



# Every Student Succeeds Act Equitable Services Consultation Guide and Handbook

October 16, 2020

## **Updates to Guide and Handbook**

10.16.20	<ul style="list-style-type: none"><li>• Add Transfer of Student Records information on page</li><li>• Add 4.g Providing IA, IC, and IIIA Equitable Services In the Event of Enrollment Updates</li><li>• Add ES4PS Form A Amendment Description</li><li>• Add clarity to data collections dates for year prior (Form A) and current year (Form A Amendment)</li><li>• Add 35 CFR 77 definitions</li><li>• Add Appendix A – Use of W-9 and 1099</li></ul>
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# Equitable Services and Consultation

The purpose of this document is to provide support and guidance to Georgia Local Education Agencies (LEAs) and private schools during the consultation process. This guidance document contains topics that should be discussed during the initial and ongoing consultations between LEAs and private schools.

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Any questions should be addressed to the State Ombudsman  
[ombudsman@doe.k12.ga.us](mailto:ombudsman@doe.k12.ga.us).

<b>Consultation Quick Reference Chart</b>		
<b>Consultation Topics</b>	<b>Equitable Services – ESEA Section 1117</b>	<b>Equitable Services - ESEA Section 8501</b>
	<b>TITLE I, PART A</b>	<b>TITLE VIII PROGRAMS: TITLE I, PART C; TITLE II, PART A; TITLE III, PART A; TITLE IV, PART A; AND TITLE IV, PART B</b>
<b>Timing of Consultation</b>	(3) TIMING.—Such consultation <b>shall</b> include meetings of agency and private school officials and <b>shall</b> occur before the local educational agency makes any decision that affects the opportunities of eligible private school children to participate in programs under this part. Such meetings <b>shall</b> continue throughout implementation and assessment of services provided under this section.	(3) TIMING.—The consultation required by paragraph (1) <b>shall</b> occur before the agency, consortium, or entity makes any decision that affects the opportunities of eligible private school children, teachers, and other educational personnel to participate in programs under this Act, and <b>shall</b> continue throughout the implementation and assessment of activities under this section.
<b>Consultation</b>	(b) CONSULTATION.— (1) IN GENERAL.—To ensure timely and meaningful consultation, a local educational agency <b>shall</b> consult with appropriate private school officials during the design and development of such agency’s programs under this part. Such agency and private school officials <b>shall</b> both have the goal of reaching agreement on how to provide equitable and effective programs for eligible private school children, the results of which agreement <b>shall</b> be transmitted to the ombudsman designated under subsection (a)(3)(B). Such process <b>shall</b> include consultation on issues such as—	(c) CONSULTATION.— (1) IN GENERAL.—To ensure timely and meaningful consultation, a State educational agency, local educational agency, educational service agency, consortium of those agencies, or entity <b>shall</b> consult with appropriate private school officials. Such agency and private school officials <b>shall</b> both have the goal of reaching agreement on how to provide equitable and effective programs for eligible private school children, on issues such as—
	<b>Consultation Topics</b>	<b>Consultation Topics</b>
<b>#1 Needs</b>	(A) how the children’s needs will be identified;	(A) how the children’s needs will be identified;
<b>#2 Services</b>	(B) what services will be offered;	(B) what services will be offered;
<b>#3 Timing of Services</b>	(C) how, where, and by whom the services will be provided;  Also: (K) when, including the approximate time of day, services will be provided; and	(C) how, where, and by whom the services will be provided;
<b>#4 Effectiveness</b>	(D) how the services will be academically assessed and how the results of that assessment will be used to improve those services;	(D) how the services will be assessed and how the results of the assessment will be used to improve those services;
<b>#5 Size &amp; Scope</b>	(E) the size and scope of the equitable services to be provided to the eligible private school children, the proportion of funds that is allocated under subsection (a)(4)(A) for such services, and how that proportion of funds is determined; *including administrative funds	(E) the size and scope of the equitable services to be provided to the eligible private school children, teachers, and other educational personnel, the amount of funds available for those services, and how that amount is determined; *including administrative funds

Consultation Quick Reference Chart		
Consultation Topics	Equitable Services – ESEA Section 1117	Equitable Services - ESEA Section 8501
	TITLE I, PART A	TITLE VIII PROGRAMS: TITLE I, PART C; TITLE II, PART A; TITLE III, PART A; TITLE IV, PART A; AND TITLE IV, PART B
<b>#6 Poverty</b>	(F) the method or sources of data that are used under subsection (c) and section 1113(c)(1) to determine the number of children from low-income families in participating school attendance areas who attend private schools;	
<b>#7 Decision Making</b>	(G) how and when the agency will make decisions about the delivery of services to such children, including a thorough consideration and analysis of the views of the private school officials on the provision of services through a contract with potential third-party providers;	(F) how and when the agency, consortium, or entity will make decisions about the delivery of services, including a thorough consideration and analysis of the views of the private school officials on the provision of services through potential third-party providers;
<b>#8 Disagreement</b>	(H) how, if the agency disagrees with the views of the private school officials on the provision of services through a contract, the local educational agency will provide in writing to such private school officials an analysis of the reasons why the local educational agency has chosen not to use a contractor;  Also: (2) DISAGREEMENT.—If a local educational agency disagrees with the views of private school officials with respect to an issue described in paragraph (1), the local educational agency <b>shall</b> provide in writing to such private school officials the reasons why the local educational agency disagrees.	(2) DISAGREEMENT.—If the agency, consortium, or entity disagrees with the views of the private school officials on the provision of services through a contract, the agency, consortium, or entity <b>shall</b> provide to the private school officials a written explanation of the reasons why the local educational agency has chosen not to use a contractor.
<b>#9 Service Provider</b>	(I) whether the agency <b>shall</b> provide services directly or through a separate government agency, consortium, entity, or third-party contractor;	(G) whether the agency, consortium, or entity <b>shall</b> provide services directly or through a separate government agency, consortium, or entity, or through a third-party contractor; and

## Consultation Quick Reference Chart

Consultation Topics	Equitable Services – ESEA Section 1117	Equitable Services - ESEA Section 8501
	TITLE I, PART A	TITLE VIII PROGRAMS: TITLE I, PART C; TITLE II, PART A; TITLE III, PART A; TITLE IV, PART A; AND TITLE IV, PART B
<b>#10 Delivery Model</b>	<p>(J) whether to provide equitable services to eligible private school children—</p> <p>(i) by creating a pool or pools of funds with all of the funds allocated under subsection (a)(4)(A) based on all the children from low-income families in a participating school attendance area who attend private schools; or</p> <p>(ii) in the agency’s participating school attendance area who attend private schools with the proportion of funds allocated under subsection (a)(4)(A) based on the number of children from low-income families who attend private schools;</p> <p><i>(See B-8 2019 NRG Georgia does not currently have the infrastructure to support pooling across schools.)</i></p>	<p>(H) whether to provide equitable services to eligible private school children—</p> <p>(i) by creating a pool or pools of funds with all of the funds allocated under subsection (a)(4)(C) based on all the children from low-income families in a participating school attendance area who attend private schools; or</p> <p>(ii) in the agency’s participating school attendance area who attend private schools with the proportion of funds allocated under subsection (a)(4)(C) based on the number of children from low-income families who attend private schools.</p> <p><i>(Georgia does not currently have the infrastructure to support pooling across schools.)</i></p>
<b>#11 Coordination of Funds</b>	<p>(L) whether to consolidate and use funds provided under subsection (a)(4) in coordination with eligible funds available for services to private school children under applicable programs, as defined in section 8501(b)(1) to provide services to eligible private school children participating in programs.</p>	
<b>#12 Documentation</b>	<p>(5) DOCUMENTATION.—Each local educational agency <b>shall</b> maintain in the agency’s records and provide to the State educational agency involved a written affirmation signed by officials of each participating private school that the meaningful consultation required by this section has occurred. The written affirmation <b>shall</b> provide 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. If such officials do not provide such affirmation within a reasonable period of time, the local educational agency <b>shall</b> forward the documentation that such consultation has, or attempts at such consultation have, taken place to the State educational agency.</p>	<p>(5) DOCUMENTATION.—Each local educational agency <b>shall</b> maintain in the agency’s records, and provide to the State educational agency involved, a written affirmation signed by officials of each participating private school that the meaningful consultation required by this section has occurred. The written affirmation <b>shall</b> provide 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. If such officials do not provide such affirmation within a reasonable period of time, the local educational agency <b>shall</b> forward the documentation that such consultation has, or attempts at such consultation have, taken place to the State educational agency.</p>

## 1 Required Equitable Services Notifications

Under Equitable Services—ESEA Section 1117 and Equitable Services—ESEA Section 8501, an LEA must maintain and provide to the State Educational Agency (SEA) written affirmation signed by non-public school officials that timely and meaningful consultation has occurred and, if nonpublic school officials do not provide such affirmation, the LEA must forward to the SEA the documentation that such consultation has, or attempts at such consultation have, taken place.

**1.a ES4PS:** In Georgia official notification documentation is maintained in the Equitable Services for Private Schools (ES4PS) system. LEAs access ES4PS through their account in the State Longitudinal Data System (SLDS). Private Schools access it through a link in an email sent by individual LEAs to the school.

**1.b Invitations for Private Schools to Participate in Equitable Services:** This document is used to invite private schools, both within and outside of the LEA's geographic boundaries to a meeting to discuss participation in Equitable Services for the following programs:

- Title I, Part A
- Title I, Part C
- Title II, Part A
- Title III, Part A
- Title IV, Part A
- Title IV, Part B

Each fall LEAs should reach out to all private schools in the geographic boundaries and to all private schools outside of the geographic boundaries who are currently or have historically (based on DE1111 submissions) served students who reside in the district's attendance zone. LEAs send private schools an invitation to attend a meeting to participate in equitable services for the following school year. When private schools receive this invitation, they should indicate if they 'Accept' or do 'Not Accept' the invitation. They should also indicate if they plan to participate in equitable services with the LEA. The United States Department of Education (ED) requires LEAs to make a 'good faith effort' to contact private schools. If a private school declines to participate in equitable services or does not respond to an LEA's request to consult in the given timeframe regarding the provision of services in a particular year, the LEA has no further responsibility to provide equitable services to students in that school during that school year. The LEA must contact each private school every year, however, to determine the private school's intent to participate in equitable services programs. Because ES4PS is an email-based communication system, at a minimum, LEAs who do not receive responses, should verify correct contact information. Further, if a private school has not responded, but has previously participated, LEAs should consider following up by phone. In accordance with non-regulatory guidance, private schools that have not heard from LEAs, but who wish to participate in equitable services should

reach out to each applicable LEA. All LEAs in Georgia must issue invitations in ES4PS to private schools within their geographic boundaries and/or to private schools outside their geographic boundaries who submit a DE1111 form.

**1.c Form A- Private School Initial Consultation and Notification of Intent for FY 20xx Provision of Equitable Services – Collected in the Year Prior to Providing Services:** This form is used to confirm that timely and meaningful consultation has occurred and to collect program participation and student enrollment and poverty counts for planning purposes. This form collects information for Title I, Part A; Title I, Part C; Title II, Part A; Title III, Part A English Learner; Title IV, Part A; and Title IV, Part B. The LEA must enter the date of the initial consultation between the LEA and the private school. The private school must complete this form by indicating the ESEA program(s) administered by the LEA for which they intend to consult for equitable services. All relevant programs should be included on the form. All LEAs will either complete Form A or indicate non-participation sign-off in ES4PS.

**1.d Form A Amendment - Private School Initial Consultation and Notification of Intent for FY 20xx Provision of Equitable Services – Collected in the Current Year of Providing Services:** This form is used to confirm that timely and meaningful consultation has occurred and to collect program participation and student counts for Title III, Part A Immigrant. The LEA must enter the date of the initial consultation between the LEA and the private school. The private school must complete this form by indicating the ESEA program(s) administered by the LEA for which they intend to consult for equitable services. All relevant programs should be included on the form. All LEAs will either complete Form A or indicate non-participation sign-off in ES4PS.

**1.e Form B- Affirmation of Timely and Meaningful Consultation & Equitable Provision of Services:** This form is used to confirm that the private school received timely and meaningful consultation and equitable services from the LEA. The LEA will complete Form B for each private school and then send it through ES4PS to the private school to complete. After all the private schools have returned these forms, the LEA will submit them to the state.

**1.f Administering Overlapping Years:** Due to the 27-month period of availability, some LEAs and private schools may engage in consultation on equitable services across fiscal years.

## Equitable Services Initial Consultation Timeline

*Equitable Services for Different Fiscal Years Will Overlap*

2019						2020					
Jul.	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May	Jun.
FY19 Ongoing Consultation/Implementation				FY19 Form B Due							
FY20 Ongoing Consultation/Implementation											
FY21 Invitations		FY21 Initial Meeting		FY21 Ongoing Consultation/Planning						FY21 Form A Due	
2020						2021					
Jul.	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May	Jun.
FY20 Ongoing Consultation/Implementation				FY20 Form B Due							
FY21 Ongoing Consultation/Implementation											
FY22 Invitations		FY22 Initial Meeting		FY22 Ongoing Consultation/Planning						FY22 Form A Due	
2021						2022					
Jul.	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May	Jun.
FY21 Ongoing Consultation/Implementation				FY21 Form B Due							
FY22 Ongoing Consultation/Implementation											
FY23 Invitations		FY23 Initial Meeting		FY23 Ongoing Consultation/Planning						FY23 Form A Due	

**Resources:**

- ES4PS Application User Guide

## 2 Private School Eligibility & Contact Information

Federal programs are supported by tax dollars, so eligible children, their parents, and teachers of nonprofit private schools are entitled to Equitable Services.

**2.a ESEA Definitions for Elementary and Secondary Schools [Section 8101 (19) & (45)]:** Nonprofit public and private schools that operate within State Law.

**2.b Georgia Law:**

- **O.C.G.A. § 20-2-690.1.** Mandatory education is required for children 6 – 16
- **O.C.G.A. § 20-2-690** The term "private school" means an institution meeting the following criteria or requirements:

- (1) The primary purpose of the institution is to provide education or, if the primary purpose of the institution is religious in nature, the institution shall provide the basic academic educational program specified in paragraph (4) of this subsection;
- (2) The institution is privately controlled and operates on a continuing basis;
- (3) The institution provides instruction each 12 months for the equivalent of 180 school days of education with each school day consisting of at least four and one-half school hours;
- (4) The institution provides a basic academic educational program which includes, but is not limited to, reading, language arts, mathematics, social studies, and science;
- (5) Within 30 days after the beginning of each school year, it shall be the duty of the administrator of each private school to provide to the school superintendent of each local public school district which has residents enrolled in the private school a list of the name, age, and residence of each resident so enrolled. [GaDOE DE1111\*] At the end of each school month, it shall be the duty of the administrator of each private school to notify the school superintendent of each local public school district of the name, age, and residence of each student residing in the public school district who enrolls or terminates enrollment at the private school during the immediately preceding school month. Such records shall indicate when attendance has been suspended and the grounds for such suspension. Enrollment records and reports shall not be used for any purpose except providing necessary enrollment information, except with the permission of the parent or guardian of a child, pursuant to the subpoena of a court of competent jurisdiction, or for verification of enrollment by the Department of Driver Services for the purposes set forth in subsection (a.1) of Code Section 40-5-22; and
- (6) Any building used by the institution for private school purposes meets all health and safety standards established under state law and local ordinances.

*\*Georgia DE1111 Form: While the use of the DE1111 Form created and maintained by the GaDOE is not mandatory, the data points on the form are required.*

**2.c Non-Profit [34 CFR § 77.1 and § 75.51]:** A private school must demonstrate that it is a nonprofit organization.

Relevant Regulatory Definitions:

- *Nonprofit* - as applied to an agency, organization, or institution, means that it is owned and operated by one or more corporations or associations whose net earnings do not benefit, and cannot lawfully benefit, any private shareholder or entity.

- *Nonpublic* - as applied to an agency, organization, or institution, means that the agency, organization, or institution is nonprofit and is not under Federal or public supervision or control.
- *Private* - as applied to an agency, organization, or institution, means that it is not under Federal or public supervision or control

GaDOE recommends establishing nonprofit status during consultation and requires verifying nonprofit status annually. A private school may show that it is a nonprofit organization by any of the following means:

- (1) **501(c)(3)**: Proof that the Internal Revenue Service currently recognizes the applicant as an organization to which contributions are tax deductible under section 501(c)(3) of the Internal Revenue Code;

STATE	BUSINESS SEARCH	NONPROFIT STATUS
ALL STATES	<a href="https://apps.irs.gov/app/eos/allSearch.do?ein1=83-3008990&amp;names=&amp;resultsPerPage">https://apps.irs.gov/app/eos/allSearch.do?ein1=83-3008990&amp;names=&amp;resultsPerPage</a>	DETERMINATION LETTER PUB 78 DATA AUTO REVOCATION LIST FORM 990-N

- (2) **State Nonprofit**: A statement from a State taxing body or the State attorney general certifying that:
- The organization is a nonprofit organization operating within the State; and
  - No part of its net earnings may lawfully benefit any private shareholder or individual;

STATE	DEADLINE FOR RENEWAL	BUSINESS SEARCH	NONPROFIT STATUS
GEORGIA	APRIL	<a href="https://ecorp.sos.ga.gov/BusinessSearch">https://ecorp.sos.ga.gov/BusinessSearch</a>	ACTIVE COMPLIANT
ALABAMA	APRIL/SEPTEMBER	<a href="http://arc-sos.state.al.us/CGI/CORPNAME.MBR/INPUT">http://arc-sos.state.al.us/CGI/CORPNAME.MBR/INPUT</a>	EXISTS
FLORIDA	SEPTEMBER	<a href="https://dos.myflorida.com/sunbiz/search/">https://dos.myflorida.com/sunbiz/search/</a>	ACTIVE
NORTH CAROLINA	ROLLING DEADLINE	<a href="https://www.sosnc.gov/search/index/corp">https://www.sosnc.gov/search/index/corp</a>	CURRENT ACTIVE
SOUTH CAROLINA	MAY	<a href="https://businessfilings.sc.gov/BusinessFiling/Entity/Search">https://businessfilings.sc.gov/BusinessFiling/Entity/Search</a>	GOOD STANDING
TENNESSEE	SEPTEMBER	<a href="https://tnbear.tn.gov/Ecommerce/FilingSearch.aspx">https://tnbear.tn.gov/Ecommerce/FilingSearch.aspx</a>	ACTIVE

- (3) **Nonprofit Incorporation Documents**: A certified copy of the applicant's certificate of incorporation or similar document if it clearly establishes the nonprofit status of the applicant; or

- (4) **Nonprofit Under Parent Organization:** Any item described in (1) through (3) if that item applies to a State or national parent organization, together with a statement by the State or parent organization that the applicant is a local nonprofit affiliate.

**2.d ESEA Participation:** Private schools that have previously declined ESEA funds are eligible to receive funds.

**2.e Religious Affiliation:** Religiously affiliated private schools are eligible to receive services. In the event that LEA personnel provide services in religiously affiliated private schools, it should be clear in the consultation process that they are public employees and accountable only to their public school supervisors; that they may teach only students determined to be eligible by public school officials; that their materials and equipment may only be used in the designated federal program; and that they may not introduce any religious matter into their teaching or become involved in the religious activities of the private school.

While services are required to be secular, neutral and nonideological in nature, the LEA may not require the removal or alteration of religious symbols, scriptures or other symbols in private school classrooms in which services are provided.

**2.e Updating Private School Contact Information:** LEAs can update private school contact information year-round in GaDOE Data Collections. Private School Officials should ensure that accurate contact information is kept on file.

- **Opening and Closing Private Schools:** LEAs should notify GaDOE Data Collections and the State Ombudsman of private schools that open or close during the school year so that they can be added to or deleted from the public facing private school list. New private schools may also contact local LEAs and the GaDOE Ombudsman.
- **Private Schools with Multiple Campuses Crossing LEA Lines:**
  - **Title I, Part A:** LEAs will work with all private schools and campuses inside and outside their LEA's attendance zone if attending students reside in a Title I attendance zone.
  - **Title VIII Programs:** School campuses that cross LEA lines should each work individually with LEA Officials in the LEA in which the campus is geographically located.
- **Private Schools that Relocate Across LEA Boundaries During Consultation/Services:** Private School Officials should notify LEA Officials of any relocation.
  - **Planning Year Prior to Services:**
    - **Prior to Form A submission** in the planning year the receiving LEA should assume responsibility for confirming program

participation, verifying counts, and designing/developing a plan for equitable services.

- **After Form A Submission** the original LEA should complete the planning process and carry out all planned services based on the agreed upon program participation, verified count, and plan developed in consultation.
- **The Year of Equitable Services Implementation:**
  - **Implementation:** The original LEA should carry out all planned services based on the agreed upon program participation, verified count, and plan developed in consultation.

**Resources:**

- [GaDOE Data Collections](#)

### 3 Consultation

**3.a Initiating Consultation:** The LEA is responsible for initiating consultation. Consultation **must** occur before an LEA makes any decision that affects the opportunities of private school students and teachers to receive equitable services. This must occur in the school year prior to the start of services. GaDOE recommends initiating consultation during the fall of the school year prior to services.

**3.b Ongoing Consultation:** At a minimum, consultation must occur:

- **Prior to implementation** – to develop plans for implementation.
- **During implementation** –to confirm that plans are being executed as designed and agreed upon.
- **After implementation** – to verify that services occurred as planned and were equitable in nature.

**3.c Format of Consultation:**

- **Timing:** LEAs and private school officials should talk about school calendars and school hours. They should customize the timing of consultation so that it suits both parties.
- **Method:** Meetings between the LEA and non-public school officials need not occur in person. Phone, email, and video conferencing are all allowable methods for consultation. Both parties should be mindful of what is available for communication and what is preferred.
- **Backup Plans:** It is a best practice to establish a secondary method of communication if the primary method (like office phone line) becomes inaccessible. Further, it is a best practice to identify an additional staff member who could provide assistance in the event that the primary contact is unavailable

due to unforeseen circumstances and after several attempts have been made to reach out through multiple methods.

**3.d Establishing Deadlines:** It may be necessary to set deadlines to reasonably plan for and implement equitable services. This should be discussed by both parties. Failure to meet deadlines without communication by either party may be seen as declining funds (private schools) or noncompliance with the provision of equitable services (LEAs). Prior to the end of the original grant period and prior to the end of the carryover period, LEAs may set reasonable deadlines for processing requests to ensure LEA staff can process all public and private school grant administration prior to required reporting to the Georgia Department of Education and the United States Department of Education.

**3.4 Equity in Availability:** The purpose of ESEA is to provide all children significant opportunity to receive a fair, equitable, and high-quality education and to close educational achievement gaps. Each LEA that receives ESEA funds must make funds available for education support authorized by each Title program to qualified students in compliance with Federal Law, Federal Regulations, and Non-Regulatory Guidance.

**Resources:**

- ESEA section 1117(a)(2)
- ESEA section 8501(d)
- 2009 and 2019 Equitable Services Non-Regulatory Guidance

### Consultation Topic #1 Identifying Children's Needs

**CT1.a Establishing Needs:** Private schools are best positioned to know the needs of students and staff. However, these needs **must** be discussed in consultation with the LEA relative to the amount of funds allocated to support the equitable services that will be provided. According to federal regulations, federal funds may not be used to meet the needs of the private school or meet the general needs of the students enrolled in a private school. Equitable services must address the specific needs of students enrolled in private schools. Documentation required to verify need varies program by program.

### Consultation Topic #2 Services

Consultation is critical in determining the best course of action for equitable services. Consultation should prioritize needs and interventions to maximize the services provided.

**CT2.a Available Programs**

- **Title I, Part A - Improving the Academic Achievement of the Disadvantaged**  
Eligible students must reside in a Title I attendance zone for an LEA Title I

school and be most at risk academically (based on multiple, educationally related, objective criteria). The teachers and parents of the identified students are also eligible for services.

- **Title VIII Programs:** Services may be provided to students, their parents, teachers and other school staff who are associated with the private school and who meet the criteria of the federal program – vary by program.
  - **Title I, Part C** – Education of Migratory Children (MEP)
  - **Title II, Part A** – Supporting Effective Instruction
  - **Title III, Part A** –
    - Language Instruction for English Learners
    - Language Instruction for Immigrant Students
  - **Title IV, Part A** – Student Support and Academic Enrichment
  - **Title IV, Part B** – 21st Century Community Learning Centers (CCLC)

**CT2.b Design:** While private school needs and services may mirror those of the LEA, the private school is not required to implement the same or comparable services. The services should meet the needs of the private school students and staff.

- **Use of Funds and Allowability:** LEAs must retain control of the funds. Funds may **only** be used for authorized expenses. Any changes to the agreed upon plan will have to be discussed in consultation. Any variation without prior approval runs the risk of not being eligible for payment. LEAs must not reimburse private schools. ([See use of funds section](#))
- **Evidence-Based:** ESEA programs require that entities using federal funds establish the evidence base of the interventions selected. There are four levels (promising, moderate, strong, and demonstrates a rationale). Under Title I and Title VIII programs, selected interventions may fall into any of the four levels.
- **Secular, Neutral, and Nonideological:** An LEA must provide equitable services and other benefits, including materials and equipment, that are secular, neutral, and nonideological.

**Resources:**

- ESEA section 1117(a)(2)
- ESEA section 8501(d)
- 34 CFR 76.665(e)
- 2 CFR 200
- 2016 Non-Regulatory Guidance (Strengthening Educational Investments)

**Consultation Topic #3 Timing of Services**

LEAs and private school officials need to discuss how, where, when and by whom equitable services will be delivered during the consultation meeting.

**CT3.a Timing:** How long will it take to provide the service, including ordering, implementation, and payment, etc.? Both parties should discuss when the services are scheduled to occur including the approximate time of day services will be provided. LEAs must ensure that services for private schools start at the same time as services are available to public school students and no later than the beginning of the school year unless otherwise agreed upon in consultation.

**CT3.b Location:** Title I services for private school participants may be provided at various locations, including the private school, neutral sites, or public schools. The ESEA requires LEA officials to consult with private school officials before any decision is made that affects the opportunities of private school students to participate in Title I services, such as the location of those services. (ESEA section 1117(b)(1)(C)). If appropriate space is available, services should be in the least disruptive and least expensive location, which is most times the private school that the participating children attend.

**CT3.c Provider:** Following consultation, an LEA may provide Title I services directly or indirectly through contracts with individuals and public and private agencies, organizations, and institutions so long as those entities are independent of the private school in the provision of those services. (ESEA section 1117(d)(2)). The LEA remains responsible, however, for the oversight of the Title I program.

May an LEA or a third-party contractor employ a private school teacher to provide Title I services to private school participants? Yes, provided certain conditions are met. An LEA may hire a private school teacher to provide Title I services only if the teacher is independent of the private school in the provision of Title I services. The private school teacher must be employed by the LEA for Title I purposes outside of the time he or she is employed by the private school, and the private school teacher must be under the direct supervision of the LEA with respect to all Title I activities. (ESEA section 1117(d)(2)).

#### Consultation Topic #4 Effectiveness

**Effectiveness of Services:** The LEA and the private schools **must** determine how the services will be academically assessed and how the results of that assessment will be used to improve those services.

#### Consultation Topic #5 Size and Scope

LEAs and Private School Officials must discuss the size and scope of the equitable services to be provided to the eligible private school children, the proportion of funds

that is allocated under subsection (a)(4)(A) for such services, and how that proportion of funds is determined.

**CT5.a Determining the Amount Available for Equitable Services:** Each ESEA statute outlines which students are eligible and formulas that must be used to determine what funds are available for services in public and private schools. The details of these formulas can be found in [Georgia’s Allocation Methodology Document](#).

**CT5.b Use of Data for Calculating Proportionate Share:** Upon consultation with ED and in order to maximize funds available to public and private schools, GaDOE has instructed LEAs and Private Schools to complete ‘counts’ on designated days that coincide with official statewide data reporting.

EQUITABLE SERVICES DATA COLLECTED IN THE YEAR PRIOR TO PROVIDING SERVICES Reported to GaDOE through ES4PS Form A – Due June 15 <i>See GaDOE Data Collections Webpage for Exact Dates</i>		
Program	Month of Count	Official Data Collection
Title I, Part A	November	GaDOE Free and Reduced Lunch (FRL) Count
Title I, Part A	Spring	Direct Certification Count for CEP (not collected in ES4PS)
Title I, Part C	June 15	Official Migrant Count
Title II, Part A Title IV, Part A	October	GaDOE Full Time Equivalent (FTE) Count
Title III, Part A English Learners	March	GaDOE Full Time Equivalent (FTE) Count
Title IV, Part B	Spring	SEA Collection of Attendance for US ED Reporting

EQUITABLE SERVICES DATA COLLECTED IN THE CURRENT YEAR OF PROVIDING SERVICES Reported to GaDOE through ES4PS Form A Amendment – Due October 15 <i>See GaDOE Data Collections Webpage for Exact Dates</i>		
Program	Month of Count	Official Data Collection
Title III, Part A Immigrant Students	October	GaDOE Full Time Equivalent (FTE) Count

**CT5.c Administrative Costs:** Administrative costs vary from program to program. The calculations for administrative costs also vary across federal programs and may include

an administrative cap. LEAs should ensure that administrative costs are **reasonable and necessary** for effective program implementation. LEAs **must** also discuss administrative costs during the consultation process.

- **Use and Impact of Administrative Set-aside**
  - **Title I** – The amount reserved for administrative costs for equitable services is reserved exclusively from funds reserved for equitable services.
  - **Title VIII** - The amount reserved for administrative costs applies to the administration of both the LEA Services and Private School Equitable Services.
- **Administrative Caps by Program**

Title IA	Title IC	Title IIA	Title IIIA	Title IVA	Title IVB
No maximum	< 2%	No maximum	< 2%	< 2%	< 10%

- **Factors in Determining a Reasonable and Necessary Administrative Cap:**
  - **Number of participating private schools:** The more schools an LEA serves, the more time it will take to consult and provide services.
  - **Familiarity of participating private schools with LEA procedures:** Private schools who are new to equitable services may require more support in determining allowable activities and in becoming familiar with the procedures that must be followed in the LEA for providing services (like processing stipends, procurement requirements and vendor selection).
  - **Hourly cost of employees providing consultation and equitable services:** There is always a cost associated with employees providing services. Which employees will be involved in the provision of equitable services such as Federal Programs staff, Finance and Budget staff, and IT staff?
  - **The time and effort of staff providing requested services:** The time it will take to purchase a one-time order of supplies and curriculum is different than the time it will take to process stipends or to order electronic devices that need to be set up and added to inventory.

#### **CT5.d Transfers**

Under ESEA’s Title V, Part A Transferability Authority, LEAs may transfer up to 100% of Title II, Part A and Title IV, Part A into other ESEA programs. The amount available for equitable services is calculated after the transfer on remaining funds, if any remain. LEAs must discuss this decision and the availability of these funds with private schools. GaDOE recommends making this decision early enough in the prior year so that it will not impact planning for the upcoming year.

**CT5.e Period of Performance:** An LEA **must** obligate funds for equitable services in the fiscal year for which those funds are intended for services. The period of availability is 15 months, from July 1<sup>st</sup> through September 30<sup>th</sup> of the following year. The obligation period **does not** end with the end of the school year or the State's fiscal year (Title I NRG 2019 B-30.) Prior to the end of the original grant period and prior to the end of the carryover period, LEAs may set reasonable deadlines for processing requests to ensure LEA staff can process all public and private school grant administration prior to required reporting to the Georgia Department of Education and the United States Department of Education.

- **Obligating Funds:**

- **34 CFR §76.708 When certain subgrantees may begin to obligate funds.**

- (a) If the authorizing statute for a program requires a State to make subgrants on the basis of a formula (see §76.5), the State may not authorize an applicant for a subgrant to obligate funds until the later of the following two dates:

- (1) The date that the State may begin to obligate funds under §76.703;
- or

- (2) The date that the applicant submits its application to the State in substantially approvable form.

- (b) Reimbursement for obligations under paragraph (a) of this section is subject to final approval of the application.

- **Non-Regulatory Guidance:** Programs for private school participants must begin at the same time as programs for public school participants. Therefore, the required consultation should begin early enough so that staff can be hired and materials ordered so that programs to start at the beginning of each school year.

**CT5.f Carryover:** Under Title I and Title VIII LEAs are required provide equitable services in the fiscal year for which the funds were appropriated to ensure that eligible students, teachers and other educational personnel, and families receive the services to which they are entitled in a timely manner. However, there may be extenuating circumstances, in which an LEA is unable to obligate all funds within this timeframe in a responsible manner. Under these circumstances, the funds may remain available for the provision of equitable services under the respective program during the subsequent school year. LEAs and private schools should note in ES4PS Form B whether carryover is available and how it will be distributed in the following year. It is possible to provide/receive satisfactory services and face extenuating circumstances that will allow carryover. The State Ombudsman must approve all carry-over requests.

Program	Services Provided as Planned or Private School Declines Funds/Closes	Extenuating Circumstances*
Title I, Part A	Funds are redistributed to participating private schools. If there are no participating private schools, funds may be used by the LEA.	The LEA must use the funds to provide equitable services to qualified children in the affected private schools the following year.
Title VIII Programs	Funds are redistributed to participating public and private schools using PPA.	The LEA must use the funds to provide equitable services to qualified children in the affected private schools the following year.

*\*Extenuating circumstance may include, but are not limited to: natural disaster, inability to employ qualified personnel, change in LEA/private school staff mid-year, and/or unexpected procurement challenges.*

**Resources:**

- ESEA sections 1117(a)(4)(B) and 8501(a)(4)(B)
- 2016 Non-Regulatory Guidance (Fiscal Changes)
- 2019 Non-Regulatory Guidance (Title I, Part A)
- [ESSA Equitable Services Calculation Methodology](#)
- [Census Data](#) – Small Area Income and Poverty Estimates (SAIPE) Report
- [GaDOE FTE Data](#) – Student K-12 Enrollment Information

**Consultation Topic #6 Title I Methods for Determining Poverty**

**CT6.a Methodologies:** The ESEA requires an LEA to determine an accurate count of children from low-income families who attend public and private schools and reside in participating Title I public school attendance areas in order to allocate the proportional share. With respect to private school students, the ESEA permits an LEA, based on timely and meaningful consultation, to use:

1. The same measure of poverty used to count public school children.
2. Comparable poverty data from a survey and allowing such survey results to be extrapolated if complete actual data are unavailable
3. Comparable poverty data from a different source.
4. Proportionality.
5. An equated measure.

**CT6.b Preferred Method:** The preferred measure for obtaining poverty data on children in private schools is the same measure the LEA uses for public school children (e.g., school lunch data such as direct certification data); these data may not be available for each private school (e.g., if a private school does not participate in the school lunch

program). Thus, it may be necessary for an LEA, after consultation with appropriate private school officials, to use more than one method of collecting data on children living in poverty among private schools or within a single school. However, the LEA must ensure that there are no duplicate counts and that the methods used have comparable income levels.

**CT6.c Frequency:** ESEA section 1117(a)(4)(D) permits an LEA to determine the number of children from low-income families who attend private schools every year or every two years. Section 1117(b)(1)(F) requires an LEA to consult with appropriate private school officials about the availability of poverty data on private school children, and an LEA can determine whether it would be more feasible to collect biennially. This may reduce the burden of annually collecting poverty data from private schools, particularly if data are not readily available for students in a private school. It is also not necessary that an LEA use the same timeframe with regard to all private schools. For example, if some private schools have FRPL data available, the LEA could collect those data annually. For other private schools that rely on a survey, the LEA could collect data biennially.

**Resources:**

2019 Equitable Services Non-Regulatory Guidance (Title I, Part A)

## Consultation Topic #7 Decision Making

**CT7.a LEA and Private School Officials:** In order to safeguard the time of both parties, LEAs and Private Schools should select representatives with the knowledge and authority to design and develop a program for the provision of equitable services. This may include access to data, ability to approve plans and revisions, and the capability to make decisions during consultation. Both parties are responsible for ongoing communication. Both parties are strongly encouraged to make a good-faith effort to maintain necessary communications in a way that is respectful and proactive.

**CT7.b Equity in Nature and Timing of Services:** An LEA must provide services and other benefits for non-public school students and teachers in a timely manner that are equitable in comparison to the services and benefits provided for public school students and teachers.

**CT7.c Reaching Agreement:** The “goal of reaching agreement” between an LEA and appropriate private school officials is predicated on the good faith efforts of all parties to reach agreement regarding the provision of equitable services. Meaningful consultation that results in agreement begins well before the decisions are made or services are implemented and provides a genuine opportunity for all parties to express their views, to have their views given serious, due consideration, and to discuss viable options for

ensuring equitable participation of eligible private school students, teachers and other education personnel, and families.

## Consultation Topic #8 Disagreement

**CT8.a LEA-Level Resolution:** By engaging in timely and meaningful consultation and developing positive relationships with private school officials, an LEA can facilitate a cooperative environment. If private school officials believe that timely and meaningful consultation has not occurred, they should first discuss this matter with the LEA official responsible for coordinating the consultation, the LEA superintendent, or Federal Programs director.

**CT8.b SEA- Level Resolution (45 Days):** If the response at the local level is unsatisfactory, the private school official may contact the ombudsman and the responsible SEA official. In the event the problem is not resolved through those means, private school officials have the right to file a formal written complaint with the SEA. A formal written complaint must include:

- A statement that an LEA has violated a requirement of the federal program statute or regulations with respect to equitable participation;
- The facts on which the statement is based and the specific statutory or regulatory requirement(s) allegedly violated; and
- The signature of the complainant. (34 C.F.R. § 299.12).

ESEA section 8503(a) requires an SEA to resolve a complaint in writing within 45 days. If an SEA does not resolve the complaint within 45 days, private school officials may appeal to the ED. (ESEA section 8503(b)).

**CT8.c ED-Level Resolution (30 Days):** Any interested party to a complaint (e.g., private school officials who filed the complaint or the LEA that is the subject of the complaint) may appeal an SEA's resolution to the Secretary. The appeal must be filed no later than 30 days following the SEA's resolution of the complaint (or its failure to resolve the complaint within 45 days). ED investigates and resolves the appeal no later than 90 days after receipt of the appeal. (ESEA section 8503(b)).

**CT8.d Direct Services:** An SEA must provide Title I equitable services directly or through contracts with public or private agencies, organizations, and institutions if the appropriate private school officials have: (1) requested that the SEA provide such services directly; and (2) demonstrated, in accordance with the SEA's procedures for filing a complaint, that an LEA has not met the requirements to provide equitable services. (ESEA section 1117(b)(6)(C)). In evaluating such a request, an SEA might include procedures that require private school officials to demonstrate that an LEA has substantially failed or is unwilling to provide equitable services before the SEA

intervenes to provide equitable services directly or through a third-party provider, consistent with the standards the Secretary uses for a bypass under the equitable services requirements in Titles I and VIII. (ESEA section 8504; see F-8). An SEA should have transparent procedures for evaluating such requests and may also make available a standard template for requests.

**Resources:**

- [Complaint Form for Equitable Services for Title I and Programs Covered under Title VIII](#)
- 34 C.F.R. §299.12
- ESEA Sections 1117(b)(6); 1117(c)2; and 8501(c)6
- ESEA section 8503(b)
- ESEA section 8504; see F-8

**Consultation Topic #9 Service Provider**

LEAs and Private School officials should discuss whether the LEA shall provide services directly or through a separate government agency, consortium, entity, or third-party contractor.

**Consultation Topic #10 Delivery Model**

**CT10.a Title I, Part A:** Federal non-regulatory guidance allows LEAs to provide equitable services

- School-by-School
- Pooled Across Schools (within an LEA)
- Pooled Across LEAs

New in FY22 – GaDOE will allow LEAs to work with other LEAs through a memorandum of understanding to provide equitable services to a single private school across LEAs (pooling across LEAs). Because eligibility for Title I services is based on a child's residence and not where the child attends school, **it is common that multiple LEAs have a responsibility to provide services to eligible children who attend the same private school, making provision of those services through pooling across LEAs potentially more educationally effective and efficient than by each individual LEA providing services to eligible students in the same private school.** Thus, multiple LEAs may pool the Title I funds generated by their private school children from low-income families who reside in a participating Title I public school attendance area to serve eligible low-achieving private school children who reside in those LEAs. In other words, low-achieving private school children in greatest need who reside in a participating Title I public school attendance area in any of the applicable LEAs may be

served with the pooled funds. The LEAs, in consultation with appropriate private school officials, must establish criteria to determine the eligible private school students in greatest educational need to receive services.

**CT10.b Title VIII:** In GA, because of the current limitations in the SEA budgeting system, the only delivery model option for equitable services is School-by-School.

**Resources:**

- [August 12, 2020 IA Pooling Webinar](#)

### Consultation Topic #11 Coordination of Funds

**Title I, Part A:** In consultation with appropriate private school officials, an LEA **must** consider whether to consolidate and use Title I funds to provide equitable services to eligible private school children participating under Title I in coordination with funds for equitable services from programs covered under ESEA section 8501(b). To coordinate the use of funds across programs does not mean that LEAs are able to consolidate funds across programs, through which the funds lose their program identity. LEAs are, however, able to use funds more efficiently.

**Resources:**

- ESEA section 1117(b)(1)(L).

### Consultation Topic #12 Documentation

**CT12.a Self-Monitoring:** While all parties have some level of responsibility for monitoring program implementation, private school officials are responsible for

- engaging in consultation with LEA officials to discuss implementation successes and challenges
- adjusting/amending their priorities throughout the year based on their students' needs,
- ensuring appropriate use of equipment and supplies at the private school, and
- evaluating services received from the LEA

**CT12.b LEA Monitoring:** LEAs must implement a process to monitor the implementation of federal programs at the private schools to ensure compliance with program requirements.

LEAs should provide ongoing consultation to the private schools. Consultation can occur via school visits, teleconferences, and emails. The purpose of the consultation is to provide support of the federal program and to monitor for compliance. The consultations are used to provide one-on-one support to private schools in addition to

ensuring a comprehensive understanding of federal program guidelines and procedures. These consultations are also used to ensure proper use of all resources provided by federal funds. Consultation visits include, but are not limited to, assisting schools with budget allocations, development of school plans, audit preparation, or monitoring of program. The LEA should maintain documentation of consultations with private schools. The LEA and private school should create a consultation schedule. The private school may be asked to produce artifacts or documentation to provide evidence that the identified priorities/ needs are being addressed by the federal program. Ongoing consultations throughout the school year enable the LEA and private school to assess the impact of the equitable services and to look for opportunities of improvement.

**CT12.c State Monitoring:** SEAs must monitor the activities of the LEA as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved. SEA monitoring of LEAs must include: (1) Reviewing financial and performance reports (2) Following-up and ensuring that the LEA takes timely and appropriate action on all deficiencies pertaining to the Federal award detected through audits, on-site reviews, and other means (3) Issuing a management decision for audit findings.

**CT12.d Federal Monitoring:** Federal monitoring occurs infrequently but often includes an evaluation of SEA and LEA compliance with the provision of equitable services. Federal officials have the right of access to any documents, papers, or other records of the SEA, LEA and equitable services implementation which are pertinent to the Federal award, in order to make audits, examinations, excerpts, and transcripts. The right also includes timely and reasonable access to personnel for the purpose of interview and discussion related to such documents.

**Resources:**

- 2 CFR 200

## 4 Other Consultation Topics

**4.a Control of Funds:** Control of funds and title to materials, equipment, and property must remain with the LEA or public agency. No funds may go directly to a non-public school. An LEA or public agency must administer all funds, materials, equipment, and property.

**4.b Reimbursement:**

- **Equipment and Supplies:** Current federal regulations and non-regulatory guidance clearly state that private school officials have no authority to obligate or

receive federal funds because the LEA must maintain control of the funds. LEAs **must** not reimburse private schools.

- **Professional Development:** Under equitable services programs that include teacher and leader PD, LEAs may directly reimburse individual private school staff who were authorized to participate in allowable PD as agreed upon in consultation and aligned with individual student needs and program design. Unauthorized participants or change in agreed upon expenses may not be reimbursed. Failure to participate in agreed upon PD will not be reimbursed and may be seen as the private school declining funds.
- **Private School Reimbursement to LEA:** GaDOE recommends that LEA and private school officials discuss scenarios in which a private school may be required to reimburse the LEA. The LEA may request reimbursement for advanced expenses in alignment with written internal controls procedures as long as this was discussed in consultation. For example, an LEA might request reimbursement if the LEA prepays registration for private school PD and the agreed upon private school participant does not attend and the registration is non-refundable.

#### **4.c Purchase of Equipment and Supplies:**

- **Control:** All equipment and supplies that are purchased are the property of the LEA and subject to federal, SEA and LEA inventory requirements. A public agency must keep title to and exercise continuing administrative control of all equipment and supplies that the subgrantee acquires with program funds.
- **Asset Management:**
  - **Inventory Components:** The inventory shall contain the same requirements for any equipment purchased with federal funds. Details may be found in the GaDOE Federal Programs Handbook or 2 CFR 200.
  - **Inventory Frequency:** In accordance with Federal regulations, a physical inventory of equipment items must be taken, and the results reconciled with the inventory records at least once every two years.
  - **Maintenance Procedures:** LEA and Private School officials should ensure adequate maintenance procedures are implemented to keep the equipment in good condition.
  - **Safeguards:** Adequate safeguards must be in place related to the loss, damage, or theft of the equipment. Any loss, damage, or theft should be investigated and fully documented.
- **Restricted Use:** LEA and private school officials must ensure equipment and supplies are used only for allowable purposes of the program and can be removed from the private school without remodeling the private school facilities.
- **Period of Use:** LEAs may place equipment and supplies in a private school for the period of time needed for the program. The LEA shall remove equipment or supplies from a private school if: (1) the equipment or supplies are no longer

needed for the purposes of the program; or (2) removal is necessary to avoid use of the equipment or supplies for other than program purposes.

- **Evaluating Intent and Impact:** GaDOE recommends carefully reviewing the intended use and impact of the equipment and supplies in order to determine if LEA-administered devices and supplies are the best choice for addressing the individual needs of private school students both in terms of ownership and allowability. Private school officials may decide in favor of prioritizing funds towards the purchase of consumable items and services that will not revert back the ownership of the LEA. Private schools have unique needs and obligations and consultation should help prioritize those needs in a way that best leverages the use of funds to the advantage of individual private school students.

**4.d Statutory Requirements:** Activities supported with ESEA funds that benefit eligible private school students, teachers, and their parents must meet statutory requirements. The use of funds for supplies and services should comply with each individual program's requirements and meet definitions of evidence-based and professional development as outlined in Title VIII, Part A.

**4.e Regulatory Requirements:** LEAs are responsible for ensuring that funds are used in a way that meets federal program and fiscal regulations. Regulations for federal funds used to provide equitable services to private schools are sometimes more restrictive than they are for public schools. Any use of funds must be consistent with the LEA's written internal controls (policies and procedures) that apply uniformly to both federally funded and non-Federally funded LEA activities. This may extend to purchasing procedures and timelines and vendor approval. Each use of funds must be necessary, reasonable and allocable to the performance of the grant.

- **Reasonable** means costs should not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. The cost should align to the needs discussed during consultation; should reflect sound business practices; and should reflect market prices for comparable goods and services for the geographic area. In ensuring costs are reasonable, an LEA should not significantly deviate from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the Federal award's cost
- **Allocable** means able to be charged to the grant. Costs must be incurred specifically for the grant; must be necessary to the operation of the private school and distinguishable as a grant asset. Any use of funds for equitable services must be agreed upon in advance by the LEA and private school officials and align with the plan that was designed and developed in consultation. Because use of funds is tied to needs, it is possible that a program will have allowable uses that are unallowable because they do not align with individual student needs and the planning that has been completed to address the needs.

- **Procurement:** Each LEA has a unique, often board-approved, policy that they must follow for purchases for both private and public schools. This extends to cost, levels of approval, contracts and supporting documentation (like quotes), etc. There are practices relative to allowable vendors and adding vendors.
  - **Vendors:** Private schools and public schools operate differently and may have existing relationships with different vendors. The LEA is required to follow federal procurement standards and local policy and internal controls. If allowable, the LEA and private school can work together to add additional vendors to the LEA's financial system.
  - **Compensation for Private School Staff:** Any compensation allowable, must be paid directly to the individual. This requires the individual to be set up as a vendor in the LEA finance system.

**4.f Transfer of Student Records:** The Georgia Department of Education nor the State Ombudsman have any authority over the transferring of student records.

According to the Official Code of Georgia student records are considered information about students recorded or collected in any format by local school systems or individual schools that may include educational /psychological assessments, school attendance records, personal data, health information, disciplinary actions, and/or academic progress. After receiving a written request for student records from a public or private school, including schools operated by the Department of Juvenile Justice, the local school system or school from which the records are requested shall mail or otherwise deliver within a period of no more than 10 calendar days a copy of all requested student records to the school system or school to which a student has transferred. Additional requirements for transfer of records of students in special education programs are specified in Rules 160-4-7 Special Education. Schools and school systems shall not withhold any student record because of nonpayment of fees. Schools or school systems receiving the transferred record shall notify the parent(s)/guardian(s) of students in grades seven through 12 that the record has been received. Each school system or school from which the records are requested shall maintain copies of all student records for the minimum period of time required by the Common Records Retention Schedules for School Systems or the local board of education records retention plan.

**4.g Providing IA, IC, and IIIA (EL) Equitable Services In the Event of Enrollment Changes:** Title I, Part A, Title I, Part C, and Title III, Part A English Learner proportionate share calculations are based on counts taken in the “planning year” which is the school year prior to the implementation of equitable services.

- Title I, Part A – November FRL
- Title I, Part C – As of June 15
- Title III, Part A (EL) – March FTE

These official counts are used to generate the amount LEAs reserve for equitable services. Counts should not be taken before or after official count dates. Once ‘earned’ the share set-aside for equitable services may only be used to support students who meet programmatic requirements. Due to enrollment changes the number of eligible students may fluctuate from the “planning year” to the “implementation year”, however, the amount available for equitable services does not change. The original amount set-aside must be used to provide services to all eligible students whether the number of eligible students is higher or lower.

In the event that there are no eligible students following Form A submission and approval, LEAs should budget the proportionate share for the private school in a ‘placeholder’ reflective of the services discussed in consultation (like IA or IC - tutoring services or IIIA – teacher/leader PD). If an eligible student enrolls during the “implementation year”, the equitable services set-aside may be used to support the student. If no students enroll during the “implementation year”, the funds may be redistributed the following year in accordance with applicable non-regulatory guidance and program guidance.

If GaDOE becomes aware that the official program count data provided in the “planning year” is not accurate (residency, poverty, migrant identification, English learner identification), GaDOE staff may make adjustments as necessary to bring it into compliance. It is critical to verify all data prior to Form A submission.

#### **Resources:**

- GaDOE [Quick Guide: Use of W9/1099](#)
- [34 CFR Part 76](#)
- [2 CFR 200](#)
- [GaDOE Federal Programs Handbook](#)
- [O.C.G.A. § 160-5-1-.14 Transfer of Student Records](#)

## **5 Statute, Regulations and Non-Regulatory Guidance**

### **5.a Federal Statute**

- ESEA
  - Section 1117 – Title I, Part A > Participation of Children Enrolled in Private Schools
  - Section 8501 – Participation by Private School Children and Teachers
- IDEA
  - Section 1412(a)(10) - State eligibility > Children in private schools
- CARES
  - Section 18005

### **5.b The Official Code of Georgia**

- §20-2-690 Educational entities; requirements for private schools and home study programs
- § 160-5-1-.14 Transfer of Student Records

### **5.c Regulations**

- 34 CFR Part 75 – Direct Grants Program
  - §75.51 – How to Prove Nonprofit Status
- 34 CFR 76 State-Administered Programs
  - §76.650-76.667 Participation of Students Enrolled in a Private School
- 34 CFR Part 77 – Definitions that Apply to Department Regulations
  - §77.1 Nonprofit, Nonpublic, Private
- 34 CFR Part 200 – Title I – Improving the Academic Achievement of the Disadvantaged
  - §200.62-200.68 Participation of Eligible Children in Private Schools
- 34 CFR Part 300 – Assistance to States for the Education of Children with Disabilities
  - §300.129-300.199 Children in Private Schools
- 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements

### **5.d ED Non-Regulatory Guidance Specific to Equitable Services**

- 2019 Equitable Services NRG (Title I, Part A)
- 2016 Equitable Services NRG (Titles: IA, IC, IIA, IIIA, IVA, IVB)
- 2015 Equitable Services NRG (Title III, Part A)
- 2009 Equitable Services NRG (Titles: IC, IIA, IIIA, IVA, IVB)
- 2006 Equitable Services Toolkit (Title I, Part A)
- 2003 Equitable Services NRG (Title I, Part A)
- 2020 Equitable Services NRG (CARES)

### **5.e ED Non-Regulatory Guidance - Program Specific**

- 2017 Title I, Part C (Section H Addresses Equitable Services)
- 2016 Title II, Part A
- 2016 Title III, Part A (C-6 Addresses Equitable Services)
- 2019 Title III, Part A Addendum
- 2016 Title IV, Part A
- 2003 Title IV, Part B (F-15, F-16 Address Equitable Services)
- 2017 McKinney-Vento FAQs (#88 Addresses Equitable Services)
- 2020 CARES

### **5.f ED Non-Regulatory Guidance - Overarching**

- 2016 Using Evidence to Strengthen Education Investments
- 2016 Early Learning in Every Student Succeeds Act

## Appendix A – Use of W-9 and 1099

### **Use of the W-9 and 1099 in the Provision of Equitable Services to Private Schools**

In the course of providing equitable services to private schools, LEAs may need to issue payments, including reimbursements, to private school employees who are not employees of the LEA. In alignment with ESSA allowable use of funds, this may include, but is not limited to, professional learning stipends, additional compensation for providing mentoring services, professional learning registration reimbursement, and travel reimbursement.

In accordance with questions F-5 and F-6 of USED's *2009 Non-Regulatory Guidance on Title IX, Part E Equitable Services for Eligible Private School Students, Teachers, and Other Educational Personnel*, LEAs "must always maintain control of the program funds" and "only the LEA may obligate and expend federal funds on behalf of private school students and teachers." LEAs may not reimburse a private school.

Payments, including reimbursements, to any non-employee require a tax identification number. For individuals, this is a social security number. Further, many financial accounting systems require the input of a tax identification number prior to any payment. Some LEAs collect this information from individuals requiring payment through a Form W-9; others collect it through a local form that requests the same information.

The IRS *2016 Publication 535* defines a "reasonable period of time" for a travel reimbursement as "60 days after the expenses were paid or incurred." Each individual LEA should have written procedures for processing reimbursements. In these procedures, LEAs must establish at which point the LEA will classify and report the reimbursement as taxable income using the Form 1099-MISC. Procedures may vary LEA to LEA.

LEAs should have established procedures regarding reimbursements (including travel reimbursements) that are applied consistently to federal and non-federal funds, and that are inclusive of employees and non-employees such as private school employees. When developing procedures, LEAs should consider the provision of equitable services to ensure procedures are reasonable in nature.

LEAs should also consult their local board attorney(s), human resources department, and/or finance office when developing these procedures.

LEAs are charged with maintaining the confidentiality of data such as social security numbers under *The Privacy Act of 1974* (5 U.S.C. § 552a) and O.C.G.A. § 50-18-72(a). LEAs must protect all personally identifiable information collected, including information obtained from private school employees.