**Why ESSA funds services that benefit eligible private school students:**

The federal government uses census data to generate grant funds for Massachusetts under the Elementary and Secondary Education Act, most recently reauthorized as the Every Student Succeeds Act (ESSA). This calculation includes data, and therefore funding, for all students regardless of whether they attend non-profit private schools or public district schools. Thus, in passing ESSA, Congress has made it clear that services under Titles I, Part A; II, Part A; III, Part A; and IV, Part A must be meaningfully offered to nonprofit private schools to benefit their eligible students, educators, and families, as well as for public school students.

* [Non-Regulatory Guidance: Title I, Part A of the Elementary and Secondary Education Act of 1965, as Amended by the Every Student Succeeds Act: Providing Equitable Services to Eligible Private School Children, Teachers and Families, Updated Non-Regulatory Guidance](https://oese.ed.gov/files/2023/05/Title-I-ES-guidance-revised-5-2023.pdf) (USED) (October 7, 2019, Updated May 17, 2023).
* [Non-Regulatory Guidance: Title VIII, Part F of the Elementary and Secondary Education Act of 1965: Equitable Services for Eligible Private School Children, Teachers, and Other Educational Personnel](https://www2.ed.gov/about/inits/ed/non-public-education/files/esea-titleviii-guidance-2023.pdf) (Titles IIA, IIIA, IVA, and IVB) (USED) (July 17, 2023)
* [Non-Regulatory Guidance: Fiscal Changes and Equitable Services Requirement 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Student Succeeds Act (ESSA)](https://www2.ed.gov/policy/elsec/leg/essa/essaguidance160477.pdf) (USED) (2016) (partly superseded by 2019 guidance).
* [Suggested Timelines Related to Private School Equitable Services Under ESSA](http://www.doe.mass.edu/federalgrants/resources/equitableservices-essa/timelines.docx) (DESE).
* Relevant [ESSA statutory sections §1117 (Title I) & §8501 (Titles II, III, & IV).](https://www.ed.gov/esea)

**Private School Services: Step-by-Step**

| Step | Action | Description |
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| 1 | Identifying private schools with eligible students | For Title I:   * Identify nonprofit private school students residing in the district who would have attended a Title-I-served school (Title I eligible resident students). * To generate the amount of Title I funds, work with private schools officials to determine which of the Title I eligible resident students are from low-income families (see [DESE guidance](http://www.doe.mass.edu/federalgrants/resources/equitableservices-essa/data-funds-collecting.docx) for collecting this poverty data). * Then, identify low-achieving students from Title I eligible resident students – these students are eligible for services. Any Title I eligible resident student may receive services, based on need, which will be determined through consultation between/among the private school and district officials. Note that eligible students may attend private schools *inside or outside* the district. (See [USED guidance](https://www2.ed.gov/about/inits/ed/non-public-education/files/equitable-services-guidance-100419.pdf), pp. 30-31, for more on eligibility for services).   For Titles II, III, and IV:   * All students attending nonprofit private schools *inside* district borders are eligible. |
| 2 | Offer to consult/declining services | * Annually, districts initiate consultations by sending written offers to consult to all private schools with eligible students regarding participation in ESSA entitlement grant services (see, [sample offer-to-consult letter](https://www.doe.mass.edu/federalgrants/resources/equitableservices-essa/private-essa.docx)). Districts should keep documentation of these efforts to produce to DESE upon request. * Districts may set a reasonable deadline for private school officials to indicate their intent to participate, which must be clearly communicated in the offer along with consequences of nonresponse. (See [DESE guidance](http://www.doe.mass.edu/federalgrants/resources/equitableservices-essa/timelines.docx) on suggested timelines). If private school officials fail to respond after good-faith efforts and within a reasonable time, a district’s obligation to offer to consult is satisfied. *Districts are advised to use a return receipt method of communication to private schools, as documentation of outreach is required.* * If a district has documentation that a private school has declined services for a grant program for a particular year, that district is not obligated to provide services to that school for that year if private school officials later change their minds. However, a new offer to provide services must be made for each subsequent grant allocation in successive years. |
| 3 | Consultation | * *Consultation must be meaningful*. Districts and eligible private schools expressing an interest in receiving student and educator services meet in good faith and discuss options for the district providing services, including topics listed on the [Affirmation of Consultation](http://www.doe.mass.edu/federalgrants/resources/equitableservices-essa/affirm-consultation.docx). Services for private school students/teachers may differ from district services. * *Consultation must be timely*. They should occur prior to districts making decisions about funding that could affect options for private school services, including decisions to flex funds from one Title to another. Consultation should then continue throughout implementation of services. * While districts make final decisions when disagreements arise, districts are required to provide their reasons in writing to private school officials. * Districts and private schools are encouraged to consult regarding multiple ESSA entitlement grants at the same meeting. |

| Step | Action | Description |
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| 4 | Affirmation of Consultation | * Public and private school officials must sign the Affirmation of Consultation. * If private school officials do not sign the Affirmation of consultation within a reasonable time, the district should submit the Affirmation to [DESE’s ombudsperson](mailto:ESEAequitableservices@mass.gov) explaining the circumstances for the lack of signature. * Private school officials have the option to indicate their belief that consultation was not meaningful or that services are not equitable. * A scanned copy of the Affirmation of Consultation must be submitted with the district’s Title I submissions through EdGrants. * Districts and private school officials are advised to use the notes section of the Affirmation of Consultation (new in FY20) to record details of consultation topics. |
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| 5 | **Consolidated Workbook** | * Using enrollment data for eligible students in participating private schools, districts should complete the “Private School Services” section of the ESSA consolidated workbook to determine appropriate set-asides for services for each participating private school (or for “pooling” where elected, see box below for more details on this option). * USED recommends that, where possible for Title I, the district and private schools use the same measure of poverty for counting eligible students. * Note that for Title I *only*, equitable services are based on a district’s full allocation, prior to taking any allowable expenses or reservations. * For districts with Title I allocations that exceed $500,000, at least 1% of the allocation must be reserved for carrying out family engagement activities. This requirement applies to such districts’ private school equitable share as well. Therefore, 1% of the equitable share for private school services must be dedicated to family engagement activities for private school participating families. * If your district elects to “flex” or transfer funds from Title IIA or Title IVA to another Title, equitable service reservations are calculated based on post-flexing amounts for each grant. * Lead districts for consortia (Schedule A) for Titles II, III, and IV should be sure to supply total enrollment for the consortium where indicated in the workbook to ensure accurate set-asides for equitable services. * Private-school enrollment for calculating funding for equitable services does not include pre-kindergarten students, although these students may be served as determined by consultation. * Note that for Titles II, III, and IV, the amount reserved for equitable services may be calculated based on factors such as relative enrollment and/or need. See [federal non-regulatory guidance](https://www2.ed.gov/policy/elsec/guid/equitableserguidance.doc) (Section F) for more information. * Note that should a district have low-income enrollment information for a private school, that school’s low-income students will generate funds to be reserved for equitable services, *whether or not that private school elects to participate.* The funds generated will be allocated for services for other participating private schools. |
| 6 | **Implementation of Services** | * Districts must maintain control over funding, evaluation and supervision of services provided to private school teachers/students. Funds are never provided directly to a private school. * From its Title I reservation for equitable services, 1) districts may reserve a necessary and reasonable amount for administrative and indirect costs for providing those services, and 2) for districts required to reserve at least 1% of Title I funds for family engagement activities, districts *must* reserve at least 1% for district-arranged activities for families of eligible private school students. * For guidance on contracts with third parties providing services for private school students and teachers, see [DESE’s resource on third party contracts](http://www.doe.mass.edu/federalgrants/titlei-a/guidance/third-party-contract.doc). * Districts retain ownership of any equipment or supplies purchased for equitable services and should remove them from private schools if no longer used for equitable services or, if necessary, to prevent unauthorized use. * Services must benefit students rather than the private school. Therefore, services must be supplemental to those regularly provided by the private school. * Services must be neutral, secular, and non-ideological. * DESE will publish [district allocations for equitable services](https://www.doe.mass.edu/federalgrants/resources/equitableservices-essa/) by private school annually. Districts should estimate the available funds for equitable services for the next school year based on the prior year’s reservation for initial consultations. Once final reservations have been calculated, districts must notify participating private schools. * The entire cycle for provision of equitable services, from offer to consult to a district’s evaluation of services, will be part of DESE’s monitoring protocol. |

| Step | Action | Description |
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| 7 | Carryover of Funds | * Funds for equitable services should be obligated in the first *federal* fiscal year of the grant cycle (by September 30 of the second school year). * However, carryover of funds reserved for equitable services is not prohibited, and in most cases is required. * Title I: If funds remain at the end of the year because services for a particular private school were delayed or cost less than expected, Title I funds carried over to the next fiscal year remain designated for equitable services for the private school students from the original school for which they were reserved. If the original private school declines these services or if carryover results from closing of a private school, these funds should be used in the subsequent year for any other participating private school, and then, if funds cannot be used for a participating private school, for Title I services in district schools. (For more see [USED Guidance](https://www2.ed.gov/about/inits/ed/non-public-education/files/equitable-services-guidance-100419.pdf), pp. 26-27). * For Title II, III, and/or IV: As with Title I funds, if services were delayed for original private schools, funds should be carried over and used for the school for which they were originally reserved. If carryover is not due to the district’s delay in providing services (i.e., private school closing, services cost less than estimated), carryover funds should be re-allocated in year two for services *for district and any participating private schools for* that Title. |
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**Pooling Option for Private School Services**

* In consultation with private schools, a district may combine funds reserved for equitable services for one or more private schools for a single Title program.
* Funds may *not* be pooled across multiple Title programs.
* Services may be provided to some or all the private schools participating in the pool but are no longer dependent on the reservation generated by a particular private school.
* Allocation of pooled *services* among private schools are established in consultation with private school officials.
* Once pooled, funds remain in the pool even if a private school no longer wishes to receive services.
* Similarly, multiple districts may pool Title I funds to serve eligible students in a single private school.
* For more details and examples of pooling options, see [USED guidance](https://www2.ed.gov/about/inits/ed/non-public-education/files/equitable-services-guidance-100419.pdf), pp.16-18.

**Massachusetts’ ESSA Ombudsperson**

* Per ESSA, DESE has appointed an Ombudsperson as the primary contact for questions and concerns from either private school or district officials regarding the provision of equitable services. **You may contact us** [ESEAequitableservices@mass.gov](mailto:ESEAequitableservices@mass.gov).
* 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.

**Complaint/Appeal Process**

* Private school officials have the right to file a complaint with DESE if they believe 1) consultation was not timely and meaningful, 2) their views were not duly considered, 3) district decisions were inequitable and/or, 4) in the case of Title I, any the method of determining low-income enrollment of private schools is in dispute.
* DESE has an ESSA complaint procedure for nonpublic school complaints regarding equitable services, found [here](http://www.doe.mass.edu/federalgrants/resources/complaint.html) (<http://www.doe.mass.edu/federalgrants/resources/complaint.html>).
* A private school may appeal to the U.S. Secretary of Education within 30 days of DESE’s decision regarding its complaint, if dissatisfied. The Secretary has 90 days to investigate and resolve the appeal.