The Elementary and Secondary School Emergency Relief Fund (ESSER Fund) of the CARES Act of 2020 requires that timely and meaningful consultation occur between each public school district receiving ESSER funds and eligible non-public (private) school(s) prior to any decision that affects the opportunities of eligible private school children, teachers, and other educational personnel to participate in activities and services funded under ESSER. The regulations instituted by the US Department of Education (USED) regarding the eligibility and calculation of proportional share of equitable services were voided by way of a court ruling in September 2020. Therefore, additional consultation may be required given these changes.

The goal of consultation is for district and private school officials to reach agreement on whether and how the district will provide equitable and effective programs for eligible private school children.

This form, which documents consultation for ESSER programs, should be completed by district and participating private school officials prior to implementation of services or prior to implementation of services that may have been modified because of the September 2020 court ruling. This form should be used to document consultation regarding any changes to services or private school eligibility due to the fact that, since the court’s ruling, ESSER funds for equitable services have been recalculated using the Title I methodology.

**The table below describes required consultation topics.**

| **Topics of Consultation** |
| --- |
| 1. How the district will identify the needs of eligible non-public school children and their educators |
| 1. What services the district will offer to eligible non-public school children and their educators |
| 1. How and when the district will make decisions about the delivery of services |
| 1. How, where, and by whom the district will provide services to eligible non-public school children, including a thorough consideration and analysis of the views of the non-public school officials on the provision of services through a contract with a third-party provider |
| 1. How the district will assess academically the services to eligible non-public school children, if any, and how the district will use the results of that assessment to improve services |
| 1. The size and scope of the equitable services that the district will provide to eligible non-public school children and the proportion of funds that will be allocated to provide these services, and how that proportion of funds is determined. Also, any changes to services/proportion of funds reserved/eligibility due to the invalidation of the IFR and use of the Title I methodology |
| 1. The method or sources of data that the district will use to determine the number of non-public school children from low income families residing in participating public school attendance areas, including whether the district will extrapolate data, if a survey is used |
| 1. The equitable services the district will provide to teachers and families of participating non-public school children |
| 1. Whether the district shall provide services directly or through a separate government agency, consortium, entity, or third‐party contractor |

| **Topics of Consultation** |
| --- |
| 1. Whether to consolidate and coordinate the use of funds to eligible private school children:    * by creating a pool or pool of funds with all the funds allocated under ESSER; or    * on a school-by-school basis based on each the share of funds available to provide services in each school    * NOTE: Pooled funds are still budgeted separately by fund code 113 budgets and by district. |
| 1. When, including the approximate time of day, services will be provided |
| 1. 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 |

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Below, the consulting public school official and private school official should sign and indicate in the space provided whether each party agrees or disagrees that (a) timely and meaningful consultation occurred before the public school district made any decision that affected the participation of eligible private school children in ESSER programs and activities listed above\*, and (b) that the program design is equitable with respect to eligible private school children\*.

\*In some cases, these representations should take into account the change in method for determining private school eligibility and the reservation amount for equitable services due to the court’s September 2020 ruling, requiring districts to calculate reservations for equitable services using the Title I methodology and redetermine private school eligibility.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| *Private School Official*  ***Name and Signature*** | *School/District* | *Date* | *Agree* | *Disagree* |
|  |  |  |  |  |
| *Public School Official*  ***Name and Signature*** | *District* | *Date* | *Agree* | *Disagree* |

The public school official and participating private school official should each maintain a copy of this form for their records and provide a copy to DESE by email through the district liaison.

If either party has signaled disagreement during consultation, please contact Massachusetts’ ESSA private school ombudsperson soon after the consultation meeting, at [ESEAequitableservices@doe.mass.edu](mailto:ESEAequitableservices@doe.mass.edu) or 781-338-6259.

Use the space below or attach an additional sheet(s) to include notes on any or all of these topics.

| Issues Addressed: |
| --- |
| Decisions Made (brief description of equitable participation/services): |
| Timelines and/or Deadlines Agreed to: |
| Budgetary and/or Programmatic Implementation Schedule Agreed to: |
| Other Notes: |