



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION
AND
OFFICE OF NON-PUBLIC EDUCATION

July 17, 2023

Summary Response to Public Comments on Draft Title VIII, Part F of the Elementary and Secondary Education Act of 1965, as Amended by the Every Student Succeeds Act: Providing Equitable Services for Eligible Private School Children, Teachers, and Other Educational Personnel – Non-Regulatory Guidance (2022) (Title VIII Equitable Services NRG)

On March 30, 2022, the U.S. Department of Education (Department) published, in draft for public comment, the Title VIII Equitable Services NRG. Thirty individuals/organizations submitted comments for the Department to consider in finalizing the Title VIII Equitable Services NRG. The Department appreciates the helpful and insightful comments.

The Department reviewed these comments and made several changes to the document, adding new questions, revising language for clarity, and providing specific examples to illustrate complex provisions. Comments and suggested revisions primarily fell into three topic areas: allocations and expenditures, delivery of equitable services, and program-specific requirements. Commenters also requested clarification on the supplement, not supplant requirements and recipient status (whether a private school whose students and teachers receive equitable services is considered a recipient of federal financial assistance). The Department made substantive edits in section K: Title IV, Part B – Nita M. Lowey 21st Century Community Learning Centers and section L: Title IV, Part F, Subpart 3 – Project SERV due to the unique aspects of these two programs and an intent to provide clear and helpful guidance and also made additional minor technical edits throughout the document.

In response to comments, the Department added the following new questions:

- F-2. Does receiving equitable services under a covered ESEA program make a private school a “recipient of Federal financial assistance”?
- I-4. Must an LEA use the standardized, statewide entrance and exit procedures that it uses in public schools to identify and exit ELs in private schools?
- K-5. How does a 21st CCLC subgrantee determine the equitable share of funds to make available for equitable services?
- K-7. Because 21st CCLC subgrants are for multi-year programs, how often must a subgrantee consult?
- K-9. How does a 21st CCLC subgrant applicant such as a community-based organization (CBO) with a particular mission (e.g., health, STEM, arts) consult with private school officials?

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- L-6. When and with whom must an LEA consult regarding equitable services in developing its Project SERV application?
- L-7. How does an LEA determine the amount of funds to request for equitable services to private school children and educators in its Project SERV application?

Further, the Department received suggestions to provide greater clarity and practical examples to illustrate provisions. As a result, the Department revised responses to a number of questions, including those on establishing deadlines, identification of appropriate private school representatives, and participant support costs and also made substantive edits to the following questions:

- A-6. May an LEA establish reasonable deadlines for private school officials to submit information necessary to provide equitable services?
- A-7. How does an LEA identify which private school officials to contact?
- C-19. May an LEA pay fees, hotel, travel, and meal expenses for private school educators to attend a conference?
- C-21. What entity completes purchase orders and other procurement activities to provide equitable services to eligible private school children and educators?
- H-6. What types of activities may an LEA provide to private school educators?
- I-9. What are some examples of the Title III, Part A services that an LEA may provide to private school ELs, their teachers, and other educational personnel?
- K-6. When and with whom does an entity applying for a 21st CCLC subgrant consult in providing equitable services to eligible private school children and educators?

The Department trusts that the final guidance – [*Title VIII, Part F of the Elementary and Secondary Education Act of 1965: Providing Equitable Services for Eligible Private School Children, Teachers, and Other Educational Personnel – Non-Regulatory Guidance \(2023\)*](#) – used in conjunction with the statute and applicable regulations, will serve to assist both public and private school officials in understanding the ESEA Title VIII equitable services provisions and facilitate effective implementation of equitable services for private school students and educators.