

ESSA, Title VIII, Sections 8501 – Consultations with Private Schools

<p>Purpose</p>	<p>The purpose of Title VIII, Sec. 8501 is to ensure equitable services to private school students, teachers, and other educational personnel. The section describes the conditions that state education departments, school districts, or other service providers must meet in order to provide equitable services. The section applies to the following programs:</p> <ul style="list-style-type: none"> • Title I-C, Education of Migratory Children • Title II-A, Preparing, Training, and Recruiting Teachers and School Leaders • Title III-A, Language Instruction for English Learners and Immigrant Students • Title IV-A, Student Support and Academic Enrichment Grants Title • IV-B, 21st Century Community Learning Centers
<p>Private School Participation</p>	<p>Except as otherwise provided in this Act, to the extent consistent with the number of eligible children in areas served by a State educational agency, local educational agency, educational service agency, consortium of those agencies, or another entity receiving financial assistance under a program specified in subsection (b), who are enrolled in private elementary schools and secondary schools in areas served by such agency, consortium, or entity, the agency, consortium, or entity shall, after timely and meaningful consultation with appropriate private school officials provide to those children and their teachers or other educational personnel, <i>on an equitable basis</i>, special educational services or other benefits that address their needs under the program.</p>
<p>Expenditures</p>	<p>Expenditures for educational services and other benefits provided under this section for eligible private school children, their teachers, and other educational personnel serving those children shall be equal, taking into account the number and educational needs of the children to be served, to the expenditures for participating public school children.</p> <p>Funds allocated to a local educational agency for educational services and other benefits to eligible private school children shall be obligated in the fiscal year for which the funds are received by the agency.</p> <p>An agency, consortium, or entity described in subsection (a)(1) of this section may provide those services directly or through contracts with public and private agencies, organizations, and institutions.</p>
<p>Equitable Services</p>	<p>Services and other benefits to private school students must be secular, neutral, and non-ideological (Sec. 8501(a)(2)), must be provided in a timely manner, and must be equitable in comparison to services and other benefits for public school children, teachers, and other educational personnel (Sec. 8501(a)(3)(A)).</p> <p>To help ensure such equity, the state education agency must designate an ombudsman to monitor and enforce the requirements relating to the participation of children in private schools (Sec. 8501(a)(3)(B)).</p>

Timing	The consultation shall 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 shall continue throughout the implementation and assessment of activities.
Consultation	<p>To ensure timely and meaningful consultation, a State educational agency, local educational agency, educational service agency, consortium of those agencies, or entity shall consult with appropriate private school officials. Such agency and private school officials shall both have the goal of reaching agreement on how to provide equitable and effective programs for eligible private school children during the design and development of the programs under this Act, on issues such as—</p> <ul style="list-style-type: none"> A. how the children’s needs will be identified; B. what services will be offered; C. how, where, and by whom the services will be provided; D. how the services will be assessed and how the results of the assessment will be used to improve those services; E. the size and scope of the equitable services to be provided to the eligible private school children, teachers, and other educational personnel, and the amount of funds available for those services, and how that amount is determined; and 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 contract services through potential third-party providers.; and G. whether the agency, consortium, or entity shall provide services directly or through a separate government agency, consortium, or entity, or through a third-party contractor; and whether to provide equitable services to eligible private school children— 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 (ii) in the agency's participating school attendance area who attend private schools with the proportion of funds.
Discussion	The consultation required by paragraph (1) shall include a discussion of service delivery mechanisms that the agency, consortium, or entity could use to provide equitable services to eligible private school children, teachers, administrators, and other staff.
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 shall provide to the private school officials a written explanation of the reasons why the local educational agency has chosen not to use a contractor.
Documentation	Each local educational agency shall 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 shall provide the option for private school officials to indicate such officials' belief that timely and meaningful consultation has not occurred or that Title VIII – page 34 of 58 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 shall forward the documentation that such consultation has, or attempts at such consultation have, taken place to the State educational agency.
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Other statutory requirements can be found under [ESSA, Title VIII, Section 8501](#).