



January 29, 2024

To: Public School Superintendent

From: Jim Kent, NDE Nonpublic Ombudsman and  
Beth Wooster, NDE ESSA Administrator

**RE: 2023-24 Data Collection - Title I Nonpublic Consultation (for 2024-25 School Year services) (NDE Form # 04-01)**

**SUPERINTENDENTS OF DISTRICTS NEEDING TO COMPLETE ONE OR MORE TITLE I NONPUBLIC CONSULTATIONS ARE RECEIVING THIS EMAIL. PLEASE FORWARD TO OTHERS IN YOUR DISTRICT THAT MAY NEED THIS INFORMATION.**

**Collection opens 3/1/2024**

**Collection due to NDE 4/30/2024**

Every District receiving Title I funds and having resident low-income school-aged students attending a nonpublic school will need to complete this collection. The Public District is not required to complete or submit a Title I Nonpublic Consultation form for Rule 12 or 13 exempt status schools. A form will need to be completed for each Nonpublic System that has reported having students eligible for free or reduced lunch as reported in the CDC Nonpublic Membership Report (NDE Form 02-017).

The Title I Nonpublic Consultation Collection (NDE Form #04-012), located in the NDE Consolidated Data Collection (CDC), will provide the Public District with forms to use when consulting Nonpublic Schools regarding participation in the Title I-A program. This 2023-2024 collection will be used for determining nonpublic participation for the 2024-25 school year. Prepopulated forms are available for download by the Public District to use when consulting with the Nonpublic School(s). Upon completion of the consultation, the Public District will enter the information from the forms into the Title I Nonpublic Consultation Collection in the NDE CDC. Completed, signed forms will remain on file at the Public District and may be requested by NDE at any time and/or reviewed during ESSA monitoring.

**NOTE:** If the Public District is aware of resident school-aged low-income students attending a Nonpublic School that is not listed, please contact the NDE Helpdesk so a form can be added to the collection, if appropriate.

**PROCESS for completing TITLE I NONPUBLIC CONSULTATION FORMS:**

Step 1: Districts obtain access to the Title I Nonpublic Consultation collection in the CDC. (To gain access to the Consolidated Data Collection, please refer to “Accessing the Consolidated Data Collection” instructions found on the NSSRS Resources page, under the heading “Consolidated Data Collection (CDC) at the following url:

<http://www.education.ne.gov/nssrs/Resources.html#Instructions>)

- Step 2: Download form(s) to use during the consultation with the Nonpublic School(s).
- Step 3: Public District representative consults with the Nonpublic School(s) representative(s).
- Step 4: After completion of consultation with the Nonpublic School(s), **the Public District will enter data from the form(s) into the Title I Nonpublic Consultation Collection in the CDC.** Validations and warnings are in place to assist districts with submitting the data correctly.  
**The data may be “Submitted” by the person assigned this task by the Superintendent. The Authorized Representative is the only one that can “Approve” the data in the CDC.**
- Step 5: Public District submits and approves the collection by **due date of April 30, 2024.** Corrections will be allowed during the audit window, which closes on **May 15<sup>th</sup>.**
- Step 6: Public Districts keep the paper consultation forms, with original signatures, on file for six years. NDE may request these forms at any time and/or review them during ESSA monitoring.

Attached to this email is a listing of Public Districts that have low-income school-aged children as reported on the Nonpublic Membership Report.

For more detailed instructions (including screen shots) click on the *Instructions* link at the top of the Collection in the CDC.



### **CONSULTATION REQUIREMENT**

On November 21, 2016, USDE published Non-Regulatory Guidance regarding Fiscal Changes and Equitable Services Requirements. (Guidance available at: <https://www2.ed.gov/policy/elsec/leg/essa/essaguidance160477.pdf>). The guidance indicates that the goal of consultation is agreement between the LEA (Local Education Agency) and appropriate nonpublic school officials on how to provide equitable and effective programs for eligible private school children.

Because of this requirement, a statement is included in Section 4 of the data collection, Certification. The statement, “I agree with the equitable and effective programs that will be implemented based on this consultation,” is to be marked yes or no by the Nonpublic School Representative.

There are several requirements included in the *Fiscal Changes and Equitable Services Requirements* non-regulatory guidance. A few of the major changes are listed below.

**Obligation of funds**

Funds allocated to an LEA (Local Education Agency) for educational services and other benefits to eligible nonpublic school children, teachers, and other educational personnel, and families must be obligated in the fiscal year for which the funds are received by the LEA.

**Allocating Funds for Equitable Services**

Expenditures for equitable services to eligible private school children, teachers and other educational personnel, and families must be equal to the proportion of funds allocated to participating public school attendance areas based on number of children from low-income families who reside in those attendance areas and attend private schools. An LEA must determine the proportionate share of Title I funds available for equitable services based on the total amount of Title I funds received by the LEA prior to any allowable expenditures or transfers of funds. See sample calculation below.

<b>SAMPLE OF FORMULA TO DETERMINE AMOUNT FOR TITLE I-A EQUITABLE SERVICES</b>			
<b>Public School Attendance Area</b>	<b>Number of Public School Low-Income Children</b>	<b>Number of Nonpublic School Low-Income Children</b>	<b>Total Number of Low-Income Children</b>
School A	500	110	610
School B	300	19	319
School C	200	5	205
School D	350	16	366
<b>TOTAL</b>	<b>1350</b>	<b>150</b>	<b>1500</b>
<b>PROPORTIONATE SHARE</b>	<b>90.00%</b>	<b>10.00%</b>	
<b>TOTAL ALLOCATION:</b>	<b>\$675,000.00</b>	<b>\$75,000.00</b>	
<b>\$750,000</b>			

The ED Guidance also includes examples of calculating equitable services amounts for parents and families of eligible private school children.

As consultations take place for the 2024-2025 school year, it is highly recommended that both public and nonpublic schools consider completing Needs Assessments before the end of this school year to determine how federal funds will be utilized in the following year. **A current Needs Assessment provides a good starting point when determining what activities federal funds will support.**

### **What Takes Place During the Consultation?**

The goal of the consultation process is to design and implement a program that will provide equitable services and meet the needs of the eligible nonpublic school students and/or teachers and other educational personnel. Consultation between the entity receiving federal financial assistance and nonpublic school officials must occur before any decision is made that could affect the ability of nonpublic school students, teachers, and other educational personnel to receive the benefits under ESEA (Elementary and Secondary Education Act) and must continue throughout the implementation and assessment of activities. Consultation generally must include discussion on such issues as:

- How the children's needs will be identified;
- What services will be offered;
- How, where, and by whom the services will be provided;
- How the services will be assessed and how the results of the assessment will be used to improve those services;
- The size and scope of the equitable services to be provided to the eligible nonpublic school children, teachers and other educational personnel, the amount of funds available for those services, and how that amount is determined;
- 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 nonpublic school officials on the provision of services through potential third-party providers; and
- 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 nonpublic school children—
  - By creating a pool of funds with all of the funds allocated based on all the children from low-income families in a participating school attendance area who attend private schools; or
  - In the agency's participating school attendance area who attend private schools with the proportion of funds allocated based on the number of children from low-income families who attend nonpublic schools.

For your convenience, NDE is providing a checklist that you may want to use during the ongoing consultation process. See attachment. The checklist will also be available on the NDE Federal Programs Website.

### **Transferability**

An LEA may transfer the funds it receives under Title II-A and Title IV-A. Each program covered by the transferability authority is subject to the equitable services requirements under Title I or VIII, which may not be waived. (ESEA section 8401(c)(5)) **Before an LEA may transfer funds from a program subject to equitable services requirements, it must engage in timely and meaningful consultation with the appropriate nonpublic school officials.** (ESEA section 5103(e)(2)) With respect to transferred funds, the LEA must provide nonpublic students and teachers with 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.

The amount of funds transferred into Title I will be added to the amount of funds used for determining allocations for Title I nonpublic services.

See example calculations below.

EXAMPLE: TITLE II-A CALCULATED BEFORE ANY TRANSFERS	
	<b>A. Number of Students</b>
1374	A1: LEA Enrollment
320	A2: Participating Nonpublic Enrollment
1694	A3: Total Enrollment = A1 + A2
	<b>B. Title II, Part A Allocation</b>
<b>\$43,232</b>	B1: Total LEA Title II-A Allocation
	B2: 0% Transferred to Title I
	B3: Administrative Costs (For public and nonpublic school programs)
<b>\$43,232</b>	B4: LEA Allocation Minus Admin Costs & Transferred Funds = B1 - (B2 + B3)
	<b>C. Per Pupil Rate</b>
\$25.52	C1: = B4 ÷ A3
	<b>D. Title II-A Equitable Services</b>
\$8,167	D1: Title II-A amount LEA must reserve for equitable services for nonpublic
\$35,065	D2: Title II-A amount available for services for public school teachers and
<b>\$43,232</b>	

EXAMPLE: TITLE I CALCULATED BEFORE ANY TRANSFERS FROM TITLE II-A	
	<b>A. Number of Students</b>
484	A1: Public Low Income Students
38	A2: Nonpublic Low-Income Students in Participating Schools
522	A3: Total Enrollment = A1 + A2
	<b>B. Title I, Part A Allocation</b>
<b>\$287,582</b>	B1: Total LEA Allocation
	B2: Amount Transferred from Title II-A to Title I-A
<b>\$287,582</b>	<b>B3. Total Amount Available for Title I Distribution</b>
	<b>C. Percentage of Low-Income Students</b>
7.28%	C1: Title I-A Nonpublic Proportional Percentage = A2 ÷ A3
92.72%	C2: Title I-A Public Proportional Percentage = A1 ÷ A3
100.00%	
	<b>D. Equitable Services</b>
\$20,935	D1: Amount LEA must reserve for Title I Nonpublic Services = C1 X B1
\$266,647	D2: Amount available for public school Title I Services = C2 X B1
<b>\$287,582</b>	

EXAMPLE: TITLE II-A CALCULATED AFTER TRANSFERRING 100% TO TITLE I	
	<b>A. Number of Students</b>
1374	A1: LEA Enrollment
320	A2: Participating Nonpublic Enrollment
1694	A3: Total Enrollment = A1 + A2
	<b>B. Title II, Part A Allocation</b>
<b>\$43,232</b>	B1: Total LEA Title II-A Allocation
<b>\$43,232</b>	B2: 50% to be transferred to Title I
	B3: Administrative Costs (For public and nonpublic school programs)
<b>\$0</b>	B4: LEA Allocation Minus Admin Costs & Transferred Funds = B1 - (B2 + B3)
	<b>C. Per Pupil Rate</b>
\$0.00	C1: = B4 ÷ A3
	<b>D. Title II-A Equitable Services</b>
\$0	D1: Title II-A amount LEA must reserve for equitable services for nonpublic
\$0	D2: Title II-A amount available for services for public school teachers and
<b>\$0</b>	

EXAMPLE: TITLE I CALCULATED AFTER DISTRICT TRANSFERS 100% FROM TITLE II-A TO TITLE I-A	
	<b>A. Number of Students</b>
484	A1: Public Low Income Students
38	A2: Nonpublic Low-Income Students in Participating Schools
522	A3: Total Enrollment = A1 + A2
	<b>B. Total Allocation (Title I-A + Transfer from Title II-A)</b>
\$287,582	B1: Title I-A Allocation
<b>\$43,232</b>	B2: Amount Transferred from Title II-A to Title I-A
<b>\$330,814</b>	<b>B3. Total Amount Available for Title I Distribution</b>
	<b>C. Percentage of Low-Income Students</b>
7.28%	C1: Nonpublic Proportional Percentage = A2 ÷ A3
92.72%	C2: Public Proportional Percentage = A1 ÷ A3
100.00%	
	<b>D. Equitable Services</b>
\$24,082	D1: Amount LEA must reserve for Title I Nonpublic Services = C1 X B3
\$306,732	D2: Amount available for public school Title I Services = C2 X B3
<b>\$330,814</b>	