
Title II, Part A Equitable Services for Nonpublic Schools 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 are required to 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 in the current school year for schools to have the opportunity to 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 assessment 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 the equitable services for Title II. 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

- The school district must consult with appropriate nonpublic school officials during the design and development of the proposed programs under [Section 8501\(c\)](#) 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 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: Supporting Effective Instruction equitable service funds and district services.
 - Identification of the nonpublic and public school educators' needs as part of a community-wide needs assessment.

- Consultation with nonpublic school officials and provide an opportunity for input into the planning of 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 student needs be identified?
 - How will student 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 the equitable services provided to eligible educators? How was the amount determined? What amount of funds are available for those services?
 - How and when the public school district will 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 also 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 OF CONSULTATION

- School districts should obtain a written affirmation signed by officials of each participating nonpublic school that meaningful consultation required by ESSA has occurred. The written [Affirmation of Consultation](#) must include the option for nonpublic school officials to indicate if timely and meaningful consultation occurred or if 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 took place, according to [Section 8501\(c\)\(5\)](#).

DETERMINING TITLE II EQUITABLE SERVICES ALLOCATIONS

- The amount a school district must reserve to provide equitable services for nonpublic school educators and other educational personnel for Title II services uses the school district's total Title II allocation, less administrative costs.
- The school district determines the funds available for Title II equitable services through a formula. The formula calculates, on a per-pupil basis, the amount available for all public and nonpublic students enrolled in participating nonpublic schools in areas served by the district, regardless of a student's residency. The needs of public school and nonpublic school students, educators, and educational personnel are taken into consideration.
- 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 become available from the NDDPI. School districts must notify nonpublic schools after release of final allocations, and revised equitable services amounts 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

A1. Public School District Enrollment	1,000
A2. Participating Nonpublic Schools Enrollment	150
A3. Total Enrollment (# = A1 + A2)	1,150

B. Title II Base Preliminary Allocation

B1. Total Public School District Allocation	\$500,000
B2. Administrative Costs (for public and nonpublic school programs)	\$10,000
B3. Public School District Base Preliminary Allocation (# = B1 – B2)	\$490,000

C. Per Pupil Rate

C1. Individual per pupil for Title II (# = B3 ÷ A3)	\$426
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D. Equitable Services

Amount the school district must reserve for equitable services for nonpublic school educators and other educational personnel (# = A2 x C1)	\$63,900
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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 funds are received by the agency.
- 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 states to obligate the equitable services allocations and provide 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 for the benefit of 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 on methods to improve 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 the use of 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 both 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 the percentage of the conference representing 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

- Pursuant to [Section 8501\(d\)](#), the public school district must maintain control of the Title II funds at all times. 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 on behalf of the nonpublic school. Public school districts are not allowed to reimburse nonpublic schools directly for any costs. However, a public school district may use federal funds to reimburse 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 for unallowable activities.

RECORD KEEPING

- While a public school district should not overburden a nonpublic school in 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 also comply with the school district procurement procedures. School districts entering into contracts on behalf of nonpublic schools must adhere to the district's procedures and have the primary responsibility for maintaining documentation.
- As mentioned in the Consultation and Planning section of this document, in order 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: Supporting Effective Instruction services.
 - The needs of nonpublic 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 \(CFR\)](#)

FREQUENTLY ASKED QUESTIONS

These are the most frequent questions we receive regarding Title II equitable service in nonpublic schools. This section may be updated as more nonpublic school equitable services questions arise.

- **May a school district reimburse a nonpublic school for materials it has purchased or services it has procured to implement a Title II program?**

No. Only the school district may obligate and expend federal funds on behalf of nonpublic school students and educators. Therefore, the district must purchase materials or procure services on behalf of the nonpublic school students and educators.

However, a school district may use federal funds to reimburse an individual nonpublic school teacher, principal, or other school leader for professional development the public school district has preapproved and that meets the reasonable and necessary cost requirements ([2 CFR section 200](#)).

- **May a school district use funds to provide stipends to nonpublic school educators, principals, and other school leaders?**

Yes. As with any other costs, the use of funds for stipends must be allowable under Title II use of funds for nonpublic schools, and they must be reasonable and necessary. If a professional development event is conducted after-school or in the summer, a teacher can receive a stipend to compensate for participation outside regular employment hours. In addition, salaries for nonpublic school educators must be available and paid to nonpublic school educators on the same basis as public school educators. However, the stipends cannot be paid to the nonpublic school or be for the benefit of the nonpublic school; they must be paid to the nonpublic teacher directly.

- **May Title II funds be used to pay for a nonpublic school educator's attendance at a professional conference?**

In order to be an allowable activity under Title II, including for nonpublic school participants, attendance at a professional conference must meet specific requirements:

1. The activity must be an allowable Title II activity and meet the definition of professional development ([Sections 2103\(b\)\(3\)](#) and [8101\(42\)](#)).
2. The activity must serve to meet the needs of the nonpublic school educator(s) as identified through the consultation process ([Section 8501\(c\)](#)).
3. The activity must be supplemental and may not supplant the professional development that the nonpublic school would otherwise provide absent the Title II services ([34 CFR § 299.8\(a\)](#)).
4. The activity must be a reasonable and necessary expense ([2 CFR § 200.403\(a\)](#)).
5. The services must be secular, neutral, and nonideological ([Section 8501\(a\)\(2\)](#)).

Professional Development: Under Title II, a school district may "provide high quality, personalized professional development that is evidence-based, to the extent the state (in consultation with public school district in the state) has determined that evidence is reasonably available, for educators, instructional leadership teams, principals, or other school leaders, focuses on improving teaching and student learning and achievement." Professional development services and programs must meet the definition of "professional development" in [Section 8101\(42\)](#), which requires that the activity is both (1) part of the strategies for providing educators with the knowledge and skills necessary to enable students to succeed in a well-

rounded education; and (2) "sustained (not stand-alone, 1-day, or short-term workshops), intensive, collaborative, job-embedded, data-driven, and classroom-focused."

Because many conferences are short-term or stand-alone, they may not meet this definition as an allowable expenditure under [Section 2103\(b\)\(3\)](#) without further integration as part of a comprehensive plan for professional development for the educator. However, through consultation with a school district, a nonpublic school official can demonstrate that attendance at a short-term conference is part of a sustained and comprehensive professional development plan for the teacher that meets these Title II requirements, including the statutory definition of professional development, a school district may use Title II funds for costs associated with a nonpublic school educators' participation in the conference. Furthermore, depending on the conference content, participation may be allowable under other specifically-defined activities in Title II, which do not need to meet the definition of professional development under [Section 8101\(42\)](#). For example, [Sections 2103\(b\)\(3\)\(H\), \(J\), \(K\) and \(L\)](#) allow training for selecting and implementing formative and classroom-based assessments, for identifying gifted and talented students, for supporting instructional services provided by effective school library programs, and for preventing and recognizing child sexual abuse.

- **Can nonpublic schools use Title II funds to pay for college courses?**

Yes, but there are a few restrictions. The content of the college course must be an allowable use of Title II funds under the authorizing statute, under [Section 2103 \(b\)\(3\)](#), and the course content must meet the specific needs of students enrolled in a nonpublic school, and not the school itself. It is not allowable to use Title II funds to meet the needs of a nonpublic school or the general needs of the students enrolled in the nonpublic school. In some instances, however, a program or activity that primarily benefits a nonpublic school's students (because it addresses specific, rather than general, needs of the students) will also help the school, as allowed by [34 CFR section 76.658](#). For example, a college course titled "Development and Assessment of Individuals with Severe Disabilities" would be allowable; however, a college course titled "Financial Reporting and Managerial Control" as part of a Business Administration degree is not acceptable.

In addition, using Title II funds for college courses is at the discretion of the school district. If the school district does not allow its educators, principals, and other school leaders to use Title II funds to pay for college courses, the district is not obligated to allow nonpublic schools to use Title II funds for college courses. If the school district permits educators, principals, and other school leaders to attend college courses funded from Title II, the district must allow nonpublic schools to do the same.

- **How should the district pay for the cost of attendance at a conference?**

The school district remains in control of the funds. The district may wish to reimburse the individual(s) for the costs or pay for the costs directly. Note, the district cannot reimburse a nonpublic school.

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

Yes. A conference conducted by a religious organization often includes both secular and spiritual content. Suppose a religious organization offers an allowable professional conference. In that case, a school district may pay for only a teacher's participation in that portion of the conference program that is secular, neutral, and nonideological.

In determining the costs associated with a nonpublic teacher's participation in the conference, the school district would need to (1) determine what sessions are secular, neutral, and nonideological professional development; (2) have the teacher document participation in such

program sessions in such a way that the school district can determine the percentage of overall time spent attending those sessions; and (3) apply that percentage against the overall costs of attending the conference as a whole. For professional development activities, whether in-person, virtually, or an online format, a school district might require the nonpublic school educator provide both titles and descriptions of the sessions the teacher expects to attend, as well as some form of participation verification.

Example: A conference runs from 8 a.m. to 5 p.m. (with an hour for lunch). Suppose for the 8 hours of work-time the teacher spends six hours attending or participating in secular sessions that meet the Title II requirements above. In that case, the public school district could use Title II funds to pay 75% of the registration and travel costs since the teacher has spent 75% of the full-day conference time attending or participating in secular activities.

- **What types of equitable services may a district provide to nonpublic schools under Title II?**

A district may provide professional development activities for educators, principals, and other school leaders to address the specific needs of the nonpublic school students. Any use of Title II funds for the benefit of nonpublic school participants must:

- Be an allowable local use of Title II funds under the authorizing statute.
- Meet the specific needs of students enrolled in a nonpublic school, not the school itself. Title II funds may not be used to meet the needs of a nonpublic school, or the general needs of the students enrolled in the nonpublic school. In some instances, however, a program or activity that primarily benefits a nonpublic school's students (because it addresses specific, rather than general, needs of the students) will also incidentally benefit the school.
- Ensure the district responsible for providing equitable services retains control of the funds used to provide such services.
- Be provided by either an employee of the district or through a contract by the district 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 school district.

It is not allowable under Title II to use equitable services for class-size reduction in a nonpublic school. Contracts for nonpublic school educators and staff are inconsistent with the requirements in ESEA regarding public control of funds and the supervision and control of employees or contractors.

- **Does the district transferring its funds from Title II into another allowable program (i.e., Titles I, IV, or V) impact the requirement to consult with nonpublic schools?**

Yes. Prior to the transfer of funds, the district must consult with the nonpublic school officials about the district's decision to transfer Title II funds. The equitable services would then be provided under the allowability of the program to which the funds were transferred.

- **Does the professional development program for nonpublic school educators have to be the same as the professional development program for the public school educators?**

No. School districts must assess the needs of nonpublic school educators in designing the professional development program for nonpublic school educators. If the nonpublic schools' educator's professional development needs differ from those of public school educators, the district should develop a separate program in consultation with nonpublic school representatives.

- **May Title II funds be used to cover the expense of substitute teachers in nonpublic schools?**

No. The 2003 Title I Private School non-regulatory guidance D-6 states that Title I cannot pay for substitute educators. The same principle applies to Title II, Part A. It is not allowable to use equitable services for substitute teachers in a nonpublic school. Contracts for nonpublic school educators and staff are inconsistent with the requirements under ESEA section 8501(d) regarding public control of funds, and the supervision and control of employees or contractors.

- **May Title II funds be used to pay any portion of a nonpublic school educator's salary or benefits?**

No. While districts must set aside an amount of Title II funds for the equitable participation of nonpublic educators in professional development activities, it is not allowable to use Title IIA funds to pay or subsidize any portion of a nonpublic educator's salary or benefits.

- **Can Title II funds be used to pay stipends to nonpublic school educators participating in a Title II professional development program?**

Yes. For example, suppose the professional development activity is conducted during after-school hours or in the summer. In that case, stipends may be paid to compensate teachers for work outside their regular employment hours. Stipends for nonpublic school educators must be available on the same basis as public school educators. Stipends must be paid directly to the nonpublic school educators, not the nonpublic school.

- **Must the school district administer and retain control over the Title IIA funds to serve nonpublic school educators?**

Yes. The school district must administer control over the funds and may not provide program funds directly to nonpublic schools. Before determining the funds to be provided for services to nonpublic school educators, a district could pay reasonable and necessary administrative costs for providing those services from Title II.