

U.S. Department of Education

# OMBUDSMAN UPDATE

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## From the Desk of the Office of Non-Public Education Director

Dear Colleague:

What a pleasure it was to meet so many of you at the National Private School Leadership Conference on Sept. 27, 2017, at the U.S. Department of Education! From the informative and very well-received panel presentation by ombudsmen Shaun Owen and Dr. Chris Kelly, to the break-out session with the Office of Non-Public Education (ONPE) and department staff, I hope those in attendance, both live and via Livestream, found the conference to be beneficial to their work and professional growth.

ONPE **seeks your feedback regarding the conference** and whether such a yearly event is of interest to you moving forward. If it is, we would like to know how we can ensure your ongoing and active participation in the annual meeting.

I also want to give a shout-out to Ms. Owen and Dr. Kelly for their proactive efforts in creating the Collaborative of State Ombudsmen. It is evident already that this community will provide professional and technical assistance to support you in ensuring the implementation of equitable services for eligible students and teachers in private schools.

Finally, for those ombudsmen in states that have been impacted by hurricanes Harvey, Irma and Maria, the department has established the [Hurricane Help](#) webpage that includes information, guidance and resources to assist state and local education agencies in ensuring continuity of education services and restoration of the learning environment. At the same time, please don't hesitate to contact us for additional assistance. We will be keeping you in our thoughts and prayers during this challenging time.

Sincerely,

//s//

Maureen Dowling  
Director  
Office of Non-Public Education

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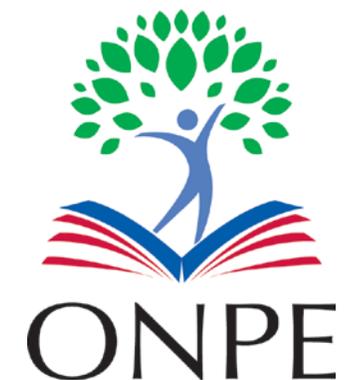
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## Answers From ED

**Question:** How may a local education agency (LEA) that provided equitable services during the 2016–17 school year address fiscal year (FY) 2016 funds under Title I, Part A (Title I) of the *Elementary and Secondary Act of 1965*, as amended (*ESEA*), that become carryover funds on Oct. 1, 2017, when determining the proportionate share for equitable services in FY 2017?

**Answer:** The U.S. Department of Education (ED) has identified three options regarding FY 2016 carryover funds for LEAs that provided equitable services in the 2016–17 school year, which apply to LEAs that met the equitable services requirements in that year.

- First, an LEA could apply the same equitable share proportion to FY 2016 carryover funds that it applies to FY 2017 Title I funds. For example, if the FY 2017 equitable share proportion is 0.10 and an LEA's FY 2016 carryover amount is \$200,000, the LEA would multiply \$200,000 by 0.10, which results in a product of \$20,000. Under this option, the LEA would then make \$20,000 of the \$200,000 available for equitable services during school year 2017–18 and consult with private school officials on the use of these funds.
- Second, in the case of an LEA that met the equitable services requirements in school year 2016–17 and spent all of the FY 2016 funds generated for equitable services on equitable services, it stands to reason that any FY 2016 carryover funds were generated by public school students and would have been spent on public school students if the LEA had obligated all FY 2016 Title I funds by Sept. 30, 2017. Consequently, the LEA, after consultation with private school officials, could decide to use its FY 2016 carryover funds to support Title I activities for public school students only.
- Third, there may be instances in which an LEA met the equitable services requirements in school year 2016–17 but did not spend all of the funds generated for equitable services. Regarding these funds, the amount of which ED would expect to be negligible, the LEA could make the unspent school year 2016–17 equitable services funds available for equitable services in school year 2017–18. An LEA would use any remaining carryover funds to support Title I activities for public school students.

If an LEA did not meet the Title I equitable services requirements during the 2016–17 school year, then the LEA must use a portion of its 2016–17 Title I carryover funds that equals the unspent amount of FY 2016 Title I funds that were generated for equitable services to provide additional services to eligible private school children attending the affected private school or schools. These funds would be in addition to funds the LEA would otherwise be required to use for equitable services out of the LEA's FY 2017 allocation.

**Question:** What is an LEA's obligation with respect to providing equitable services if a private school declines to participate in federal education programs authorized under the *ESEA* or does not respond to an LEA's request to consult regarding the provision of services under such programs?

**Answer:** The obligation to initiate the consultation process lies with the LEA that is responsible for providing equitable services. Thus, an LEA annually must contact appropriate private school officials to determine whether a private school's students, teachers, and, in some cases, families will participate in applicable *ESEA* programs. Please note, however, that private schools have no obligation to participate in *ESEA* programs. If a private school chooses not to participate in one or more of the applicable federal education programs under the *ESEA*, the LEA has no obligation to provide equitable services under the respective programs to students, teachers, and, as applicable, families, in that private school; nor does it have an obligation to collect poverty and/or enrollment data for purposes of the *ESEA* programs for which the school is not participating. If a private school does not respond to an LEA's attempts to engage in consultation, the LEA should maintain a record of all attempted communication, including, at a minimum, documentation of the initial outreach. The reference section below provides frequently asked questions regarding existing non-regulatory guidance and provides additional information concerning an LEA's obligation to initiate the consultation process, including information about timelines and establishing deadlines.

## References

Excerpt from ED's [Title I Services to Eligible Private School Children, Non-Regulatory Guidance](#)

### **A-2. How do LEAs begin the consultation process?**

Annually, an LEA must contact officials of private schools with children who reside in the LEA regardless of whether the private school they attend is located in the LEA. One way to accomplish this is for the LEA to extend an invitation to officials of the private schools and convene a meeting with them at which LEA officials explain the intent of Title I and the roles of public and private school officials and provide opportunities for the private school officials to ask questions. It is not adequate consultation merely to send a letter to officials of the private schools explaining the intent of Title I.

Excerpts from ED's [Title IX Part E Uniform Provisions Subpart 1—Private Schools, Non-Regulatory Guidance](#)

### **D-1. Who is responsible for initiating the consultation process?**

The obligation to initiate the consultation process lies with the LEA that is responsible for providing equitable services. In most cases, the LEA contacts officials of private schools located within its jurisdiction to begin the consultation process on key issues that are relevant to the equitable participation of private school students, teachers and, in some cases, parents in *ESEA* programs. If this does not occur, private school officials should contact the LEA in which their school is located and ask to speak to the individual(s) responsible for administering *ESEA* programs. For additional ideas for LEAs about how to initiate the consultation process, see J-2: *Before Getting Started to Provide Equitable Services*.

### **D-13. What is an “Intent to Participate” form?**

An “Intent to Participate” form is a document that an LEA might send annually to private school officials inquiring as to their interest in having their students and teachers participate in *ESEA* programs. Such a form can assist the LEA in determining early those private school officials that are interested in *ESEA* programs and, thus, will be included in the consultation process. The form might include a brief description of the programs requiring equitable participation as well as a list of allowable activities, services, and benefits. An LEA might also request private school data on enrollment, the number of children from low-income families, the number of students with limited English proficiency (LEP), or other information necessary to implement the relevant *ESEA* programs. Some LEAs send this form by registered mail in order to document receipt of the form by the private schools. For an example, see J-11: *Sample Intent to Participate Form* [in the above listed guidance].

### **D-14. Should an LEA contact private school officials every year even if the private school officials have declined *ESEA* benefits and services in the past?**

Yes. On an annual basis, the LEA must contact private school officials and inquire as to whether the private schools' students and teachers will participate in the *ESEA* programs available to them.

### **D-23. May an LEA set deadlines for submission of requests from private school officials for services and materials?**

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

**Question:** May a state education agency (SEA) use administrative funds for an ombudsman's training or professional development and associated travel costs?

**Answer:** Yes. If an SEA consolidates state administrative funds, it may use those funds for reasonable and necessary professional development/training and associated travel costs for the ombudsman. If an SEA does not consolidate state administrative funds, it may pay for such costs using administrative funds under Title I and the covered programs under *ESEA* section 8501(b). Under this circumstance, however, the SEA must ensure that costs are charged to each program in proportion to the benefit the program receives.

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# Ombudsman Spotlight: New Jersey

By Constance Webster, New Jersey Ombudsman

Strong relationships and transparency build trust. It's that simple. It is my belief that maintaining a positive, open relationship with the nonpublic school community ultimately benefits all children educated in the state of New Jersey. As the state ombudsman within the New Jersey Department of Education (NJDOE), I would like to share what we do to fulfill our obligation to private school students.

## Public-Private Partnership

A long-standing collaboration between state and private school leaders has strengthened NJDOE's support of private school students and has informed our proactive approach to transparency. Since 1988, the NJDOE has participated in a working group with the Nonpublic Advisory Council (council), comprising representatives from independent, Catholic, Islamic, Christian, and Orthodox Jewish schools, to address concerns affecting both public and nonpublic students and teachers. The role of the council is to communicate issues that affect nonpublic school students and families to the NJDOE and to disseminate information about federal programs to the private school community. The working group meets four times a year at a location sponsored by one of the private school constituencies.

## Ombudsman Role

In my capacity as ombudsman, I participate in working group meetings to provide updates on guidance related to *ESEA* program implementation and to inform the working group of concerns relevant to the private school community. I believe that my presence at these meetings establishes my credibility among private school leaders as a neutral party responsible for monitoring and enforcing *ESSA*'s equitable services requirements. NJDOE and the chair of the council jointly establish the agenda for the working group and will consistently spotlight an update from the ombudsman.

## Transparency

Sections 1117(a)(4)(C) and 8501(a)(4)(C) of the *Elementary and Secondary Education Act (ESEA)*, as amended by the *Every Student Succeeds Act (ESSA)* states: "Each State educational agency (SEA) shall provide notice in a timely manner to the appropriate private school officials in the State of the allocation of funds for educational services and other benefits under this part that the local educational agencies (LEA) have determined are available for eligible private school children."

NJDOE believes that it is important to make public on its website each eligible private school's funding allocation for equitable services because it helps private schools to plan effectively. The practice of posting allocations on the NJDOE's website evolved through discussion with the council. This transparency has resulted in private school leaders' confidence in equitable service calculations and simplified access to this information. With input from LEAs and private schools, the NJDOE annually publishes a chart containing the allocations for each LEA as well as a chart containing the allocation percentages for each private school based on school enrollment reports for programs covered under *ESEA* Title VIII.

## New Jersey Fiscal Year 2018 Funding Allocations

**FY18 ESEA Allocation Table**

Co. Code	Dist Code	County	District	Title I-A Total	Title I-D	Title II-A	Title III	Title III Immigrant	Title IV
01	0010	ATLANTIC	ABSECON CITY	\$222,864		\$31,553	\$10,494		\$10,000
01	0110	ATLANTIC	ATLANTIC CITY	\$4,624,962		\$419,823	\$221,497		\$62,340
01	0120	ATLANTIC	ATLANTIC CO VOCATIONAL	\$450,980		\$63,909			\$10,000
01	0570	ATLANTIC	BRIGANTINE CITY	\$264,106		\$39,183	\$4,379		\$10,000
01	0590	ATLANTIC	BUENA REGIONAL	\$715,834		\$81,035	\$4,589		\$10,000
01	1300	ATLANTIC	EGG HARBOR CITY	\$305,090	\$70,145	\$25,179	\$3,736		\$10,000
01	1310	ATLANTIC	EGG HARBOR TWP	\$1,250,107		\$233,021	\$36,508	\$8,287	\$16,806
01	1410	ATLANTIC	ESTELL MANOR CITY	\$43,765		\$6,502			\$10,000
01	1540	ATLANTIC	FOLSOM BORO	\$75,548		\$7,494			\$10,000

**FY18 ESEA Nonpublic School Allocation Percentages \***

Co. Code	County	Dist Code	District	Schl Code	School	Title II-A	Title III	Title II Immigrant	Title IV
01	ATLANTIC	0010	ABSECON CITY	0001	HOLY SPIRIT HIGH SCHOOL	31.10%	0.00%	0.00%	31.10%
01	ATLANTIC	0010	ABSECON CITY	0016	HIGHLAND ACADEMY	3.72%	0.00%	0.00%	3.72%
01	ATLANTIC	0110	ATLANTIC CITY	0003	OUR LADY STAR OF THE SEA	2.30%	1.89%	0.24%	2.30%
01	ATLANTIC	0590	BUENA REGIONAL	0004	SAINT AUGUSTINE PREP	20.82%	0.00%	0.00%	20.82%
01	ATLANTIC	0590	BUENA REGIONAL	0007	SAINT MARYS REGIONAL	9.89%	4.76%	0.00%	9.89%
01	ATLANTIC	1310	EGG HARBOR TWP	0008	ATLANTIC CHRISTIAN SCHOOL	4.42%	0.00%	0.00%	4.42%
01	ATLANTIC	1310	EGG HARBOR TWP	1804	ISLAMIC ACADEMY OF SOUTH JERSEY	0.52%	0.00%	0.00%	0.52%

\* A private school may determine the funds available for services under Title VIII programs by applying its school percentage for a specific program to the corresponding LEA program allocation. Title I allocations per school are provided to school officials separately and discussed transparently in the context of equitable services consultation.

### Resources to Share

[New Jersey Department of Education Website](#)

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## From the Field

### Updates from the Collaborative of State Ombudsmen\*

By Shaun Owen, Georgia Department of Education

Greetings fellow ombudsmen!

These are exciting times as we journey together to create a robust fulfillment of the role of the ombudsmen as required under *ESSA*! I cannot overstress the importance of continuous, ongoing collaboration. Reaching out to private school organizations and local educational agencies (LEA) in your state to inform them of your role and to offer assistance regarding equitable services and changes in *ESSA* will lay a strong foundation for relationship-building as you move forward in this position. Working with the different Title divisions in your state educational agency will help you to learn, grow, and develop policies and procedures that will assist in the implementation of equitable services. Last, but not least, working with other state ombudsmen and the Office of Non-Public Education will help you to collaborate, share resources, and troubleshoot challenging situations that will invariably arise.

To that end, following are resources and opportunities that the Collaborative of State Ombudsmen (collaborative) has developed as a result of ongoing collaboration within the ombudsman community. Over the next several months, the collaborative will conduct a series of webinars to address the role of the ombudsmen. The dates for the webinars are listed below and topics are pending. As a state ombudsman, you also have access to the collaborative OneDrive where you may ask questions and share resources. Thank you to the ombudsmen from Colorado, Georgia, Tennessee, Texas, and Virginia for uploading various forms, manuals, and trainings that can assist other ombudsmen.



State ombudsmen gathering at 2017 National Private School Leadership Conference

As we grow in this position together, please do not hesitate to reach out to me or others in the collaborative, ask questions, share ideas, and make suggestions for future endeavors. The more we work together, the better prepared we will be to serve our students, teachers, parents, private schools, and LEAs!

### **Discussion Forum**

As the year gets under way, many of us will have questions to ask, advice to give, and resources to share. The collaborative is exploring a communication function that would allow ombudsmen to seamlessly submit questions and responses. This will allow you to revisit archived conversation threads and access valuable shared information. Additional information on this resource will be forthcoming.

### **Upcoming Webinar Dates**

- Nov. 17, 2017 at 1 p.m. EST
- Dec. 7, 2017 at 1 p.m. EST

### **Webinar Archives**

If you missed a webinar or would like to revisit a topic, visit the OneDrive webinar archive.

### **Additional Professional Development Opportunities**

For information on or to share opportunities for professional development outside of the collaborative, such as conferences and workshops, access the OneDrive.

### **Ombudsmen Collaborative Steering Committee**

The following individuals serve on the collaborative steering committee:

- [Shaun Owen](#), Georgia Department of Education
- [Cory Green](#), Texas Education Agency
- [Christopher \(Chris\) Kelly](#), Virginia Department of Education
- [Colleen Brooks](#), Colorado Department of Education

### **Contact for Information**

For information on joining the collaborative, accessing the OneDrive, as well as on participating in and recommending topics for upcoming webinars, please send an email to [Shaun Owen](#). Note that only ombudsmen and state department of education staff will be given access to the OneDrive.

\*The Collaborative of State Ombudsmen (collaborative) is a state-led initiative spearheaded by a steering committee of state ombudsmen for state ombudsmen.

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## Tools You Can Use

[U.S. Department of Education ESSA Webpage](#)

[Office of Non-Public Education ESSA Webpage](#)

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## We Want to Hear From You!

If you have something to share, let us know! Please tell us how we can showcase the work you are doing and how we can support you. In each newsletter we will seek to spotlight a state ombudsman. Topics that we would like to highlight in the From the Field section include methods to establish productive relationships between the ombudsman and private school officials; notable, replicable practices; and challenges faced and overcome. We also invite you to share information about technical assistance opportunities that could be of value to the ombudsman community for inclusion in the next newsletter. All submissions should be sent to [ONPE@ed.gov](mailto:ONPE@ed.gov). **To receive future publications of the *Ombudsman Update*, please subscribe [here](#).**

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### Disclaimer

#### U.S. Department of Education—*Ombudsman Update*

*Ombudsman Update* is the U.S. Department of Education's effort to communicate with ombudsmen on matters relating to equitable services under the *Elementary and Secondary Education Act of 1965 (ESEA)*, as amended by the *Every Student Succeeds Act (ESSA)* of 2015. This newsletter contains links to other websites and news articles. These links represent just a few examples of the many education reference materials currently available to ombudsmen and the public. The opinions expressed in any articles or webpages do not necessarily reflect the positions or policies of the U.S. Department of Education. The inclusion of resources should not be construed or interpreted as an endorsement by the U.S. Department of Education of any private organization or business listed herein. This newsletter provides a platform for ombudsmen to share lessons learned. However, it does not request information per the *Federal Paperwork Reduction Act*.

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