

THE ELEMENTARY AND SECONDARY  
EDUCATION ACT (ESEA)  
AS AMENDED BY  
THE EVERY STUDENT SUCCEEDS ACT (ESSA)  
*CHANGES TO THE  
EQUITABLE SERVICES REQUIREMENTS*

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EVERY STUDENT SUCCEEDS ACTS (ESSA) § 1117 AND § 8501-8504

WEBINAR: MARCH 9, 2018

[uvc.uen.net/videos/channel/117/](http://uvc.uen.net/videos/channel/117/)

STUDENT ADVOCACY SERVICES

FEDERAL PROGRAMS

UTAH STATE BOARD OF EDUCATION

## 2 OBJECTIVES

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- Equitable Services Provisions for Private Non-Public Schools under the Every Student Succeeds Act (ESSA)
- Common Equitable Services Requirements under Title I, Part A and Title VIII, Part F
- Allocating Funds for Equitable Services
- Consultation Process
- Resources
- USBE Staff Contact Information

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# EQUITABLE SERVICES PROVISIONS

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## 4 ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 (ESEA) AS AMENDED BY THE ESSA

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- Since the passage of the ESEA in 1965, local educational agencies (LEAs) have been required to provide equitable services to eligible private school students, teachers, and parents from private schools that choose to participate in the Title I, Part A program.
- On December 15, 2015, the ESEA was reauthorized and signed into law as the *Every Student Succeeds Act (ESSA)*.
- The ESSA strengthens and enhances the equitable services provisions including more State- and district-level accountability.
- There are new and changed provisions specific to Title I, Part A.
- There are new and changed provisions specific to Title VIII.

## 5 EQUITABLE SERVICES CHANGES UNDER THE ESSA

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- ESSA includes separate provisions governing equitable services for eligible private school students, teachers and other educational personnel, parents and families.
  - Many requirements are maintained from the No Child Left Behind Act (NCLB).
  - ESSA includes changes to the equitable services requirements under both Title I Section 1117 and Title VIII Section 8501-8504.

## 6 WHERE TO FIND THE PROVISIONS: NCLB ESSA

<u>No Child Left Behind Act</u> <i>Remains in effect through 2016-2017 school year.</i>	<u>ESSA</u> <i>ESSA equitable services provisions go into effect in 2017-2018 school year.</i>
Equitable Services provisions found in Section 1120	Equitable Services provisions found in <b>Section 1117</b>
Title IX (Uniform Provisions) found under Sections 9501-9504	Equitable services provisions found under <b>Sections 8501-8504</b> (Title VIII Uniform Provisions)

Source: U. S. Department of Education Office of Non-Public Education (ONPE)  
<https://www2.ed.gov/about/offices/list/oii/nonpublic/index.html>

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# GUIDANCE DOCUMENTS FOR TITLE I AND TITLE VIII

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- The U.S. ED issued new non-regulatory guidance on equitable services requirements under the ESEA, as amended by the ESSA, on November 21, 2016.
  - *Fiscal Changes and Equitable Services Requirements Under The Elementary And Secondary Education Act Of 1965 (ESEA), As Amended By The Every Student Succeeds Act (ESSA)*
  - <https://www2.ed.gov/policy/elsec/leg/essa/essaguidance160477.pdf>
- The new guidance focuses on requirements that are new or changed.
- Use new guidance in conjunction with previous existing guidance documents.
- Except as otherwise provided in the new 2016 guidance, the existing non-regulatory guidance documents remain applicable:
  - *Title I Services to Eligible Private School Children*, issued on October 17, 2003: <http://www2.ed.gov/programs/titleiparta/psguidance.doc>; and
  - *Title IX, Part E Uniform Provisions, Subpart I—Private Schools*, revised in March 2009: <http://www2.ed.gov/policy/elsec/guid/equitableserguidance.doc>.

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# COMMON EQUITABLE SERVICES REQUIREMENTS UNDER TITLE I, PART A AND TITLE VIII, PART F

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New

## STATE OMBUDSMAN FOR EQUITABLE SERVICES

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- State educational agencies (SEAs) must designate an ombudsman to monitor and enforce equitable services requirements in Titles I and VIII.
- Serves as SEA's primary point of contact for addressing equitable services questions and concerns from private school officials and LEAS.
  - Ombudsman: Dr. Rebecca Donaldson, Federal Programs Coordinator
    - [Rebecca.Donaldson@schools.Utah.gov](mailto:Rebecca.Donaldson@schools.Utah.gov), 801-538-7869
  - Assistant Ombudsman: Val Murdock, Title I Monitoring Specialist
    - [Val.Murdock@schools.Utah.gov](mailto:Val.Murdock@schools.Utah.gov), 801-538-7975

*ESEA sections 1117(a)(3)(B), 8501(a)(3)(B), and 8503*

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New

## OBLIGATION OF FUNDS

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- **Funds allocated to a school district** for educational services and other benefits to eligible private school children, teachers and other educational personnel, and families **must be obligated in the fiscal year for which the funds are received by the school district.**
  - *Extenuating circumstances: funds not obligated are available for equitable services in the subsequent school year.*
- Ensures the LEA uses the funds available to provide equitable services to eligible students, teachers, and families in a timely manner.
- Requires timely consultation with private school officials.
- Funds are never provided to the private school.
- *ESEA sections 1117(a)(4)(B) and 8501(a)(4)(B)*


## II NOTICE OF ALLOCATION



New

- The SEA must annually provide information prior to the beginning of the school year on the amount of funds, by program, allocated for equitable services that each LEA responsible for providing equitable services has determined are available for eligible private school students, teachers and other educational personnel, and families.
  - Posted on SEA website or distributed via an email list
- This applies to Title I (including the amount for parental engagement) and each covered program under the ESEA section 8501(b).
- Such documentation should indicate how the allocation was determined.

*ESEA sections 1117(a)(4)(C) and 8501(a)(4)(C)*



## 12 STATE SERVICES



New

- An SEA must provide equitable services directly or through contracts with public or private agencies, organizations, or institutions, if appropriate private school officials have:
  - Requested that the SEA provide such services directly; and
  - Demonstrated that an LEA has not met applicable equitable services requirements in accordance with the procedures for making such a request, as prescribed by the SEA.

*ESEA sections 1117(b)(6)(C) and 8501(c)(6)(C)*

## 13 CONSULTATION

New

- The goal of consultation is agreement between the LEA and appropriate private school officials on how to provide equitable and effective programs for eligible private school children.
- Regardless of the source of funding for 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.



*ESEA sections 1117(b)(1) and 8501(c)(1)*

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# **EQUITABLE SERVICES REQUIREMENTS UNDERTITLE I**

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## 15 TITLE I, PART A

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- The purpose of Title I, Part A is to provide all children served by the program with a significant opportunity to receive a fair, equitable, and high-quality education and to close educational achievement gaps.
- Equitable services provided under Title I are intended to improve the academic achievement of students who are failing or most at risk of failing to meet challenging academic standards and reside in public school attendance areas with high concentrations of students from low-income families, in other words:
  - A Targeted Assistance Title I Program

## 16 EQUITABLE SERVICES FOR TITLE I, PART A

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- **Educational services and other benefits** provided under this section for **private school children, teachers, and other educational personnel** shall be **equitable in comparison** to services and other benefits for public school children, teachers, and other educational personnel participating in the program **and shall be provided in a timely manner.**



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# ALLOCATING FUNDS FOR EQUITABLE SERVICES

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## 18 ALLOCATING FUNDS FOR EQUITABLE SERVICES

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- **Expenditures for equitable services** to eligible private school children, teachers and other educational personnel, and families “**must be equal to the proportion of funds allocated to participating public school attendance areas**” based on the number of children from low-income families who reside in those attendance areas and attend private schools.

*ESSA § 1117(a)(4)(A)*



## 19 ALLOCATING FUNDS FOR EQUITABLE SERVICES

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- A school district **must determine the amount of Title I funds available for equitable services** based on the **total amount of Title I funds** received by the school district **prior to any allowable set-asides, expenditures, or transfers of funds.**
  - This includes all reservations previously taken “off the top” of an LEA’s Title I allocation, including reservations for administration, parental engagement, and district-wide initiatives.

*ESSA § 1117(a)(4)(A)*

## 20 DETERMINING THE EQUITABLE SHARE

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**The district determines the proportionate share of Title I funds available for equitable services as follows:**

1. Identify participating public school attendance areas (i.e., district Title I schools).
2. Determine the ***total number*** of students from low-income families residing in each participating Title I school attendance area who attend both public and private non-profit schools.
3. Determine the ***overall proportion*** of low-income students residing in each Title I school boundary who attend private schools.
4. Calculate equitable services proportional share by applying private school proportion to the **district's total Title I allocation.**

## 21 DETERMINING THE EQUITABLE SHARE

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- The district determines the set-aside amount for equitable services by addressing these two questions:
  1. Does the student attending the private school live in a Title I-A school attendance area?
  2. Is the student attending the private school determined to be living in poverty?
- If the answer to both questions is “yes,” then the student **generates an equitable share** of services for the private school.

## 22 WHO GETS SERVED?



- Just because a particular student generates the amount to be set aside for equitable services, it does not mean that specific student will be served.
- To serve students, the following two questions must be answered:
  1. Does the student show an academic need for Title I services based on assessments?
  2. Does the student attending the private school live in a Title I-A school attendance area?
- If the answer to both questions is “yes,” then the student can be served.
- **All** private school Title I-A programs operate as a **Targeted Assistance Title I program**.

# DETERMINING THE EQUITABLE SHARE

3/9/2018

<b>EXAMPLE OF DETERMINING THE AMOUNT OF TITLE I FUNDS FOR EQUITABLE SERVICES</b>			
<b>Apple Orchard School District's Total District Title I Allocation = \$1,000,000</b>			
<b>Public School Attendance Area</b>	<b>Number of Public School Low-income Children</b>	<b>Number of Private School Low-income Children</b>	<b>Total Number of Low-income Children</b>
Title I School A	500	120	620
Title I School B	300	9	309
Title I School C	200	6	206
Title I School D	350	15	365
<b>TOTAL</b>	<b>1,350</b>	<b>150</b>	<b>1,500</b>
<b>PROPORTIONATE SHARE</b>	90%	10%	
	\$900,000	\$100,000	

Note: Public schools are the Title I participating school attendance areas.

## 24 ADMINISTERING EQUITABLE SERVICES

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- From the proportionate share of Title I funds available to provide equitable services, an LEA may reserve an amount that is reasonable and necessary to administer the services.
- The LEA must determine this amount separately from the funds set-aside to administer the Title I program for students in public schools.
- The LEA should discuss administrative costs for implementing equitable services during consultation with private school officials.





## 26 PARENTAL AND FAMILY ENGAGEMENT FUNDS

**Example: Equitable Services For Parents And Families Of Eligible Private School Students**  
**Apple Orchard School District Total Title I Allocation = \$1,000,000**  
**10% of total number of eligible students attend private schools**

LEA's Title I allocation	1% for parent and family engagement	Proportionate share for equitable services for parents and families (based on example under question O-4)	Source of funds for equitable services for parents and families (proportionate share under question O-4 = \$100,000)
\$1,000,000	\$10,000	\$1,000 ( $\$10,000 \times 10\%$ )	$\$100,000 - \$1,000 = \$99,000$ remaining for instruction and professional development

## 27 TITLE I-A PRIVATE SCHOOL ACTIVITIES

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- **Allowable**: Anything that meets Title I-A requirements with regard to program, parent engagement, and professional development for teachers who work with students being served by the program.
- **Non-allowable**: Materials and other purchases for the private school. Materials and equipment used for the program remain the property of the school district.
- **Districts may not reimburse the private school directly!**

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# CONSULTATION

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## 29 CONSULTATION

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- Goal of consultation: **agreement between the school district and appropriate private school officials** on how to provide equitable and effective programs for eligible private school students.
- Consultation is required under ESEA.
- It is timely and on-going
- It establishes clear guidelines for how services will be provided to private school students.



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# CONSULTATION

New

- The list of consultation topics has been expanded to include:
  - How the proportionate share of funds is determined;
  - Whether services will be provided directly or through a separate government agency, consortium, or third-party contractor;
  - Whether to pool funds for equitable services;
  - How the students' needs will be identified;
  - What services will be provided, including how, when, where, and by whom; and
  - Whether to consolidate Title I equitable services funds with funds available to private school students under other ESEA programs.

*ESSA § 1117(b)(1)*

## 3 | CONSULTATION

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- Private school officials can assist this process by:
  - Participating in the entire consultation process in person;
  - Responding to the district's request for information;
  - Providing documentation on the needs of eligible students and educators; and
  - Allowing the assessment of student achievement.
- Private school officials need to know and fully understand what the responsibilities will be if the private school decides to participate.
- The private school should consult with multiple districts if it enrolls eligible students from more than one district's boundaries.
  - Districts may collaborate with one another and the private school in order to operate an efficient and consistent program.

## 32 PROVIDING DOCUMENTATION OF CONSULTATION

New

- The LEA must submit written affirmation of agreement signed by officials of each participating private school to the Ombudsman following meaningful and timely consultation:

- Information will be checked-off in the grants management system; and
- Title I Equitable Services Checklist must be uploaded to the Desktop Monitoring Instrument (DMI) on an annual basis.
- Documentation will also be reviewed during onsite monitoring visits.



*ESEA § 1117(b)(1)*





# 33 PROVIDING DOCUMENTATION OF CONSULTATION

New

- The LEA's written affirmation that consultation has occurred must provide the option for private school officials to indicate:
  - Timely and meaningful consultation has not occurred; or
  - The program design is not equitable with respect to eligible private school students.
- If private school offices refuse to sign an affirmation, the LEA shall document the steps taken to provide meaningful consultation.

*ESEA § 1117(b)(1)*



## 34 CONSULTATION

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- The option to either pool funds for multiple private schools or provide services on a school-by-school basis is unchanged from NCLB.
- The only change is that the LEA must consult with private school officials regarding these options.

## 35 CONSULTATION

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- The LEA must consider whether to consolidate and use Title I funds to provide equitable services under Title I in coordination with funds for equitable services from other programs covered under the uniform provisions in Title VIII.
- Equitable services requirements for non-public private schools apply to the following programs under § 1117 and § 8501 of the ESSA:



- Title I, Part A (Improving Basic Programs Operated by LEAs)
- Title I, Part C (Migrant Education)
- Title II, Part A (Supporting Effective Instruction)
- Title III, Part A (English Language Acquisition)
- Title IV, Part A (Student Support & Academic Enrichment Grants)
- Title IV, Part B (21st Century Community Learning Center Grants)

*ESEA § 8501(b)*

## 36 CONSULTATION

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- For example, through coordination, an LEA with limited available funds might use:
  - Title I funds to provide instructional services to Title I-eligible private school students;
  - Title II funds to provide professional development to those students' teachers (as opposed to all teachers in a given school);
  - Title III funds to improve the English proficiency of English learners among the participating students;
  - Title IV-A funds to provide necessary counseling services to the most-at risk eligible students; and
  - Title IV-B funds to provide high-quality after school programs for eligible students.

## 37 CONSULTATION

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- In coordinating Title I equitable services with other programs, funds would continue to be used for allowable activities under each program, but the coordinated services would allow the LEA to better serve the needs of the most at-risk students in a comprehensive manner.
- Coordination between programs also eliminates the silo approach through which the LEA consults with private school officials on a program-by-program basis.

# CONSULTATION - TITLE VIII





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## COMPLAINT PROCESS

New

- Private school officials may file a formal complaint with the Ombudsman if they believe that:
  - Timely and meaningful consultation with the district did not occur;
  - The district did not give due consideration to the views of the private school officials; or
  - The funds generated to provide services are not equitable.
- Prior to filing a complaint with the SEA Ombudsman, private school officials should present the complaint to the LEA in an effort to come to agreement.
- The SEA must respond to a complaint from parents, teachers, or other individuals concerning violation of the ESEA section 8501 within 45 days.
- ESEA § 8503; 34 CFR 299.10-299.12

# RESOURCES

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## 41 U.S. ED ESSA EQUITABLE SERVICES GUIDANCE FOR OTHER TITLE PROGRAMS

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- Title II: Building Systems of Support for Excellent Teaching and Leading (September 2016)
  - <https://www2.ed.gov/policy/elsec/leg/essa/essatitleiipartaguidance.pdf>
- Title III: English Learners and Title III of the Elementary and Secondary Education Act as amended by the Every Student Succeeds Act (September 2016)
  - <https://www2.ed.gov/policy/elsec/leg/essa/essatitleiiiiguidenglishlearners92016.pdf>
- Title IV-A: Student Support and Academic Enrichment Grants (October 2016)
  - <https://www2.ed.gov/policy/elsec/leg/essa/essassaegrantguid10212016.pdf>
- U. S. Department of Education Office of Non-Public Instruction
  - <https://www2.ed.gov/about/offices/list/oii/nonpublic/index.html>

## 42 USBE RESOURCES

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- Equitable Services Checklist
- Equitable Services Complaint Form
- ESSA Private Non-Profit School Complaint Procedure

# USBE EQUITABLE SERVICES CONTACT INFORMATION

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- Ombudsman and Title I-A: Dr. Rebecca Donaldson, [Rebecca.Donaldson@schools.Utah.gov](mailto:Rebecca.Donaldson@schools.Utah.gov), 801-538-7869
- Asst. Ombudsman and Title I-A: Val Murdock, [Val.Murdock@schools.Utah.gov](mailto:Val.Murdock@schools.Utah.gov), 801-538-7975
- Title I-C Migrant: Jeff Ojeda, [Jeff.ojeda@schools.Utah.gov](mailto:Jeff.ojeda@schools.Utah.gov), 801-538-7945
- Title II: Jeannie Rowland, [Jeannie.Rowland@schools.Utah.gov](mailto:Jeannie.Rowland@schools.Utah.gov), 801-538-7923
- Title III: Dr. Christelle Estrada, [Christelle.Estrada@schools.Utah.gov](mailto:Christelle.Estrada@schools.Utah.gov), 801-538-7888
- Title IV-A: Joleigh Honey, [Joleigh.Honey@schools.Utah.gov](mailto:Joleigh.Honey@schools.Utah.gov), 801-538-7794
- Title IV-B: Kim Augustin, [Kimberly.Augustin@schools.Utah.gov](mailto:Kimberly.Augustin@schools.Utah.gov), 801-538-7851
- Title IV-B: Kamille Sheikh, [Kamille.Sheikh@schools.Utah.gov](mailto:Kamille.Sheikh@schools.Utah.gov), 801-538-7825

