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State and Federal Guidance and Requirements
- Private School Participation in Federal Programs
- Elementary and Secondary Education Act, Title XIII, Part F, Secs. 8501-8506
- Office of Non-Public Education Guidance: Private School Participation in Title III Programs
- Non-Regulatory Guidance: Equitable Service Requirements Under Title VIII
- EDGAR 34 CFR 76. See parts 76 and 80.

Consultation
Timely and meaningful consultation in Washington begins with private schools completing the Intent to Participate form, which is available between February and April through the EDS System. If a non-profit, state-board-approved private school within the boundaries of a district that receives Title III funds does not respond, the district must make reasonable attempts, at least one in writing, to determine whether the private school intends to participate in Title III. Issuance of a single letter to the private schools explaining the district’s intent to apply for funds is not adequate consultation. The district should contact private school officials annually, even if the private school has declined Title III services in past years.

District administrators must conduct a timely and meaningful consultation with appropriate private school officials during the design and development of the private school’s Title III program on issues such as:
1. How the ELL children’s needs will be identified;
2. What services will be offered;
3. How, where, and by whom the services will be provided;
4. How the services will be assessed and how the results of the assessment will be used to improve those services;
5. The size and scope of the services to be provided to the private school children, teachers, and other educational personnel;
6. The amount of funds available for those services;
7. How that amount of funds is determined;
8. 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; and
9. 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
10. Whether to provide equitable services to eligible private school children—
   - (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
   - (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.
Timing
The required consultation must occur before the Local Education Agency (LEA) or consortium makes any decision that affects the opportunities of eligible private school children, teachers, and other educational personnel to participate in programs.

The consultation must be documented. The state provides a **template consultation form**, which districts may use.

Consultation should be ongoing and must continue throughout the implementation and assessment of services, with genuine opportunities for both parties to express their views. Adequate notice of consultation is critical to ensuring meaningful consultation.

Identification
Districts may request documentation, as needed, from private school officials to identify Title III-eligible students. This documentation should include responses to a home language survey and scores on an English language proficiency assessment. The private school may, but is not required to, use the state **home language survey**, **language proficiency screener** and **language proficiency annual assessment**. The district and private school officials determine during the consultation process which language proficiency assessment will be used for initial placement and annually for continued eligibility and whether the district or the private school will be responsible for administering the assessment.

Title I parent notification requirements in section 1112(e)(3) of the ESSA do not apply to parents of ELL students in private schools. However, the district and private school officials may wish to discuss, as part of timely and meaningful consultation, how parents will be made aware of Title III services provided by the LEA.

Eligibility is determined based on the location of the private school, within the district’s boundaries, and not the residence of the student.

Services
English Language Learners at private schools are not eligible for services through the Transitional Bilingual Instructional Program.

The district, in consultation with private school officials, determines appropriate Title III services based on:

- The needs of the identified students and their teachers or other educational personnel
- The amount of Title III funds available for such services, subject to the expenditure requirements under section 8501 of the ESEA.

Services provided to staff and Title III-eligible students at participating private schools must be equitable to those provided to eligible students and staff at public schools in the district. Participation is considered to be equitable if the district:

- Assesses, addresses, and evaluates the needs and progress of public and private school students and educational personnel on a comparable basis
- Provides, in the aggregate, approximately the same amount of services to students and educational personnel with similar needs
- Spends an equal amount of Title III funds to serve similar public and private school students and educational personnel
- Provides both groups of students and educational personnel equal opportunities to participate in program activities.

If the needs of private school students and staff are different from those of public school students and educational personnel, the district, in consultation with private school officials, must develop a separate program design that is
appropriate for their needs. Such a program design must take into consideration the Title III funds available based on the number of identified students at the private school.

Examples of Title III services include:

- Administration of English language proficiency (ELP) assessments for identification and/or for the purpose of evaluating continued eligibility and the effectiveness of services (test booklets, teacher training, stipends to teachers to administer assessments)
- Participation in district-sponsored professional development (PD), or PD organized specifically to meet the needs of the private school teachers for the purposes of improving services to English language learners
- Tutoring for students before, during, or after school hours
- Participation of private school ELL students in summer school
- Participation of students in a weekend language development program
- Purchase of supplemental instructional materials and supplies to support language development.

Title III funds may not be used to finance the existing level of instruction in a private school. Services must supplement and not supplant what the private school would otherwise offer absent the Title III program. Services must be secular, neutral, and non-ideological. Services may be provided directly by the school district or by a third-party contractor who is independent of the private school and any religious organization during the hours of employment with Title III funds. Like teachers serving public school Title III-eligible students, teachers providing Title III services to private school students, whether district employees or third-party contract employees, are subject to the requirement that teachers in a Title III program be fluent in English and any other language used for instruction. Services must be implemented in a timely manner.

The state’s English language proficiency standards do not apply to private schools or their students.

The school district maintains control of:

- Funds used to provide services
- The title to materials and equipment purchased
- A third-party provider’s employment, contract, and supervision.

Funds used to provide services to private school children and educational personnel must not be commingled with nonfederal funds. Only the school district may obligate and expend federal funds on behalf of private school students and teachers.

**Reporting and Record Keeping**

The state requests a count of Title III-eligible students at participating private schools from districts in the spring. This count is used in the calculation of the district’s Title III allocation for the following year.

Districts maintain a record of evidence of consultation with the private school. Participating private schools must retain records to support student eligibility and services agreed upon. Documentation requests should not pose an administrative barrier to private school participation in Title III.

**Complaint Process**

Throughout the year, OSPI receives a number of questions related to equitable services in private schools. Under ESSA, the state is required to have an ombudsperson available to monitor and enforce the equitable services requirements.

If a disagreement arises, private school officials are encouraged to first contact their local federal programs representative, or superintendent at the local school district, to resolve any issues that affect the services provided.
the event that there are concerns needing the involvement of the OSPI’s ombuds team, there are a number of options available.

- Private schools may indicate the consultation was not timely or meaningful on the Affirmation of Consultation form.
- If district disagrees with the views of private school officials with respect to any topic subject to consultation, the district must provide, in writing, to such private school officials the reasons why the district disagrees.
- Submit a formal complaint to OSPI as allowed under Washington Administrative Code (WAC).
- The state’s resolution or failure to make a resolution may be appealed to the U.S. Department of Education.

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