

U.S. Department of Education

# OMBUDSMAN UPDATE

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

Dear Colleague:

As we embark on a new year, I am very mindful of the work of state ombudsmen in promoting effective consultation practices over the past year. Timely and meaningful consultation is the foundation for effective implementation of the equitable services provisions of the *Elementary and Secondary Education Act (ESEA)*, as amended by the *Every Student Succeeds Act (ESSA)*. Thus, placing emphasis on the importance of consultation is critical. The *ESEA* requires meetings with private school leaders and a written affirmation signed by private school officials indicating that the required consultation has occurred for *Title I* Part A and programs covered under *Title VIII* Part F. Further, the *ESEA* requires that the goal of consultation is agreement and that local educational agencies (LEAs) document the rationale for their decisions when agreement cannot be achieved.

Ombudsmen have been hard at work assisting LEAs with navigating the *ESEA* provisions and with meeting all equitable services requirements. On Nov. 17, 2017, I participated in the Collaborative of State Ombudsmen webinar wherein ombudsmen shared their proactive, deliberate steps to ensure timely and meaningful consultation between LEAs and private school officials. Ombudsmen identified relationship building, bringing everyone together, and developing capacity as important to conducting consultation successfully. A number of states have also created state-level nonpublic school working groups, with representation from various private school organizations. Such efforts help to create a community of trust between public and private school officials, and this trust sets the stage for open communication and positive consultation experiences that foster agreement.

I have heard ombudsmen express repeatedly a genuine desire to share resources and ideas with one another. I commend such collegial support, particularly in light of days jammed with competing priorities. The Office of Non-Public Education appreciates the opportunity to engage in monthly webinar discussions and conference calls with you, and we look forward to hearing from you about the successes and challenges overcome as you consult with private schools throughout the year.

Sincerely,

//s//

Maureen Dowling  
Director

Office of Non-Public Education

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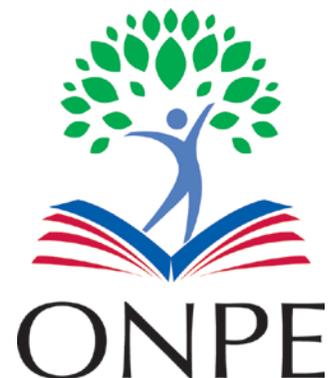
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# Ombudsman Spotlight

By Cory Green, Texas Ombudsman

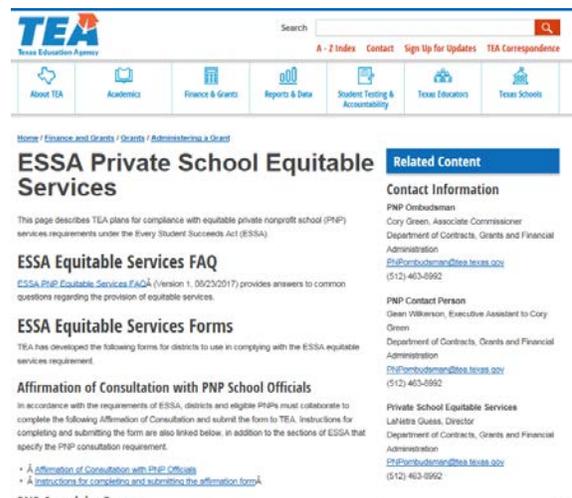
## Public-Private Partnership

With a busy start to the 2017–18 school year, the [Texas Education Agency](#) (TEA) hit the road running. TEA facilitated a smooth transition to the *Every Student Succeeds Act* (ESSA), currently implemented in 1,200 LEAs and 550 participating private schools, by calling on its collaborative network of staff that administer federal programs at the state and local levels. Leading up to the reauthorization of the *ESEA*, TEA drew from this network to establish its Private School Equitable Services Workgroup (Workgroup) to assist eligible private school students, their teachers, and in some cases their parents, with accessing the equitable services for which they are eligible.

Strategically, TEA assigned workgroup leadership responsibilities to the state ombudsman. In my capacity as ombudsman I have designed federal programs and maintain strong relationships with federal program directors in districts across the state. Other workgroup members include TEA staff with ESSA implementation responsibilities, as well as representatives from local educational agencies (LEAs), [Educational Service Centers\\*](#) (ESCs), private nonprofit schools, the Texas Private School Accreditation Commission, and the Texas Private School Association. The workgroup convenes every other month, regionally or virtually, and addresses issues raised by its members. I would like to emphasize that it is by leveraging relationships that TEA successfully meets its equitable services requirements.

## Centralized Resources

The TEA state ombudsman is responsible for coordinating the development and dissemination of information and resources to ensure accurate and timely communication among state, district, and private nonprofit school stakeholders. When contemplating the most appropriate vehicle to disseminate information about new ESSA requirements, we knew that it was not necessary to reinvent the wheel, but rather to build on an already existing information platform. In my concurrent role as associate commissioner of TEA's Department of Contracts, Grants and Financial Administration, I oversaw the development of a centralized, user-friendly [website](#) for grant-related guidance and information. Thus, we built upon that website to communicate ESSA equitable services requirements.



The screenshot shows the TEA website interface. At the top is the TEA logo and a search bar. Below the logo is a navigation menu with icons for 'About TEA', 'Academics', 'Finance & Grants', 'Reports & Data', 'Student Testing & Accountability', 'Texas Educators', and 'Texas Schools'. The main content area is titled 'ESSA Private School Equitable Services' and includes a 'Related Content' sidebar. The sidebar lists 'Contact Information' for the PNP Ombudsman (Cory Green) and the PNP Contact Person (Gean Wilkerson). The main content area contains sections for 'ESSA Equitable Services FAQ', 'ESSA Equitable Services Forms', and 'Affirmation of Consultation with PNP School Officials'. The 'Affirmation of Consultation with PNP School Officials' section includes a link to the form and instructions for completion and submission.

TEA regularly directs staff to new web content through email bulletins that reach over 14,000 subscribers. District and private school officials may find the required affirmation of consultation form as well as English and Spanish versions of a complaint form, accompanied by instructions for completion and submission, frequently asked questions, and other essential guidance, on the TEA [ESSA Private School Equitable Services](#) webpage. Of note, TEA partners with ESCs to provide training materials to districts and private schools engaged in the consultation process, such as a [video](#) presentation of a model consultation meeting. TEA has received positive feedback from end users regarding the content and functionality of its website.

## Join Us!

Those who plan to attend the [National Title I Conference](#) Feb. 8–11, 2018, in Philadelphia, PA are invited to a session hosted by TEA titled “Texas Private School Equitable Services Support System.” This presentation will showcase how TEA collaborates with partners and promotes equitable services resources across the state.

\*The purpose of the ESCs is to assist school districts in improving student performance, enable school districts to operate more efficiently and economically, and implement initiatives assigned by the legislature or the commissioner. The ESCs develop and provide services to school districts and charter schools, including but not limited to professional development and consulting assistance, trainings, and coaching by content specialists.

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# From the Field

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

### Presentation

At the 2018 [National Title I Conference](#) in Philadelphia, Pennsylvania, the U.S. Department of Education will collaborate with two state ombudsmen on Thursday, Feb. 8, 2018, from 2 to 3 p.m. EST, at Nutter Theatre in the Pennsylvania Convention Center. The session will highlight the new and significant role of the ombudsman in a presentation and panel titled “[Ombudsmen and ESEA Equitable Services: Building Partnerships Between SEAs, LEAs, and Private School Officials.](#)”

### Webinars

Collaborative webinars are scheduled for Jan. 25, Feb. 22, March 29, and April 26. Look out for an email invitation. Topics are pending. **Please submit discussion topic recommendations to [Shaun Owen](#) and consider volunteering to facilitate.** If you missed a webinar or would like to revisit a topic, visit the webinar archive on the OneDrive (see additional information below).

### OneDrive

The Collaborative maintains an online platform for communication, submitting inquiries, and archiving webinars. Note that only ombudsmen and state department of education staff will be given access to the OneDrive.

### Steering Committee

The following individuals serve on the Collaborative steering committee.

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

### Contact for Information

For information on joining the collaborative, accessing the OneDrive, as well as participating in and recommending topics for upcoming webinars, please send an email to [Shaun Owen](#).

\*The Collaborative of State Ombudsmen (Collaborative) is a state-led initiative spearheaded by a steering committee of state ombudsmen for state ombudsmen. The U.S. Department of Education is not part of the Collaborative, nor does ED endorse the Collaborative.

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## Answers From ED

**Question:** Can funds for *Title I* Part A instructional services be used for parental engagement if the 1 percent set aside is insufficient? Is there a maximum percentage that may be used for parental engagement beyond the 1 percent, or would the LEA need to determine what is reasonable?

**Answer:** The 1 percent parent and family engagement reservation (in an LEA with a *Title I* Part A allocation that is greater than \$500,000) comes from the proportionate share. Based on consultation with private school officials, an LEA may use more than that amount for parent involvement activities. Additional funds for parent and family engagement above the 1 percent amount would also come from the proportionate share, which would mean that less would be available from the proportionate share for direct instruction.

For more information, please see section O-4 of [\*Non-Regulatory Guidance: Fiscal Changes and Equitable Services Requirements Under the Elementary and Secondary Education Act of 1965 \(ESEA\), as Amended by the Every Student Succeeds Act \(ESSA\)\*](#) below:

**O-4.** How does an LEA determine the amount of Title I funds to be used for parent and family engagement activities for participating private school students?

ESEA section 1116(a)(3)(A) requires an LEA to reserve and spend at least 1 percent of its Title I allocation to carry out required Title I parent and family engagement activities if the LEA's Title I allocation exceeds \$500,000. To determine the minimum amount it must spend on parent and family engagement activities, an LEA must calculate 1 percent of its total Title I allocation. The LEA then applies the proportionate share percentage for services to private school students in question O-2 to determine how much it must spend for parent and family engagement activities for the families and parents of eligible private school students. The LEA must then spend that amount from the proportion of its Title I allocation available for equitable services for private school students. In other words, the LEA does not reserve a portion of its 1 percent reservation for parent and family engagement activities for participating private school students; rather, this amount comes from the proportionate share that the LEA already determined under question O-2.

**Question:** How is the amount of funds for equitable services determined when an LEA chooses to transfer funds between programs? After consultation, does the final decision continue to remain with the LEA if it decides to transfer funds among programs, and must the private school be in agreement with an LEA decision to transfer funds?

**Answer:** LEAs must calculate equitable service shares based on the total amount of funds available under a program **after** a transfer (*ESEA* section 5103(e)(1)). Just as an LEA may not transfer funds to a particular program solely to provide equitable services, it may not retain funds solely for this purpose. Thus, if an LEA chooses to transfer 100 percent of its *Title II* Part A or *Title IV* Part A funds to *Title I* Part A, it may not provide equitable services under *Title II* Part A or *Title IV* Part A. Under this scenario, an LEA would determine the proportionate share available for equitable services under *Title I* Part A based on the total allocation, including the amounts transferred into *Title I* Part A.

Before an SEA or LEA may transfer funds from a program subject to equitable services requirements, it must engage in timely and meaningful consultation with appropriate private school officials. (*ESEA* section 5103(e)(2)) The final decision regarding the transfer of funds, however, remains with the LEA.

Although an LEA is not required to obtain agreement from private school officials prior to a transfer of funds, the goal of consultation is agreement (see *ESEA* section 8501(c)(1)). Thus, we encourage LEAs to carefully consider the views of private school officials prior to making decisions regarding transfers. By engaging in timely and meaningful consultation and developing positive relationships with private school officials, an LEA can facilitate creation of a cooperative environment and minimize problems and complaints.

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 between the two entities. Private school officials may also contact the LEA superintendent or program director of the federally funded program to ask for assistance. If the response at the local level is not satisfactory, the private school official may contact the SEA official (i.e., the ombudsman) responsible for ensuring that *ESEA* programs are implemented at the local level. Often, these steps will resolve the matter. In the event the problem is not resolved, private school officials have the right to file a formal written complaint with the SEA.

For more information, please see the Department's [\*Non-Regulatory Guidance: Fiscal Changes and Equitable Services Requirements under the Elementary and Secondary Act of 1965 \(ESEA\), as amended by the Every Student Succeeds Act \(ESSA\)\*](#), sections U-4 and U-5:

**U-4.** What are the responsibilities of an SEA or LEA for the provision of equitable services to private school children and teachers with respect to funds being transferred?

Excluding *Title I* Part D and *Title V* Part B, each program covered by the transferability authority is subject to the equitable services requirements under titles *I* or *VIII*, which may not be waived. (*ESEA* section 8401(c)(5).) Before an SEA or LEA may transfer funds from a program subject to equitable services requirements, it must engage in timely and meaningful consultation with appropriate private school officials. (*ESEA* section 5103(e)(2).) With respect to the transferred funds, the SEA or LEA must provide private school students and teachers equitable services under the program(s) to which, and from which, the funds are transferred, **based on the total amount of funds available to each program after the transfer** [emphasis added].

**U-5.** May an SEA or LEA transfer only those funds that are to be used for equitable services to private school students or teachers?

No. An SEA or LEA may **not** transfer funds to a particular program solely to provide equitable services for private school students or teachers. Rather, an SEA or LEA, after consulting with appropriate private school officials, must provide equitable services to private school students and teachers based on the rules of each program and the total amount of funds available to each program **after** [emphasis added] a transfer. (See *ESEA* section 5103(e).)

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## Tools You Can Use

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[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; as well as 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*

The *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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