

## **PURPOSE OF EQUITABLE SERVICES**

Since 1965, the Elementary and Secondary Education Act (ESEA) as amended by the Every Student Succeeds Act (ESSA) requires local educational agencies (LEAs) and other eligible entities to provide for the equitable participation of private school students, staff and families of students enrolled in nonprofit private schools.

ESEA section 8501 requires an LEA participating in a covered ESEA program, in consultation with appropriate private school officials, to provide eligible private school children and educators with services or other benefits that are equitable to those provided to eligible public school children and educators. This document provides information on the requirements of ESEA section 8501 and other applicable requirements in Title VIII. Programs governed by Title VIII include the following formula grants:

- Title I, Part A-Improving Basic Programs Operated by Local Educational Agencies
- 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

## **WHAT ARE EQUITABLE SERVICES AND WHO IS ELIGIBLE?**

Under Section 1117(1):

(A) after timely and meaningful consultation with appropriate private school officials, provide such children, on an equitable basis and individually or in combination, as requested by the officials to best meet the needs of such children, special educational services, instructional services (including evaluations to determine the progress being made in meeting such students' academic needs), counseling, mentoring, one-on-one tutoring, or other benefits under this part (such as dual or concurrent enrollment, educational radio and television, computer equipment and materials, other technology, and mobile educational services and equipment) that address their needs; and

(B) ensure that teachers and families of the children participate, on an equitable basis, in services and activities developed pursuant to section 1116.

### Eligibility under Title I

- School districts are required to provide services for eligible private school students, teachers and their families that are equitable to those of eligible public-school students.
- A private school student generates Title I funds if he/she resides within an attendance area of a participating Title I public school and meets the established low-income criteria.
- A private school student who can participate in Title I services resides within an attendance area of a participating Title I public school and is failing or at risk of failing state student academic achievement standards. Low-income status alone is not a basis for participation in the Title I program.

### Eligibility of Students with other Title Programs:

- Title I, Part C - Only for eligible migratory children or youth
- Title II- Children, educators, principals and other educational personnel in nonprofit private elementary and secondary schools in the LEA's service area are eligible
- Title III- Equitable services are available to students attending private, non-profit schools who are identified as English Language Learners (ELLs) or immigrant children, that receive Title III funding.
- Title IV- Students must reside within the attendance area of a participating Title IV public school and are failing or at risk of failing state student academic achievement standards. Low-income status is not a basis for participation in the Title IV Program.

## **ALLOCATION FOR EQUITABLE SERVICES TO PRIVATE SCHOOL STUDENTS**

Per ESEA as amended, section 1117(c)(1)-

(1) CALCULATION.—A local educational agency shall have the final authority, consistent with this section, to calculate the number of children, ages 5 through 17, who are from low-income families and attend private schools by—

(A) using the same measure of low income used to count public school children;

(B) using the results of a survey that, to the extent possible, protects the identity of families of private school students, and allowing such survey results to be extrapolated if complete actual data are unavailable;

(C) applying the low-income percentage of each participating public school attendance area, determined pursuant to this section, to the number of private school children who reside in that school attendance area; or

(D) using an equated measure of low income correlated with the measure of low income used to count public school children.

### **HOW IS FUNDING FOR INSTRUCTIONAL SERVICES GENERATED FOR PRIVATE SCHOOLS UNDER TITLE I PART A?**

A private school student generates funds if he/she resides within an attendance area of a participating Title I public school and meets the established low-income criteria.

### **CONSULTATION**

To ensure timely and meaningful consultation, the LEA must consult with appropriate private school officials during the design and development of the proposed programs, pursuant to section 8501(c)

LEA officials must conduct a timely and meaningful consultation with appropriate private school officials prior to making any decisions that could prevent eligible private school children, teachers or families from participating in Title I, and must discuss at a minimum the following:

- How are children's needs identified?
- What services will the LEA provide to teachers and families of participating children?
- How, where and by whom will services be provided?
- How will the services be evaluated?
- How will the evaluation results be used to improve those services?
- What is the amount of funds available for services?
- What data will determine the number of low-income children who attend the private non-profit (PNP) and who reside in a participating Title I school attendance area?
- What is the complaint process if a private school official does not agree with an aspect of outcome of the consultation?

## **LEA SERVICES TO ELIGIBLE PRIVATE NON-PUBLIC (PNP) STUDENTS**

Services to eligible private school children must be secular, neutral, non-ideological, provided in a timely manner, and equitable in comparison to services and benefits for public school children. To help ensure such equity, the PED is required to designate an Ombudsman to monitor and enforce these requirements. Options for private school services include, but are not limited to:

- Instructional services provided by public school employees or third-party contractors
- Extended-day services
- Summer school
- Family literacy programs
- Counseling programs
- Computer-assisted instruction
- Instruction using take-home computers
- Providing professional development for teachers, principals, and other school leaders
- Supplies and Materials
- Equipment

## **CONTROL OF FUNDS AND REIMBURSEMENT**

Pursuant to section 8501(d), the LEA must maintain control funds at all times. Any materials, supplies, or property purchased with these funds shall remain property of the LEA, where the materials, supplies, or property must be used only for the designated title programs, in which funds were used to purchase the items. Only the LEA may obligate and expend federal funds on behalf of private school teachers, principals, and other school leaders; this means the LEA must purchase materials or procure services on behalf of the non-public school. Public LEAs are not allowed to reimburse private schools directly for any costs. Public LEAs must not reimburse for unallowable activities.

## **REQUIREMENT- THE OMBUDSMAN**

To help ensure equitable services and other benefits for eligible private school children, teachers and other educational personnel, and families, an SEA must designate an ombudsman to monitor and enforce ESEA equitable services requirements under both Title I and Title VIII. (ESEA sections 1117(a)(3)(B) and 8501(a)(3)(B).)

The Ombudsperson provides technical assistance, answers district and private school questions, participates in relevant meetings, communicates with the field and the United

States Department of Education on relevant topics, and receives complaints from the field.

**NM PED Ombudsman Contact-**

Daniela Romero

(505)372-8385

[daniela.romero@ped,nm.gov](mailto:daniela.romero@ped,nm.gov)