



Equitable Services to Nonpublic Schools
Under the Every Student Succeeds Act (ESSA)

Frequently Asked Questions

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In an effort to assist local educational agencies (LEAs) with the provision of equitable services to nonpublic schools under the Elementary and Secondary Education Act (ESEA), reauthorized as the Every Student Succeeds Act (ESSA), the Indiana Department of Education (IDOE) has prepared the following guidance based on frequently asked questions received from public school administrators and nonpublic school officials throughout the state. This document is not exhaustive and will be periodically updated. For additional information, please visit the Title Grants and Support webpage and the Ombudsperson webpage.

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## Answers to Frequently Asked Questions

### **A. Consultation**

#### **A-1: Is the LEA required to consult with for-profit nonpublic schools?**

*Answer: For-profit nonpublic schools are not eligible to receive equitable services under the ESEA. The LEA is only required to consult with non-profit nonpublic schools regarding the provision of equitable services.*

#### **A-2: Which federal programs require consultation?**

*Answer: Title I-A (Improving Basic Programs) and all programs governed under Title VIII require consultation with nonpublic schools. Programs governed under Title III are Title I-C (Education of Migratory Children); Title II-A (Supporting Effective Instruction); Title III-A (Language Instruction for English Learners and Immigrant Students); Title IV-A (Student Support and Academic Enrichment Grants); and Title IV-B (21st Century Community Learning Centers).*

#### **A-3: What if the Title I planning allocations are not available when consultation needs to begin? Is the LEA still required to submit the signed “LEA Affirmation of Consultation with the Nonpublic School Official” form with the grant application?**

*Answer: In this situation, the LEA should continue with timely consultation, as planned, and use their hold harmless amounts for designing a program for the nonpublic school. The LEA should then provide updates to the nonpublic school once the planning allocation has been received to finalize plans for the provision of equitable services in the upcoming school year.*

#### **A-4: How does ESSA define “timely and meaningful” consultation?**

*Answer: ESSA defines “timely consultation” as consultation that occurs before the LEA makes any decisions about opportunities for nonpublic school students and teachers’ participation in equitable services. The LEA must schedule consultation with sufficient notice and time for preparation for both parties. The consultation should occur well before the implementation of services and continue throughout the implementation and assessment of services. ESSA defines “meaningful consultation” as consultation that provides a genuine opportunity for all parties to express their views and to have their views seriously considered, as well as to discuss options for effective programming based on the assessed needs of the eligible nonpublic school students. This assumes that the LEA has not made decisions that will impact the participation of nonpublic school students and teachers prior to the meeting.*

#### **A-5: When should the LEA submit the “LEA Affirmation of Consultation with the Nonpublic School Official” form to the ombudsperson?**

*Answer: The completed consultation forms must be submitted to the equitable services ombudsperson on or before the due date for submission of each federal grant governed by Title I-A and Title VIII (Title I-C; Title III-A; Title IV-A and -B). IDOE has developed, with stakeholder input, a consolidated consultation*



form that may be used to meet the requirements under the ESSA regarding the results of consultation. The consultation form may be accessed on the Equitable Services Ombudsperson [webpage](#).

**A-6: Does an offer of services from an LEA meet the requirement of consultation?**

**Answer:** No, just an offer of services by an LEA without an opportunity for timely and meaningful consultation does not meet the requirement of the law. Only after discussing key issues relating to the provision of services, identifying the needs of the students and teachers to be served, and receiving input from the nonpublic school officials, does an LEA make its final decisions with respect to the services and benefits it will provide to meet the needs of the eligible nonpublic school students and teachers.

**A-7: Who is responsible for initiating the consultation process?**

**Answer:** The obligation to initiate the consultation process lies with the LEA that is responsible for providing equitable services. In most cases, the LEA contacts officials of the nonpublic schools located within its attendance boundaries to begin the consultation process on issues that are relevant to the equitable participation of nonpublic school students, teachers and, in some cases, parents. If this does not occur, nonpublic school officials should contact the LEA in which their school is located and ask to speak to the individual(s) responsible for administering the Title program.

**A-8: What if one of the nonpublic schools will not respond to the consultation invitation or return the consultation form? How should I proceed?**

**Answer:** If after multiple, documented attempts (phone calls and emails) to consult with the nonpublic school official, the LEA may sign the nonpublic school consultation form and send it via certified mail to the nonpublic school official. The LEA must keep the mailing receipt and a copy of the consultation form that was sent to the nonpublic school official as evidence that the LEA extended an invitation to consult. The certified mailing receipt and the consultation form that was sent to the nonpublic school official must be attached to the Title I grant upon submission and kept on file at the LEA.

**A-9: What should I do if the LEA has not reached out for consultation?**

**Answer:** Consultation must include early discussions in the spring to prepare for the next school year so that there is a timely start of the Title program(s) at the beginning of each school year and should continue throughout its implementation and assessment of services. If the nonpublic school has not been invited to a consultation meeting or provided any information regarding the opportunity to participate in equitable services, the nonpublic school may initiate contact with the LEA, the assigned grant specialist or contact the ombudsperson.

**A-10: Should an LEA contact the nonpublic school officials every year even if the nonpublic school officials have declined services in the past?**

**Answer:** Yes, on an annual basis the LEA must contact nonpublic school officials and inquire as to whether the nonpublic school students and teachers will participate in the ESEA programs available to them.



**A-11: May an LEA set deadlines for submission of requests from nonpublic school officials for services and materials?**

*Answer: Yes, assuming that the LEA has provided clear and sufficient notice of the deadlines, identified potential consequences for not meeting the deadlines, and given adequate time for nonpublic school officials to gather the data and respond, LEAs may set a time limit for submission of requests for services and materials by nonpublic school officials.*

**A-12: What should be done when the nonpublic school official and the public school administrator can't agree on consultation topics?**

*Answer: IDOE encourages the LEA to discuss disagreements with the nonpublic school official through meaningful consultation and provide technical assistance when needed. The LEA may ask the nonpublic school official to submit a "Letter of Concern to the LEA" outlining the issue in writing and asking the LEA to continue the discussion. If needed, request a phone conference with the assigned IDOE federal grants specialist and ombudsperson to discuss ways to resolve the issue. The template for the "Letter of Concern to the LEA" can be found [here](#).*

**A-13: What are the expectations for nonpublic school officials with regard to consultation?**

*Answer: There are no specific **requirements** listed in the statutory language; however, there are expectations that support the collaborative nature of the consultation process: a) submit the notice of intent to participate to the LEA, b) provide lists of addresses and grade levels of students from low-income families (Title I), c) participate in consultation, d) come prepared to suggest ideas, program designs and modifications based on students' needs, e) have a goal of reaching agreement, f) choose a single point of contact that informs the LEA, g) may, but is not required to, identify eligible students who reside in an LEA different from the one in which the nonpublic school is located and alert the relevant LEA of the students' eligibility.*

## **B. Title I-A**

**B-1: When is the best time to consult with the nonpublic school officials about Title I services for eligible nonpublic school students?**

*Answer: Timely consultation should begin in the early spring before the upcoming school year and continue throughout the school year. A "Timeline for Title I Consultation" can be found on the Ombudsperson [webpage](#).*

**B-2: May an LEA reserve funds off the top of its Title I allocation before it allocates funds for equitable services?**

*Answer: No, under ESSA an LEA must determine the amount of funds available for providing equitable services prior to any expenditures or transfer of funds. This includes all reservations previously taken "off the top" of an LEA's Title I-A allocation, including reservations for administration, parental involvement, and district-wide initiatives.*



**B-3: How does the LEA calculate the proportionate share of Title I funds to be set-aside to provide equitable services to students in nonpublic schools?**

*Answer: The proportionate share in Title I-A is calculated based on the number of low-income students residing in a Title I-A school boundary and attending either a public or nonpublic school. The funds set aside as the “proportionate share” should be used to provide equitable services under Title I-A to participating nonpublic schools. IDOE has developed a step-by-step guidance document to assist LEAs in calculating the proportionate share. LEAs and nonpublic schools may access the “IDOE ESSA Title I Equitable Share Calculator” [here](#).*

**B-4: Should the LEA include charter schools in the proportionate share calculation?**

*Answer: No, charter schools are not impacted by the proportionate share calculation.*

**B-5: If we are transferring funds to another district to provide services to a student that resides in our attendance boundary but attends a nonpublic school in another district, do you include those students in the proportionate share?**

*Answer: Yes, the nonpublic school students who live in your attendance boundary should be counted on your LEA’s Eligible Schools Summary page. This is so that an equitable share is generated for each eligible nonpublic school student. IDOE has developed a step-by-step guidance document to assist LEAs in the transfer process. LEAs and nonpublic schools may access “A Work Guide for Managing the Nonpublic School Equitable Share Transfers Process” [here](#).*

**B-6: Who is responsible for providing services to eligible nonpublic school students who attend a nonpublic school in another school district?**

*Answer: Title I regulations define Title I eligible nonpublic school children as those who reside in participating public school attendance areas of the LEA, regardless of whether the nonpublic school they attend is located in the LEA. Thus, the LEA in which the child resides is responsible for providing services to the child, but it may arrange to have services provided by another LEA and reimburse that LEA for costs. The transfers process involves collaboration and agreement between LEAs on the Title I services to be rendered and equitable share to be transferred.*

*\*For all other programs that require equitable services, the requirement to consult and deliver services solely depends on the geographic location of the LEA in which the nonpublic school is located.*

**B-7: Do the services provided to eligible Title I nonpublic school students have to be the same as those provided to the eligible public school students?**

*Answer: Services to eligible nonpublic school Title I students must be allowable and comparable to those provided to the public school Title I students and teachers participating in the program, but are not required to be the exact same Title I service.*

**B-8: Are the students that generate the proportionate share the only students that may access the equitable services provided in the nonpublic school?**



**Answer:** No, student eligibility for Title I-A services for nonpublic school children is determined by (1) residence in a participating public school attendance area, and (2) educational need. Poverty is not a criterion. Title I services may be provided in subject areas or at grade levels that are different from those provided public school students, as long as these services are provided in the same grade-span as the services provided to public school children.

**B-9: How are the criteria for at-risk students served by Title I-A funds determined?**

**Answer:** In consultation with the nonpublic school officials, an LEA must establish multiple, educationally related, objective criteria to determine which nonpublic school children are eligible for Title I-A services. The LEA must select nonpublic school children who are failing, or most at risk of failing, to meet high student academic achievement standards.

**B-10: Can the LEA carry over Title I-A funds to provide equitable services?**

**Answer:** The LEA must obligate the funds set-aside to provide equitable services during the fiscal year for which the funds are received. As a last resort, the LEA may carryover the funds to the subsequent fiscal year; however, the funds must be carried over categorically (e.g., funds set aside to provide equitable services that will carry over to the next year must be used to provide equitable services in the subsequent year).

In cases where an LEA has a substantial amount of equitable share unexpended at the end of the school year, carryover consideration and director's approval may be granted to limit the equitable share carryover to 15% of the current year's equitable share total. The LEA must provide evidence that a good faith effort was made to consult with the participating nonpublic school to expend the remaining dollars within the period of availability. Acceptable evidence would include at least one certified letter and mailing receipt, email communications, and meeting minutes.

**B-11: Does the indirect cost rate apply to the entire Title I-A allocation?**

**Answer:** Yes, the indirect cost rate applies to the entire Title I-A allocation. The indirect cost rate is not impacted by the proportionate share. If the LEA chooses to utilize the full indirect cost rate, the proportionate share will remain the same as it must be determined prior to any off-the-top reservations, including indirect cost rate.

**B-12: May the nonpublic equitable share for eligible students be pooled across LEAs after funds have been transferred to a Lead LEA to provide services?**

**Answer:** No, funds can only be pooled within a single LEA and cannot be pooled across LEAs. Under specific circumstances, the LEA of origin may contract with the LEA where a student attends nonpublic school to provide services to the student. However, the funding streams may not be pooled.

**B-13: May an LEA use parent involvement and professional development set-asides for instruction instead of the designated activities?**

**Answer:** No, an LEA may not divert funds for Title I parent involvement and professional development for instruction, even if requested by the nonpublic school official.





**B-14: After nonpublic school students are enrolled in the Title I program, what are an LEA's obligations to communicate with the nonpublic school parents?**

*Answer: Once services at the nonpublic school have begun, the LEA should ensure that the Title I teacher convenes a meeting with Title I parents, either at the nonpublic school's regular "back-to-school night", or at another time, to explain the services being provided and to convey any expectations the teacher has regarding homework and other academic assignments.*

**B-15: If the funding generated for equitable services is small, can an LEA purchase instructional supplies and materials and let the nonpublic school deliver the supplemental instruction?**

*Answer: No, regardless of the size of the nonpublic school allocation or the number of nonpublic school students being served, an LEA may not spend the entire allocation on materials and supplies for the nonpublic school in lieu of direct instruction. Providing the nonpublic school only with instructional materials and supplies is not an option available to LEAs because it is neither a proper Title I program implemented by the LEA nor meets the equitable service requirements.*

**B-16: What is the best way to provide Title I services in a nonpublic school with a small set-aside?**

*Answer: Where funds for equitable services are low, IDOE suggests pooling funds for two or more nonpublic schools (within the LEA) to hire a part-time teacher, provide supplemental tutoring after school or during the summer. LEAs may also use funds to provide counseling, professional development for classroom teachers of Title I participants.*

**B-17: Are Special Education students enrolled in nonpublic schools entitled to be served by Title I?**

*Answer: Yes, students with disabilities enrolled in nonpublic schools must be served by Title I on the same basis as students without disabilities, if they are in academic need and reside in a participating attendance boundary.*

## **C. Title II-A**

**C-1: How do Title II-A applicants include services for nonpublic schools?**

*Answer: Traditional public school districts are required to consult in a meaningful and timely manner with all nonpublic schools in their geographic boundaries. They must also generate a per-pupil allocation for all students enrolled in nonpublic schools and ensure an equitable share and participation. Applicants must complete all nonpublic school information in the application and indicate the budget and Title II-A programming planned in the nonpublic school. In a consortium, all members that are also traditional public school districts must consult with all nonpublic schools in each member's area.*

**C-2: What types of activities may an LEA now provide to nonpublic school participants under Title II-A?**

*Answer: An LEA may continue to use Title II-A funds to provide professional development activities for teachers, principals, and other school leaders to address the specific needs of their students. Any use of Title II-A funds for the benefit of nonpublic school participants must be an allowable use of funds under statute and:*



- Meet the specific needs of students enrolled in the nonpublic school, not the school itself;
- Must be provided by either an employee of the LEA or through a contract by the LEA with an individual, association, agency, or organization who must be independent of the nonpublic school and any religious organization. All contracts must be under control and supervision of the LEA; and
- All funds must remain in control of the LEA responsible for providing equitable services.
- Title II-A funds may not be used for class size reduction in nonpublic schools.

**C-3: Does the professional development program for nonpublic school teachers have to be the same as the professional development program for public school teachers?**

*Answer: No, the LEA must assess the needs of nonpublic school teachers in designing the professional development program for nonpublic school teachers. If the professional development needs of the nonpublic school teachers are different from those of public school teachers, the LEA, in consultation with nonpublic school officials, should develop a separate program.*

**C-4: May Title II-A funds be used to pay for a nonpublic school teacher's attendance at a professional conference sponsored or conducted by a faith-based organization?**

*Answer: Yes, to the extent that the conference is part of a sustained and comprehensive secular professional development plan for the teacher, then Title II-A funds may be expended to pay for the portion of the costs of the conference that, as determined by the LEA, represent the secular professional development in which the teacher participated. In this case, the LEA would pay or reimburse the teacher for attendance at the conference.*

**C-5: How early and in what detail should a nonpublic school request Title II-A funding for a professional development conference?**

*Answer: It is important that consultation occur prior to the submission of the LEA's Title II-A grant application to IDOE. As required by ESSA, Title II-A funded professional development must be evidence/research based. It is also expected that the professional development is intended to improve student achievement. During consultation, the nonpublic school representative should convey how any professional development requests meet the requirements of ESSA and the school improvement planning needs. While many conference agendas may not be available at the time of the consultation, the nonpublic school representative must demonstrate how a particular conference will address the school's professional development priorities in core subject areas (e.g., topics and areas of focus) while also providing estimated costs. Once conference materials have been published, a more detailed proposal which includes sessions/topics to be attended as well as a more accurate budget must be forwarded to the LEA.*

**C-6: How should the LEA pay for the cost of attendance at a conference?**

*Answer: The LEA remains in control of the funds. The LEA may wish to reimburse the individual(s) for the costs or pay for the costs directly. Be aware that the LEA cannot reimburse a nonpublic school.*



**C-7: Does transferring from Title II-A and/or Title IV-A impact the consultation requirements?**

**Answer:** Yes, the LEA must consult with the nonpublic school officials about the decision to transfer Title II-A and/or Title IV-A funds before the funds are transferred. If the nonpublic school chooses to participate in Title II-A and/or Title IV-A, the LEA must determine the amount necessary to set aside to provide equitable services to the nonpublic school and may then transfer the remaining amount of Title II-A and/or Title IV-A funds.

**D. Title III-A**

**D-1: As a nonpublic school that accepts Title III-A funding; therefore, government funds, are we then bound to federal laws from which nonpublic schools are normally exempt?**

**Answer:** No, nonpublic schools whose students or teachers receive equitable services under ESSA are not subject to the same federal laws as LEAs unless the nonpublic school otherwise receives federal funds from a program administered by the U.S. Department of Education. Provisions under federal law apply to educational agencies and institutions that receive federal funds from programs administered by the U.S. Department of Education. A nonpublic school would be subject to federal laws only if it receives a payment of money from a program administered by the U.S. Department of Education. The nonpublic school is a recipient of equitable services under ESSA; however, the nonpublic school is not a recipient of federal funds and will not receive payment of money from the LEA administering the Title programs under ESSA. The LEA must maintain control of the Title funds (including any equipment/materials purchased) that are set-asides to provide equitable services to nonpublic schools under the program(s) in which the nonpublic school participates and may not reimburse the nonpublic school for purchases or services. As such, the nonpublic school is not beholden to all the same federal laws as the LEA; however, program requirements must be met as a participant of individual Title programs.

For example, if a nonpublic school chooses to participate in Title III-A, the LEA may use Title III-A funds to support the nonpublic school in the identification of students as English learners – which is prohibited in the public school system due to federal statute and case law. In the public school system, this activity must be funded with State and/or local funds. Because the nonpublic school is not beholden to those same laws, Title III-A funds may be used to support this effort. As a program requirement, though, the nonpublic school must go through the identification process with the LEA's support to continue participating in the Title III-A program to ensure that appropriate and eligible students are receiving services. This does not then require the nonpublic school to comply with all federal statute and case law but does require identification for participation purposes.

**E. Title IV-A**

**E-1: How do Title IV-A applicants include services for nonpublic schools?**

**Answer:** Traditional public school districts are required to consult in a meaningful and timely manner with all nonpublic schools in their geographic boundaries. They must also generate a per-pupil allocation for all students enrolled in nonpublic schools and ensure an equitable share and participation. Applicants must complete all nonpublic school information in the application and indicate the budget and Title IV-A



programming planned in the nonpublic school. In a consortium, all members that are also traditional public school districts must consult with all nonpublic schools in each member's area.

**E-2: Does transferring from Title II-A and/or Title IV-A impact the consultation requirements?**

**Answer:** Yes, the LEA must consult with the nonpublic school officials about the decision to transfer Title II-A and/or Title IV-A funds before the funds are transferred. If the nonpublic school chooses to participate in Title II-A and/or Title IV-A, the LEA must determine the amount necessary to set-aside to provide equitable services to the nonpublic school and may then transfer the remaining amount of Title II-A and/or Title IV-A funds.

**E-3: Must a nonpublic school accept Title I-A funds to be eligible to receive Title IV-A funds?**

**Answer:** No, the requirement to participate in Title I-A to receive Title IV-A applies to the LEA only. The nonpublic school has the ability to make a separate decision for accepting any of the federal grant programs, so the nonpublic school may participate in Title IV-A and decline Title I-A funds.

**F. Fiscal Requirements for All Title Programs**

**F-1: May nonpublic school officials order or purchase materials and supplies needed for a Title program and be reimbursed by an LEA?**

**Answer:** No, nonpublic school officials have no authority to obligate or receive federal funds. The statute clearly states that the LEA must maintain control of all Title funds, materials, equipment, and property. No Title funds may be paid to a nonpublic school.

**F-2: Where can I find the federal program allocation of funds for my nonpublic school?**

**Answer:** The federal program allocation of funds for nonpublic schools is posted by school on the ombudsperson webpage on the IDOE website and can be found [here](#). The allocation amount that is posted is pulled from the initial approved grant application.

**F-3: What does it mean to obligate funds?**

**Answer:** The ESEA requires an LEA to obligate the funds allocated for equitable services under all applicable programs in the year for which they are appropriated. Certain funding purposes govern when an obligation of federal funds by an SEA or LEA must occur, as shown in the following chart:

<b><i>If the obligation is for--</i></b>	<b><i>The obligation is made--</i></b>
Acquisition of property	On the date on which the State or subgrantee makes a binding written commitment to acquire the property
Personal services by an employee of the State or subgrantee	When the services are performed
Personal services by a contractor who is not an employee of the State or subgrantee	On the date on which the State or subgrantee makes a binding written commitment to obtain the services



Performance of work other than personal services	On the date on which the State or subgrantee makes a binding written commitment to obtain the work
Public utility services	When the State or subgrantee receives the services
Travel	When the travel is taken
Rental of property	When the State or subgrantee uses the property
A pre-agreement cost that was properly approved by the Secretary under the cost principles in 2 CFR part 200, Subpart E – Cost Principles	On the first day of the grant or subgrant performance period

**F-4: May an LEA continue to obligate funds generated for equitable services for the previous school year during the summer after the school year ends and at the start of the next school year as a means to meet the ESEA requirement to obligate the funds during the initial year of availability?**

*Answer: Yes, an LEA may do so as long as the obligations occur by September 30 (the end of the federal fiscal year). Note that the ESEA requires LEA officials to consult with nonpublic school officials about this matter.*

**F-5: What are the responsibilities of an SEA or LEA for the provision of equitable services to nonpublic school children and teachers with respect to funds being transferred?**

*Answer: Before an SEA or LEA may transfer funds from a program subject to equitable services requirements, it must engage in timely and meaningful consultation with the appropriate nonpublic school officials. With respect to the transferred funds, the SEA or LEA must provide nonpublic school students and teachers equitable services under the program(s) to which, and from which, the funds are transferred, based on the total amount of funds available to each program after the transfer.*

**F-6: May an SEA or LEA transfer only those funds that are to be used for equitable services to nonpublic school students or teachers?**

*Answer: No, an LEA may not transfer funds to a particular program solely to provide equitable services for the nonpublic school students and teachers. Rather, an LEA, after consulting with appropriate nonpublic school officials, must provide equitable services to nonpublic school students and teachers based on the rules of each program and the total amount of funds available to each program after a transfer.*

**F-7: How should the LEA hire personnel to deliver equitable services at the nonpublic school?**

*Answer: IDOE recommends the LEA hire staff delivering equitable services as employees, including through supplemental contracts, or contract with a third-party vendor. Contracting with individuals should be avoided unless the individual is paid as an employee and all appropriate withholdings are*



followed. This includes payment of any stipends to nonpublic school teachers for attending training offered by the LEA. IDOE technical assistance memorandum addressing compliance when contracting for nonpublic equitable services can be found [here](#).

**F-8: What is the process for the nonpublic school to release the unexpended equitable share to the LEA?**

**Answer:** A [Nonpublic Equitable Share Release Form](#) is for use with nonpublic schools that have an unexpended equitable share that, based on agreement during consultation between the LEA and the nonpublic school official, will be released to the LEA for use in public schools. This process is to be used in scenarios where the nonpublic school initially accepts participation in a federal program, but later is unable to utilize the full equitable share. This form will be submitted to LEA's assigned federal program specialist in the [Office of Title Grants and Support](#) for review.

In cases where the LEA has a substantial amount of equitable share unexpended at the end of the school year, carryover consideration and IDOE Director's approval may be granted for Title I-A; Title I-C; Title II-A; Title III-A and Title IV-A and -B; however, carryover is limited to 15% of the current year's equitable share total for Title I-A.

The LEA must provide evidence that a good faith effort was made to consult with the participating nonpublic school official about expending the equitable share within the period of availability, preferably in the fiscal year in which the funding was allocated. Acceptable evidence would include at least one certified letter and mailing receipt, email communications and meeting minutes. The unexpended equitable share must be reported on the Final Expenditure Report in PART II – STATEMENT OF THE UNEXPENDED BALANCE AT THE END OF THE PROJECT PERIOD.

The nonpublic school official should sign the release after the end of the school year and after a best effort has been made to encumber the funds. Funds must be encumbered by September 30 and expended by December 15. The process and the release form can be found [here](#).

**F9: May an LEA contract with a religious organization to provide equitable services?**

**Answer:** An LEA may enter into a contact with religious organization to provide equitable services on the same basis as any other private entity. The contractor must be independent of the nonpublic school for which it is providing services and that that educational services and other benefits being provided by the contractor are secular, neutral and nonideological. ESEA section 1117(a)(2), (d)(2)(B)

**G. State Equitable Services Ombudsperson**

**G-1: What is an ombudsperson?**

**Answer:** The ombudsperson for the state of Indiana helps monitor and enforce Title I-A and Title VIII equitable services requirements, as well as develop processes, procedures, and resources to support public school administrators and nonpublic school officials that work with equitable services requirements. To access information and resources for administering equitable services click [here](#).



The ombudsperson works in partnership with the federal grants specialists in the IDOE's Office of Title Grants and Support as an impartial mediator between the nonpublic school officials and the public school administrators when a concern arises. [ombudsman@doe.in.gov](mailto:ombudsman@doe.in.gov).

### **G-2: What does the LEA need to submit to the ombudsperson?**

**Answer:** The "LEA Affirmation of Consultation with the Nonpublic School Official" form must be submitted to the ombudsperson on or before the due date for application submission. The IDOE has developed, with stakeholder input, a consolidated consultation form that can be used to meet the requirements under ESSA regarding the results of consultation. The consultation form may be accessed on the Ombudsperson webpage and can be found [here](#).

### **G-3: What is the process for filing a formal complaint against the LEA if agreement can't be met concerning the equitable services requirements?**

**Answer:** If after consultation and technical assistance by the IDOE assigned federal grant specialist, the public school administrator and the nonpublic school official can't reach agreement, the ombudsperson can be contacted for additional guidance. Most often providing technical assistance to clear up any misunderstanding is all that is needed.

However, under ESSA, the nonpublic school official does have the option to file a formal complaint with the ombudsperson, if consultation with the public school administrator and the IDOE federal grants specialist do not resolve the issue. In filing a formal complaint, the nonpublic school official provides the basis for the disagreement with the LEA. Appropriate documentation must be attached to the complaint, such as the "Letter of Concern to the LEA", meeting minutes, and written communication surrounding the unresolved issue. The SEA has 45 days to respond to the written formal complaint. The process for filing a complaint and the template for the "Letter of Complaint" are found on the Ombudsperson webpage and it can be accessed [here](#).

LEA's and nonpublic school officials have the right to appeal the SEA's resolution of the complaint to the US Department of Education. The appeal to the Department must be filed no later than 30 days following the SEA's resolution of the complaint (or if the SEA fails to resolve the complaint within 45 days). The ESEA then requires the Department to resolve the appeal no later than 90 days after receipt of the appeal (ESEA section 8503(b)).

The Secretary has delegated authority to administer ESEA programs to the assistant secretary for elementary and secondary education. Therefore, appeals of a complaint resolution by an SEA may be sent to the U.S. Department of Education at the following address: [OESE@ed.gov](mailto:OESE@ed.gov) and [ONPE@ed.gov](mailto:ONPE@ed.gov).

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