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

Needs of Private School Students and Teachers

Amount of Funds Available for Services and How the Amount Is Determined

How, where, when and by whom services are provided

Use of 3rd Party Provider and Written Explanation for Not Using 3rd Party Provider

Pooling of Funds

Size and Scope of Services

Providing Services Directly or Via Another Entity

How & When Decisions are Made

Assessment of Services

Timely and meaningful consultation must continue throughout the implementation and assessment of services and shall occur before the LOA makes any decision that affects the opportunities to participate of eligible private school students, teachers, and other education personnel.

Documentation of Consultation Required
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.

ESEA § 8501(c)(5)
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)*
### A. Numbers and Needs of Eligible Migratory Children Enrolled in Elementary and Secondary Schools

<table>
<thead>
<tr>
<th>Description</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>A1: LOA Enrollment (K-12 Public Schools)</td>
<td>970</td>
</tr>
<tr>
<td>A2: Participating Private Schools Enrollment</td>
<td>30</td>
</tr>
<tr>
<td>A3: Total Enrollment = A1 + A2</td>
<td>1,000</td>
</tr>
<tr>
<td>A4: LOA Enrolled Priority for Services (PFS) Students</td>
<td>325</td>
</tr>
<tr>
<td>A5: Participating Private Schools Enrolled PFS Students</td>
<td>5</td>
</tr>
<tr>
<td>A6: Total Enrolled PFS Students = A4 + A5</td>
<td>330</td>
</tr>
</tbody>
</table>

### B. LOA Title I, Part C Allocation

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>B1: Total LOA Allocation</td>
<td>$600,000</td>
</tr>
<tr>
<td>B2: Administrative Costs- General and Program-Specific</td>
<td>$120,000</td>
</tr>
<tr>
<td>B3: Services for Non-K-12 Students (e.g., Migratory Children Ages Birth – 5 and Out of School Youth)</td>
<td>$100,000</td>
</tr>
<tr>
<td>B4: Services for Unanticipated Incoming Migratory Children</td>
<td>$10,000</td>
</tr>
<tr>
<td>B5: LOA Allocation Minus Admin. and Other Costs = B1 – (B2 + B3 + B4)</td>
<td>$370,000</td>
</tr>
</tbody>
</table>

### C. Per Pupil Enrollment and PFS Rates

<table>
<thead>
<tr>
<th>Description</th>
<th>Per Pupil</th>
<th>PFS</th>
</tr>
</thead>
<tbody>
<tr>
<td>C1: Per-Pupil: (30% of B5 = $111,000) divided by A3</td>
<td>$111</td>
<td></td>
</tr>
<tr>
<td>C2: PFS: (70% x B5 = $259,000) divided by A6</td>
<td>$785</td>
<td></td>
</tr>
</tbody>
</table>

### D. Equitable Services: Amount Reserved by LOA for Equitable Services for Private School Children and Educators

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>D. Equitable Services: Amount Reserved by LOA for Equitable Services for Private School Children and Educators = (A2 x C1) + (A5 x C2)</td>
<td>$7,255</td>
</tr>
</tbody>
</table>
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.
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)

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](https://www2.ed.gov/about/inits/ed/non-public-education/index.html)
  - Email: 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?