consultation must occur during the **design, development, and implementation** of programs covered under Title VIII.
- Consultation must occur **before the LOA makes any decision** that affects the opportunity of eligible private school students and teachers to participate and must **continue throughout** the implementation and assessment of services.

*ESEA § 8501(c)(1)*

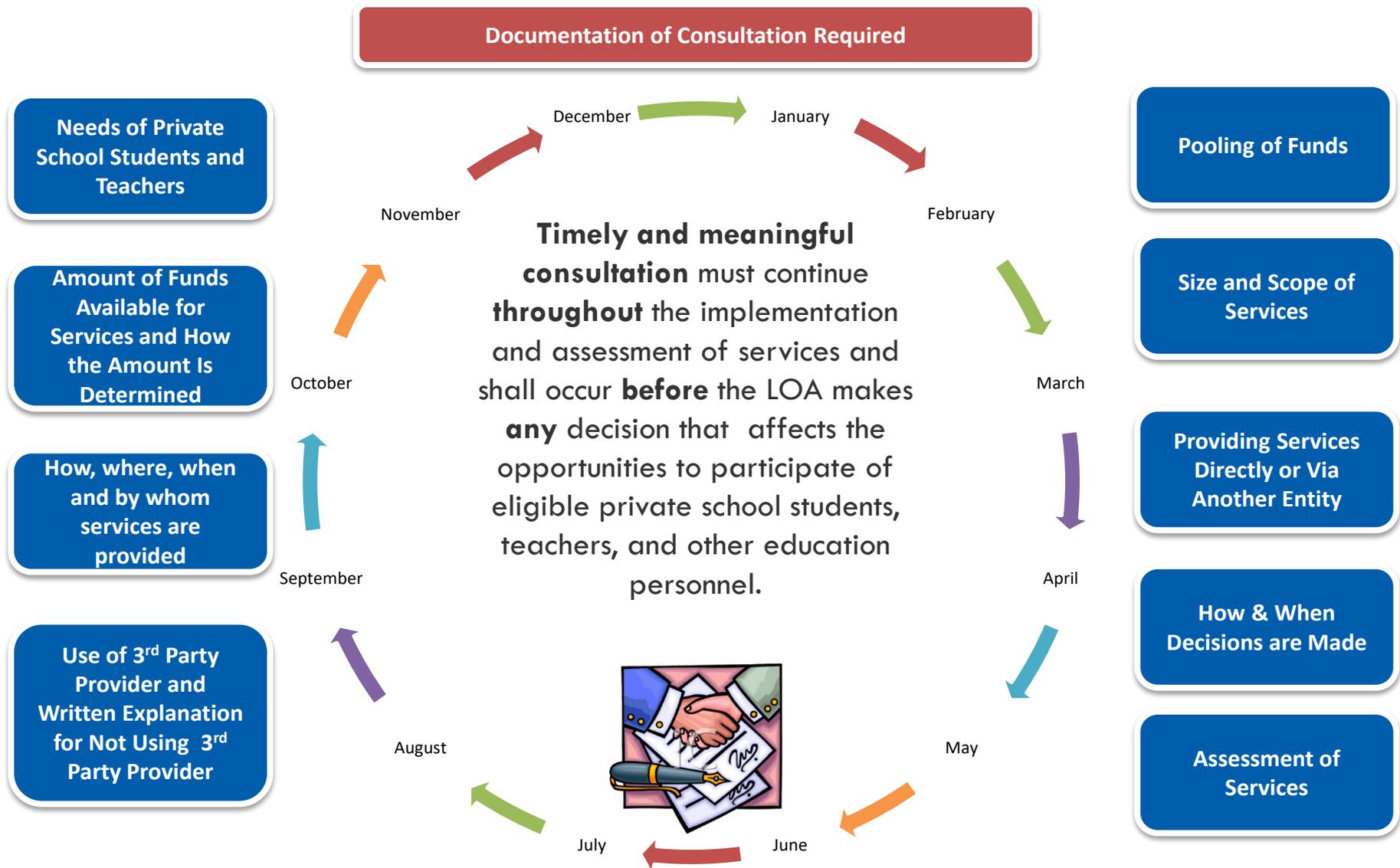
# *Timely and Meaningful Consultation*

---

- Meaningful consultation provides a **genuine opportunity** for all parties to **express their views**, and to have their views **seriously considered**.
- Timely consultation provides **adequate notice** to private school officials.
- Successful consultation establishes **positive and productive working relationships**.

*ESEA § 8501(c)*

# Consultation



# *Documentation of Consultation*

---

- Each LOA must maintain in the agency's records, and provide to the State educational agency (SEA) involved, a **written affirmation signed by officials of each participating private school** that the meaningful consultation has occurred.
- The written affirmation shall 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.

## Key Point #3

# *Reaching Agreement*

---

The **goal** of consultation is **agreement** between the LOA and appropriate private school officials on how to provide equitable and effective programs for eligible private school children.

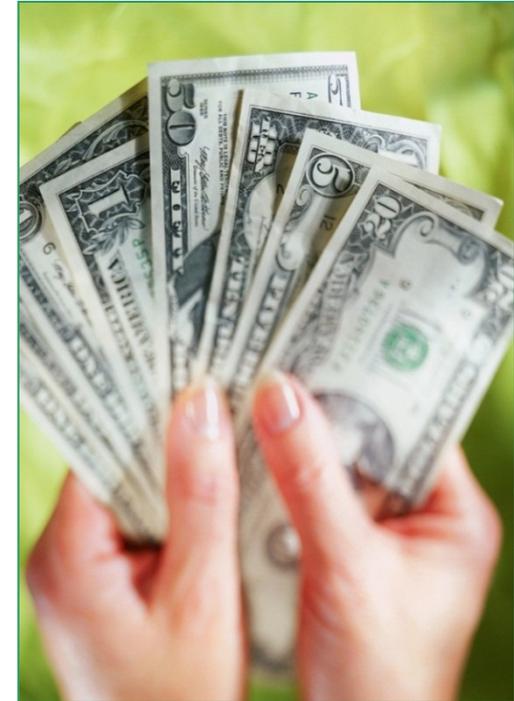
*ESEA § 8501(c)(1)*

## Key Point #4

### *Equal Expenditures*

---

**Expenditures** for services for programs for private school students and teachers must be equal to those of public school students on a **per-pupil basis**, taking into account the **number** and the **educational needs of children** to be served.



*ESEA § 8501(a)(4)*

# EXAMPLE OF FORMULA TO DETERMINE AMOUNT FOR EQUITABLE EXPENDITURES BASED ON NUMBERS AND NEEDS OF ELIGIBLE MIGRATORY CHILDREN

<b>A. Numbers and Needs of Eligible Migratory Children Enrolled in Elementary and Secondary Schools</b>	
A1: LOA Enrollment (K-12 Public Schools)	970
A2: Participating Private Schools Enrollment	30
A3: Total Enrollment = A1 + A2	1,000
A4: LOA Enrolled Priority for Services (PFS) Students	325
A5: Participating Private Schools Enrolled PFS Students	5
A6: Total Enrolled PFS Students = A4 + A5	330
<b>B. LOA Title I, Part C Allocation</b>	
B1: Total LOA Allocation	\$600,000
B2: Administrative Costs- General and Program-Specific (e.g., Identification and Recruitment, Records Transfer)	\$120,000
B3: Services for Non-K-12 Students (e.g., Migratory Children Ages Birth – 5 and Out of School Youth)	\$100,000
B4: Services for Unanticipated Incoming Migratory Children	\$10,000
B5: LOA Allocation Minus Admin. and Other Costs = B1 – (B2 + B3 + B4)	\$370,000
<b>C. Per Pupil Enrollment and PFS Rates</b>	
C1: Per-Pupil: (30% of B5 = \$111,000) divided by A3	\$111
C2: PFS: (70% x B5 = \$259,000) divided by A6	\$785
<b>D. Equitable Services:</b> Amount Reserved by LOA for Equitable Services for Private School Children and Educators = (A2 x C1) + (A5 x C2)	<b>\$7,255</b>

# *Notice of Allocation*

---

An **SEA must provide notice** in a timely manner to appropriate private school officials in the State of the **allocation of funds** for educational services and other benefits under **each covered ESEA program** that an LEA (or an LOA in the case of MEP) has determined are available for eligible private school children and educators.

*ESEA § 8501(a)(4)(C)*

# Key Point #5

## *LOA Control of Funds*

---

The LOA must retain control of the federal funds and maintain title to and administrative control of materials, equipment and property purchased with such funds.



*ESEA § 8501(d)(1); 34 CFR § 299.9*

# Key Point #6

## *Characteristics of Services*

---

- Services, materials and equipment must be secular, neutral, and nonideological.
- Services must supplement, not supplant, what the private school would otherwise provide absent the federal education services.
- The services must be allowable, reasonable and necessary in meeting the needs of private school students and teachers.

# Ombudsman

---

To help ensure that private school children, teachers, and other educational personnel receive services equitable to those in public schools, SEAs must designate an ombudsman to **monitor and enforce Title VIII equitable services requirements.**

*ESEA § 8501(a)(3)(B)*

# Guidance

---

- **Non-Regulatory Guidance: Fiscal Changes and Equitable Services Requirements (Nov 2016)**
- **Non-Regulatory Guidance: Education of Migratory Children under Title I, Part C of the Elementary and Secondary Education Act of 1965, Chapter V (October 2003)**
- **Title IX, Part E Uniform Provisions *Equitable Services for Eligible Private School Students, Teachers, and Other Educational Personnel* Non-Regulatory Guidance (March 2009)**
- Key **ESEA Resources** available at:  
<http://www2.ed.gov/policy/elsec/leg/essa/index.html>

# ONPE Contact Information

---

- For more information on equitable services and other Federal programs available to private school students and teachers:
  - See our website:  
<https://www2.ed.gov/about/inits/ed/non-public-education/index.html>
  - Email: [ONPE@ed.gov](mailto:ONPE@ed.gov)
  - Call: 202-401-1365
  - Write: U.S. Department of Education  
Office of Non-Public Education  
400 Maryland Ave SW  
Washington DC 20202

# QUESTIONS?