

Suggested Steps for Successful Implementation of Ohio's ESEA Nonpublic Equitable Services

April 2018

The non-regulatory guidance from the U.S. Department of Education (USED) provides information regarding the Elementary and Secondary Education Act (ESEA) provisions that govern equitable services for eligible private school students, teachers and other educational personnel, and families under Title I and programs covered under Title VIII, Part F, Subpart 1. A key requirement for successful implementation of equitable services is the consultation between local educational agencies (LEAs)/public school districts and appropriate private/nonpublic school officials. ESEA Section 1117(b)(1) and ESEA Section 8501(c)(1) specify that the goal of consultation is agreement between the public district and appropriate nonpublic school officials on how to provide equitable and effective programs for eligible private school children.

Below are suggested steps for the LEAs/public school districts and private/nonpublic school officials to successfully implement the equitable service requirements:

1. Engage public and nonpublic school officials in timely, meaningful, open and on-going consultation (throughout the year) [ESEA Section 1117(b)(1) and ESEA Section 8501(c)(1)].
2. During the spring, begin meeting with public and nonpublic school officials to plan for services provided next year.
3. Review and verify economically disadvantaged student data and identification processes for eligible students for Title I services. This discussion should also review the multi-criteria selection process (aligned to ESEA Section 1113) that will be used to rank order students for service.
4. Review and sign-off on Equitable Services Participation.
5. Once LEA/public school district allocation amounts are made available, review equitable service amounts (including a discussion of any administrative set asides or indirect charges) for each participating private/nonpublic school.
6. For general disagreements and/or concerns that arise throughout the year, work together to find a resolution before submitting a formal complaint to the Office of Federal Programs or the nonpublic ombudsman. Nearly all disagreements between the public and nonpublic school officials can be resolved before requesting assistance from the state. It is strongly suggested that the public and nonpublic school officials address the questions below before filing any formal ESEA complaint with the Department:
 - a. Is the request reasonable and necessary? Has the LEA/public school district provided the opportunity for private/nonpublic officials to provide input? Has the LEA/public school district explained the rationale for their decisions?
 - b. Has the concern/issue been sufficiently documented and shared?
 - c. Is the issue/concern required under federal law? If so, what is the specific section or requirement at issue? What is the specific violation of law?
 - d. Has the issue/concern been discussed with all appropriate school officials (both public and nonpublic)? For example, has the concern been raised to the public school district's federal program official, principal, and superintendent? Has private school leadership and representation been consulted?
 - e. If possible, have additional options and solutions been offered and discussed?
 - f. Has the issue been addressed by the locally elected school board members and discussed at local board meetings?

- g. Has the issue/concern been discussed with the LEA/public school district's consultant in the Office of Federal Programs?
7. Public and nonpublic school officials have a right to submit a formal complaint if they believe a violation of the law has occurred. Such a formal complaint should be submitted only after the suggested steps above have been exhausted. If a formal complaint is filed, the nonpublic ombudsman will follow the complaint procedures and provide a written recommendation to both parties. The ombudsman will inform the Office of Federal Programs (OFP) if he/she believes that a violation of the equitable services provisions of ESEA has occurred. Based on the significance of the ombudsman's written recommendation, OFP may require a corrective action from the LEA/public school district. Should the LEA/public school district fail to fulfill its corrective action, the LEA/public school district may be subject to the OFP's progressive sanctions. The LEA/public school district may request a hearing with a third-party official to dispute any imposed progressive sanctions.

Resources:

[USED Non-Regulatory Guidance on Equitable Services](#)

[ODE's Office of Federal Programs Equitable Services Webinar](#)

[Office of Federal Programs Progressive Sanctions](#)

[USED Office of Nonpublic](#)

[Office of Federal Programs Complaint Procedures](#)