

## Title II, Part A

### Equitable Services Guidance

Per [Section 8501\(a\)\(3\)\(A\)](#) of the [Elementary and Secondary Education Act \(ESEA\)](#), amended by the [Every Student Succeeds Act of 2015 \(ESSA\)](#), local education agencies (LEAs), also known as school districts, are to provide educational services for nonpublic school children, educators, and other academic personnel that is equitable to the services provided for public school children, educators, and other academic personnel.

#### **Notification Requirements**

Annually, school districts must contact appropriate officials of all nonpublic schools within the district's geographic boundaries to determine if they want their educators to participate in the Title II: Supporting Effective Instruction grant program. Letters should be disseminated during the current school year so that schools can take part in the annual needs assessment before allocations are made available in the next school year. The school district must include the planning, participation, and evaluation of professional learning activities for those nonpublic schools that wish to participate in the Title II program.

School districts must consult with nonpublic schools regarding Title II equitable services. Title II coordinators may collaborate with other federal Title program coordinators by inviting the nonpublic school to consult regarding their participation in all federal Title programs. School districts should keep a record of invitations and mail receipts for each program served.

#### **Consultation and Planning**

Under Section 8501 (c), the school district must consult with appropriate nonpublic school officials during the design and development of the proposed programs to ensure timely and meaningful consultation.

Attention must be given to the timing of the consultation so that decisions made after decisions have taken place affect the opportunities for eligible nonpublic school educators to participate in Title II program activities. Under [Section 8501\(c\)\(3\)](#), the consultation must occur before any decisions are made by the school district and nonpublic schools that affect the opportunities for eligible nonpublic school children, educators, and other educational personnel to participate in the Title II program. The quality of the consultation process will likely affect the quality of services to nonpublic schools.

As stated in [Section 8501\(c\)\(3\)](#), consultation should continue throughout the implementation and assessment of Title II activities.

The school district should document the following to meet general record-keeping responsibilities:

- Informing nonpublic school representatives of the availability of Title II equitable service funds and district services.

- Identifying public and nonpublic school educators' needs as part of a community-wide needs assessment. Consultation with nonpublic school officials and provide an opportunity for input into planning the school district's Title II program activities impacting the nonpublic school.
- Approval of the school district's budget permitting equitable participation for nonpublic schools.

According to [Section 8501\(c\)\(1\)](#), school districts must consult with appropriate nonpublic school officials and have the goal of reaching an agreement on how to provide equitable services and effective programs for eligible nonpublic schools on issues such as the following:

- How will students' needs be identified?
- How will students' needs inform the professional learning needs of educators, principals, and other school leaders?
- What equitable services are offered?
- How, where, and by whom will the services be provided?
- How will services be assessed, and how will assessment results improve those services? School districts are responsible for measuring the effectiveness of funded activities.
- What is the size and scope of equitable services to eligible educators? How is the amount determined? What amount of funds are available for those services?
- How and when will the public school district make decisions about the delivery of services?
- Will the school district provide services directly to the nonpublic school or through a separate government agency, consortium, or entity through a third-party contractor?

School districts are encouraged to consult with nonpublic school officials and provide guidance on applicable policies or written procedures, such as travel, stipends, college courses, and source documentation required to determine allowability.

### **Documentation and Consultation**

School districts should obtain a written affirmation signed by officials of each participating nonpublic school stating that meaningful consultation required by ESSA has occurred. The written Affirmation of Consultation must include the option for nonpublic school officials to indicate whether timely and meaningful consultation occurred or whether the program design is not equitable to eligible nonpublic school children.

If nonpublic school officials do not provide the written affirmation within a reasonable period, the school district must document that consultation occurred, according to [Section 8501\(c\)\(5\)](#).

### **Determining Title II Equitable Services Allocations**

The amount a school district must reserve to provide Title II equitable services for nonpublic school educators and other educational personnel is the school district's total Title II allocation minus administrative costs.

The school district determines the funds available for Title II equitable services through a formula that calculates, on a per-pupil basis, the amount available for all public and nonpublic students enrolled in participating nonpublic schools served by the district, regardless of a student's residency. The needs of public and nonpublic school students, educators, and educational personnel are considered.

North Dakota school districts will complete this formula within the Consolidated Application for Federal Title Funds. School districts are encouraged to use the formula above for planning purposes upon receipt of the estimated allocations from the NDDPI. The school district will update this formula when final allocations from the NDDPI become available. School districts must notify nonpublic schools after the final allocations and revised equitable services amounts are released to account for the changes between the preliminary and final allocations.

Example of Formula to Determine Amount for Title II Equitable Services

**A. Number of Students**

|  |                  |
|--|------------------|
| <i>A1. Public School District Enrollment</i>   | <i>1,000</i>     |
| <i>A2. Participating Nonpublic Schools Enrollment</i>  | <i>150</i>       |
| <i>A3. Total Enrollment (# = A1 + A2)</i>  | <i>1,150</i>     |
| <b>B. Title II Base Preliminary Allocation</b>   |                  |
| <i>B1. Total Public School District Allocation</i>   | <i>\$500,000</i> |
| <i>B2. Administrative Costs (for public and nonpublic school programs)</i>   | <i>\$10,000</i>  |
| <i>B3. Public School District Base Preliminary Allocation (# = B1 – B2)</i>  | <i>\$490,000</i> |
| <b>C. Per Pupil Rate</b>   |                  |
| <i>C1. Individual per pupil for Title II (# = B3 ÷ A3)</i>   | <i>\$426</i>     |
| <b>D. Equitable Services</b>   |                  |
| <i>Amount the school district must reserve for equitable services for nonpublic school educators and other educational personnel (# = A2 x C1)</i> | <i>\$63,900</i>  |

**Carryover and Services Rolling Forward**

ESSA requires school districts to obligate the total amount generated for equitable services to nonpublic school educators, principals, and other nonpublic school leaders during the first fiscal year of availability. According to [Section 1117\(a\)\(4\)\(B\)](#), funds allocated to a school district for educational services and other benefits to eligible nonpublic school children must be obligated in the fiscal year for which the agency receives the funds.

A school district's carryover amount will remain separate from the next fiscal year's allocation; this is the same for any remaining equitable services funds. The law requires equitable service allocations and the provision of all equitable services within the school year for which appropriated. School districts and nonpublic schools should work collaboratively to minimize the amount of equitable services carryover.

## **Title II Allowable Activities for Nonpublic Equitable Services**

Title II-funded educational services, professional development, or other benefits, including materials and supplies, shall be secular, neutral, and nonideological, per [Section 8501\(a\)\(2\)](#).

School districts may use Title II funds to provide professional development activities for educators, principals, and other school leaders to address the specific needs of their students. Additionally, there may be other permissible uses of Title II funds to benefit nonpublic school participants. These professional development activities may include:

- Improving the knowledge of educators, principals, and other educational personnel in effective instructional teaching strategies, methods, and skills necessary to enable students to succeed in a well-rounded education and to meet the challenging State academic standards.
- Training in effectively integrating technology into curricula and instruction.
- Training on how to teach students with different needs, including students with disabilities or limited English proficiency and gifted and talented students.
- Training in improving student behavior, identifying early and appropriate interventions, and involving parents more effectively in their children's education.
- Leadership development and management training to improve the quality of principals and superintendents.
- Training in using data and assessments to improve instruction and student activities.

Under [Section 2103 \(b\)\(3\)\(D\)](#), it is not allowable to use Title II equitable services funds for class-size reduction in a nonpublic school. Nonpublic school personnel contracts are inconsistent with the requirements listed under [Section 8501\(d\)](#) regarding public control of funds and the supervision and control of employees or contractors.

Title II funds may not be used to pay teacher salaries or to cover the costs of a substitute taking the place of a teacher attending a conference or workshop.

To the extent that a teacher's, principal's, or other school leader's attendance at a conference sponsored or conducted by a faith-based organization is part of a sustained and comprehensive secular professional development plan, Title II funds may be expended to pay for the portion of the costs of the conference that, as determined by the public school district, represent the secular professional development in which the teacher, principal or other school leader participated. By law, using federal funds to support religion is prohibited under [34 CFR section 76.532, sections 8505 and 8501\(a\)\(2\)](#).

Note: If the conference contains secular and non-secular events, the attending teacher, principal, or school leader must provide the public school district with information delineating secular and non-secular activities before attending the conference. The public school district will determine what percentage represents secular professional development in which the teacher participated. The public school district should consider all expenses related to attending the conference (e.g., airfare, hotel registration) to determine the amount to reimburse the teacher for attending the conference.

## **Control of Funds and Reimbursement**

Under [Section 8501\(d\)](#), the public school district must always maintain control of the Title II funds. Any materials, supplies, or property purchased with these funds shall remain property of the public school district, where the materials, supplies, or property must be used for Title II, as outlined in [Section 2001](#).

Only the public school district may obligate and expend federal funds on behalf of nonpublic school educators, principals, and other school leaders; this means the public school district must purchase materials or procure services for the nonpublic school. Public school districts cannot reimburse nonpublic schools directly for any costs. However, a public school district may use federal funds to compensate an individual nonpublic school teacher, principal, or other school leaders for professional development the public school district has preapproved and that meets the reasonable and necessary cost principles of [2 CFR section 200](#).

Public school districts must not reimburse nonpublic schools for unallowable activities.

## **Record Keeping**

While a public school district should not overburden a nonpublic school with paperwork, as the public school district is fiscally responsible for the management of funds under [Section 8501\(d\)](#), a public school district may require the nonpublic school to submit enough documentation to determine student and teacher needs, as well as documentation to determine that the activities and expenses are allowable, reasonable, and necessary, following all federal and state requirements.

School districts that serve nonpublic schools expend funds on behalf of the nonpublic schools. Thus, all nonpublic school expenditures must comply with the school district procurement procedures. School districts entering contracts on behalf of nonpublic schools must adhere to the district's policies and be primarily responsible for maintaining documentation.

As mentioned in the Consultation and Planning section of this document, to meet its general record-keeping responsibility, the public school district should document that:

- Representatives of nonpublic schools were informed of the availability of Title II services.
- The needs of nonpublic school and public school educators were identified as part of a needs assessment.
- Nonpublic school officials were consulted and provided an opportunity for input into the planning of the Title II program activities.
- The school district approved a budget that permitted equitable participation for nonpublic schools.

## **References**

[Elementary and Secondary Education Act \(ESEA\), amended by the Every Student Succeeds Act of 2015 \(ESSA\)](#)

[No Child Left Behind Act of 2001 \(NCLB\) – Every Student Succeeds Act of 2015 \(ESSA\) Equitable Services Comparison Chart](#)

[Title I – Equitable Services for Eligible Private School Students – ESEA Non-Regulatory Guidance \(October 2019\)](#)

[Title II – Non-Regulatory Guidance: Building Systems of Support for Excellent Teaching and Learning \(September 2016\)](#)

[Title IX \(ESSA Title VIII\) E- ESEA Non-Regulatory Guidance: Fiscal Changes and Equitable Services \(November 2016\)](#)

[Code of Federal Regulations \(CFR\)](#)