



New York State  
EDUCATION DEPARTMENT  

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Knowledge > Skill > Opportunity

Written Affirmation of LEA Consultation  
with  
Private School Officials:  
**TECHNICAL ASSISTANCE**

**OFFICE OF ESSA FUNDED PROGRAMS**

## Who is Responsible for Initial Contact?

- An LEA must initiate the consultation process annually.
- Meaningful and timely consultation
- Adequate notice
- Consultation for all programs

# Who is Required to be Consulted With?

- All private schools within the district that might have students eligible to participate in Title I programs
- Private schools outside the district if the LEA has reason to believe students who reside in a participating Title I public school attendance area attend those schools.

# What if Private Schools are Unresponsive?

- An LEA may set a reasonable deadline, taking into consideration private school schedules, for private school officials to indicate their intent to participate. Written communication to the private school must include:
  - Clear and sufficient notice of the deadline
  - Potential consequences for not meeting the deadline
  - Adequate time for private school officials to respond

# Where are the Written Affirmation Forms Located?

**FORMS**

(Please note that the forms below, in addition to being accessible on the online portal, are also accessible to download here. However, they must be saved and submitted through the application portal, as applicable)

**Consolidated Application for ESSA-Funded Programs:**

- 2022-2023 Consolidated Application for ESSA-Funded Programs - (for Refere
- Application Assurances
- Consultation/Collaboration Documentation Form
- Title III Consortium Lead Applicant Form
- **Written Affirmation of LEA Consultation with Private School Officials Form**

In the documents library of the Consolidated Application in the portal



**Documents**

- 2022-23 Private School Equitable Services Consultation Resource
- Form - 2022-23 Consultation Collaboration Documentation Form
- Form - Budget Narrative
- Form - FS10 Budget Excel
- Form - FS10 Budget Word
- Form - Funded Administrative Position
- Form - LEA-Affirmation-of-Private-School-Consultation-2022-23**



<http://www.nysed.gov/essa/schools/consolidated-application> - Under "Forms"

# What is Included on the Written Affirmation Forms?

1. Background information
2. Intent to Participate in Title I and Title II
3. Intent to Participate in Title III and Title IV/copy of ConApp
4. Title I Consultation Topics
5. Title II, III, IV Consultation Topics
6. Services to be Provided
7. Disagreement

# 2022-23 WRITTEN AFFIRMATION OF LEA CONSULTATION WITH PRIVATE SCHOOL OFFICIALS

## BACKGROUND INFORMATION

### CONSULTATION REQUIREMENT:

Sections 1117(b) and 8501(c) of the Every Student Succeeds Act (ESSA) require that timely and meaningful consultation occur between the local education agency (LEA) and private school officials **prior to any decision** that affects the opportunities of eligible private school children, teachers, and other educational personnel to participate in programs subject to equitable participation. ESSA requires that **consultation continue throughout the implementation and assessment of activities** in programs subject to equitable participation requirements. For Title I, Part A programs, section 1117(b)(1) also requires that such consultation occur during the design and development of the LEA's Title I, Part A programs.

### PROGRAMS REQUIRING CONSULTATION:

Section 1117 requires that LEAs consult with appropriate private school officials from any private school serving district-resident students regarding Title I Part A – Improving Basic Programs Operated by Local Educational Agencies.

Section 8501 requires that LEAs consult with appropriate private school officials from any private school located within an LEA's geographic catchment area regarding the following ESSA programs:

- Title I Part C - Education of Migratory Children (not applicable to LEAs in NYS; this program is administered by region)
- Title II Part A - Supporting Effective Instruction Grants
- Title III Part A - English Language Acquisition, Language Enhancement, and Academic Achievement
- Title IV Part A - Student Support and Academic Enrichment Grants
- Title IV Part B - 21st Century Community Learning Centers (this is a competitive grant opportunity)

### GOAL OF CONSULTATION:

Sections 1117(b)(1) and 8501(c) of ESSA state that the goal of consultation is agreement between the LEA and appropriate private school officials on how to provide equitable and effective programs for eligible private school children. The “goal of reaching agreement” between an LEA and appropriate private school officials is grounded in timely, meaningful, and open communication between the LEA and the private school officials on key issues that are relevant to the equitable participation of eligible private school students, teachers and other education personnel, and families in ESSA programs.

### TIMELY AND MEANINGFUL CONSULTATION:

Meaningful consultation provides ample time and a genuine opportunity for all parties to express their views, to have their views seriously considered, and to discuss viable options for ensuring equitable participation of eligible private school students, teachers and other education personnel, and families. Consultation for all programs must be conducted before the LEA has made any decisions that will impact the participation of private school students and teachers in applicable programs and shall continue throughout implementation and assessment of services provided. Additionally, with respect to Title I, Part A programs, consultation must also be conducted during the design and development of the LEA's Title I, Part A programs. An LEA should consult with private school officials about the timeline for consultation and provide adequate notice of such consultation to ensure meaningful consultation and the likelihood that those involved will be well prepared with the necessary information and data for decision-making. **Successful consultation begins well before the implementation of services, establishes positive and productive working relationships, makes planning effective, continues throughout implementation of equitable services, and serves to ensure that the services provided meet the needs of eligible students and teachers.**

### DOCUMENTATION:

Each local educational agency must maintain in the agency's records, and provide to the New York State Education Department (NYSED), 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 that timely and meaningful consultation has not occurred or that the program design is not equitable with respect to eligible private school children. If private school officials do not provide such affirmation within a reasonable period of time, the LEA shall forward the documentation that such consultation has, or attempts at such consultation have, taken place to the New York State Education Department.

### OMBUDSMAN:

To ensure such equity for private school children, teachers, and other educational personnel, NYSED will designate an ombudsman to monitor and enforce the requirements of equitable services. Copies of all written affirmation forms will be provided to the ombudsman for the purposes of review, technical assistance, and monitoring related to the LEA's programmatic and fiscal obligations. Questions and/or concerns about the provision of equitable services may be directed to the NYSED Ombudsman at [OMBUDSMAN@nysed.gov](mailto:OMBUDSMAN@nysed.gov).

**Private school students, parents, and teachers may receive appropriate benefits and services from ESSA programs, but private schools cannot receive direct funding from these programs. The district must always maintain control of the funds.**

**The LEA must provide a copy of this document to NYSED and appropriate private school officials and maintain copies on file.**

# 2022-23 WRITTEN AFFIRMATION OF LEA CONSULTATION WITH PRIVATE SCHOOL OFFICIAL

LEA Name

LEA Contact Person

Private School Name

Contact Person / Title

Street Address

Contact Telephone

City/Town, Zip Code

Contact Email

BEDS Code<sup>1</sup>

District of Location

## SECTION 1: INTENT TO PARTICIPATE IN ESSA PROGRAMS

For each ESSA program below, private school officials should indicate their intent to participate by marking the most appropriate box. Please note that due to eligibility criteria, a district may not participate in each of the programs listed below.

### **Title I, Part A – Improving Basic Programs Operated by Local Educational Agencies (LEA)**

- Yes, I am interested in participating in Title I, Part A during the 2022-23 school year.  
 No, I am not interested in participating in Title I, Part A during the 2022-23 school year.<sup>2</sup>  
 No, I have no eligible Title I students at this time.<sup>2</sup>

The Title I, Part A federal program provides services to both public and private school children who need additional educational help who reside in Title I public school attendance areas. Title I, Part A supports supplementary instruction by public school teachers or through a third-party contractor to students who are educationally disadvantaged and failing, or most at risk of failing, to meet high academic standards and who live in participating public school attendance areas. In addition to student services, Title I may provide professional development activities for private school teachers of Title I students and parents of Title I students in parent and family engagement activities. District funds for services to private school students are generated on the number of private school students who qualify as low-income **and** reside in a Title I public school attendance area.

To be eligible to receive Title I services, a private school student must reside in one of the district's public school Title I attendance areas and meet multiple educationally related, objective criteria determined by the District and the private school officials during consultation. Poverty is not a criterion, but certain students may be identified as eligible solely by virtue of their status (e.g., students who are homeless or who in the preceding two years had participated in Head Start, a Title I preschool program, or a Title I, Part C Migrant Education program). Title I services may include but are not limited to: a targeted assistance pull-out/push-in model, before/after school instruction, computer-assisted instruction, tutoring, counseling, family literacy, professional development, and early childhood programs.

The exact number of qualifying students and services provided will be determined with the LEA during a more detailed consultation with the private school. **Participation in the Title I, Part A program will require the private school to provide counts and addresses of income-eligible, district-resident students to the district before an equitable services allocation can be determined.**

- I have data on my students' qualification for low-income eligibility that can be shared as part of future consultation.  
 I do not have data on my students' qualification for low income eligibility that can be shared as part of future consultation.<sup>3</sup>  
 I need assistance in determining my students' qualification for low income eligibility as part of future consultation.

### **Title II, Part A – Supporting Effective Instruction**

- Yes, I am interested in participating in Title II, Part A during the 2022-23 school year.  
 No, I am not interested in participating in Title II, Part A during the 2022-23 school year.<sup>2</sup>  
 Not Applicable – My private school is located outside of the geographic catchment area of the district.

Title II, Part A is designed to provide students from low-income families and minority students with greater access to effective educators. Private school teachers, principals and other educational personnel are eligible to participate in professional development activities (with available services based on LEA funds calculated, on a per-pupil basis, on the LEA's total Title II, Part A allocation, less administrative costs). Activities include those that are an integral part of school and strategies for providing educators (including teachers, principals, other school leaders, specialized instructional support personnel, paraprofessionals, and, as applicable, early childhood educators) with effective instructional teaching strategies; technology integration training; teaching students with different learning styles; using assessments to improve instruction and student outcomes; involving parents more effectively; and educational leadership development. The appropriate benefits, services, and materials provided will be determined with the LEA during consultation with the private school. **Participation in the Title II, Part A program will require the private school to provide the total count of students in grades K-12 (regardless of a student's district of residence) before an equitable services allocation can be determined.**<sup>4</sup>

<sup>1</sup> A BEDS Code is not required for a private school to participate in ESSA-funded programs subject to equitable participation.

<sup>2</sup> If the private school wishes to change the decision not to participate in ESSA-funded programs, contact the district as soon as possible to begin consultation.

<sup>3</sup> Answering "no" to this question **does not** disqualify a private school from participating in the Title I, Part A program.

<sup>4</sup> Data provided via the 2020-2021 BEDS Report may be used (but is not required) to support initial planning and consultation.



**2022-23 WRITTEN AFFIRMATION OF LEA CONSULTATION  
WITH PRIVATE SCHOOL OFFICIAL**

**Title III, Part A – English Language Acquisition, Language Enhancement, and Academic Achievement**

- Yes, I am interested in participating in Title III, Part A ELL during the 2022-23 school year.
- No, I am not interested in participating in Title III, Part A ELL during the 2022-23 school year.<sup>2</sup>
- No, I have no eligible Title III ELL students at this time.<sup>2</sup>
- Not Applicable – My private school is located outside of the geographic catchment area of the district.

Title III, Part A provides for supplemental services that improve the English language proficiency and academic achievement of English Language Learners (ELLs). The appropriate benefits, services, and materials provided will be determined with the LEA during consultation with the private school. How the LEA and the private schools identify ELL students and determine their needs is subject to ongoing timely and meaningful consultation. **Participation in the Title III, Part A ELL program will require the private school to provide counts of English Language Learners students (regardless of a student’s district of residence) to the district before an equitable services allocation can be determined.**<sup>4</sup>

**Title III, Part A – Immigrant Education Program**

- Yes, I am interested in participating in Title III, Part A Immigrant during the 2022-23 school year.
- No, I am not interested in participating in Title III, Part A Immigrant during the 2022-23 school year.<sup>2</sup>
- No, I have no eligible Title III Immigrant students at this time.<sup>2</sup>
- Not Applicable – My private school is located outside of the geographic catchment area of the district.

The Immigrant Education program provides funds to help Immigrant students meet the same challenging State academic standards required of all students. The appropriate benefits, services, and materials provided will be determined with the LEA during consultation with the private school. How the LEA and the private schools identify immigrant students and determine their needs is subject to ongoing timely and meaningful consultation. **Participation in the Title III, Part A Immigrant Education program will require the private school to provide counts of eligible immigrant students (regardless of a student’s district of residence) to the district before an equitable services allocation can be determined.**<sup>4</sup>

**Title IV, Part A – Student Support and Academic Enrichment Grants**

- Yes, I am interested in participating in Title IV, Part A during the 2022-23 school year.
- No, I am not interested in participating in Title IV, Part A during the 2022-23 school year.<sup>2</sup>
- Not Applicable – My private school is located outside of the geographic catchment area of the district.

The purpose of Title IV, Part A is to improve students’ achievement by increasing the capacity of states and LEAs to provide opportunities for students to access a well-rounded education; improve school conditions for student learning; and improve the use of technology in order to improve the academic achievement and digital literacy of all students. The appropriate benefits, services, and materials provided will be determined with the LEA during consultation with the private school. **Participation in the Title IV, Part A program will require the private school to provide the total count of students in grades K-12 (regardless of a student’s district of residence) before an equitable services allocation can be determined.**<sup>4</sup>

**2022-23 Consolidated Application**

- Yes, I am interested in receiving a copy of the LEA’s 2022-23 Consolidated Application.
- No, I am not interested in receiving a copy of the LEA’s 2022-23 Consolidated Application.

Private School Administrator’s Signature: \_\_\_\_\_ Date signed: \_\_\_\_\_

**FOR LEAs**

If the private school has elected to participate in one or more of the programs listed above, the LEA must consult with the private school in order to complete *Section 2, Section 3, Section 4, and Section 5* of this form, as applicable. In such a case, the LEA should submit, as part of its 2022-23 Consolidated Application, completed and signed copies of pages 1-6 of this document.

If the private school has elected not to participate in any of the programs listed above or is not eligible to participate in any of the programs listed above, the LEA is not required to complete *Section 2, Section 3, Section 4, and Section 5* of this form at this time. The LEA should submit, as part of its 2022-23 Consolidated Application, completed and signed copies of pages 2-3 of this document.

## 2022-23 WRITTEN AFFIRMATION OF LEA CONSULTATION WITH PRIVATE SCHOOL OFFICIAL

LEA Name: \_\_\_\_\_

Private School Name: \_\_\_\_\_

### SECTION 2: TITLE I CONSULTATION

If the private school has elected to participate in Title I Part A, the LEA is required to complete the chart below. In such a case, the LEA should submit a fully completed copy of pages 4 and 6, including signatures, as part of its 2022-23 Consolidated Application.

The following topics must be discussed during the **ongoing consultation** process as required for Title I Part A:

Topics of Consultation Title I Part A	Date(s) Discussed	Agreement Reached?
• 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 academically assessed and how the results of that assessment will be used to improve those services		
• The size and scope of the equitable services to be provided to the eligible private school children, the proportion of funds that is allocated for such services, and how that proportion of funds is determined		
• The method or sources of data that are used under section 1117(c) and 1113(c)(1) to determine the number of children from low-income families in participating school attendance areas who attend private schools		
• How and when the agency will make decisions about the delivery of services to such children, including a thorough consideration and analysis of the views of the private school officials on the provision of services through a contract with potential third-party providers		
• How, if the agency disagrees with the views of the private school officials on the provision of services through a contract, the local educational agency will provide in writing to such private school officials an analysis of the reasons why the local educational agency has chosen not to use a contractor		
• Whether the agency shall provide services directly or through a separate government agency, consortium, entity, or third-party contractor		
• 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 section 1117(a)(4)(A) based on all the children from low-income families in a participating school attendance area who attend private schools <u>or</u> in the agency’s participating school attendance area who attend private schools with the proportion of funds allocated under section 1117(a)(4)(A) based on the number of children from low-income families who attend private schools		
• When, including the approximate time of day, services will be provided		
• Whether to consolidate and use funds provided under 1117(a)(4) in coordination with eligible funds available for services to private school children under applicable programs, as defined in section 8501(b)(1) to provide services to eligible private school children participating in programs.		

*The private school representative must check one of the following:*

- I agree that timely and meaningful consultation occurred before the LEA made any decision that affected the participation of eligible private school students.
- I do not agree that timely and meaningful consultation occurred before the LEA made any decision that affected the participation of eligible private school students.

*The private school representative may check if applicable:*

- The program design is not equitable with respect to private school students or does not meet the needs of private school students.

Private School Administrator’s Signature: \_\_\_\_\_ Date signed: \_\_\_\_\_

## 2022-23 WRITTEN AFFIRMATION OF LEA CONSULTATION WITH PRIVATE SCHOOL OFFICIAL

LEA Name: \_\_\_\_\_

Private School Name: \_\_\_\_\_

### SECTION 3: TITLE IIA, TITLE IIIA, AND TITLE IVA CONSULTATION

If the private school has elected to participate in the Title II Part A, Title III Part A, and/or Title IV Part A programs, the LEA is required to complete the chart below. In such a case, the LEA should submit a fully completed copy of pages 5 and 6, including signatures, as part of its 2022-23 Consolidated Application.

The following topics must be discussed during the **ongoing consultation** process as required for Title II Part A, Title III Part A, and Title IV, Part A funds:

Topics of Consultation Title II Part A, Title III Part A, Title IV Part A	Date(s) Discussed	Agreement Reached?
• 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 that assessment will be used to improve those services		
• The size and scope of the equitable services to be provided to the eligible private 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 private school officials on the provision of services through potential third-party providers		
• 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		
• 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 8501(a)(4)(C) based on all the children from low-income families in a participating school attendance area who attend private schools <u>or</u> in the agency’s participating school attendance area who attend private schools with the proportion of funds allocated under subsection 8501(a)(4)(C) based on the number of children from low-income families who attend private schools.		

*The private school representative must check one of the following:*

- I agree that timely and meaningful consultation occurred before the LEA made any decision that affected the participation of eligible private school children, teachers, and/or other educational personnel.
- I **do not** agree that timely and meaningful consultation occurred before the LEA made any decision that affected the participation of eligible private school children, teachers, and/or other educational personnel.

*The private school representative may check if applicable:*

- The program design is not equitable with respect to private school students/teachers or does not meet the needs of private school students/teachers.

Private School Administrator’s Signature: \_\_\_\_\_ Date signed: \_\_\_\_\_

## 2022-23 WRITTEN AFFIRMATION OF LEA CONSULTATION WITH PRIVATE SCHOOL OFFICIAL

LEA Name: \_\_\_\_\_

Private School Name: \_\_\_\_\_

### SECTION 4: SERVICES TO BE PROVIDED

In the boxes below, provide a short description of the services to be provided for each program. Include the amount of funds allocated.

Program Name	Student Count	Per Pupil Amount	School Allocation	Participation	Program Services Description (See Allowable Activities Guidance)
<b>Title I Part A</b>	# of Low-Income Students Living in Title I Attendance Areas	\$	\$	<input type="checkbox"/> Receiving Services <input type="checkbox"/> Declining Services <input type="checkbox"/> No Eligible Students  <input type="checkbox"/> Pooling within LEA <input type="checkbox"/> Pooling Across LEAs	
<b>Title I Part A Parent and Family Engagement</b>	# of Low-Income Students Living in Title I Attendance Areas	\$	\$	<input type="checkbox"/> Receiving Services <input type="checkbox"/> Declining Services <input type="checkbox"/> No Eligible Students <input type="checkbox"/> District Allocation is Less Than \$500,000 – No Reserve Required  <input type="checkbox"/> Pooling within LEA <input type="checkbox"/> Pooling Across LEAs	
<b>Title II Part A</b>	# of Students in Grades K-12, Regardless of LEA of Residence	\$	\$	<input type="checkbox"/> Receiving Services <input type="checkbox"/> Declining Services <input type="checkbox"/> Out of District Private School  <input type="checkbox"/> Pooling within LEA <input type="checkbox"/> Pooling Across LEAs	
<b>Title III Part A English Language Learner</b>	# of ELL Students in Grades K-12, Regardless of LEA of Residence	\$	\$	<input type="checkbox"/> Receiving Services <input type="checkbox"/> Declining Services <input type="checkbox"/> No Eligible Students <input type="checkbox"/> Out of District Private School  <input type="checkbox"/> Pooling within LEA <input type="checkbox"/> Pooling Across LEAs	
<b>Title III Part A Immigrant</b>	# of Immigrant Students in Grades K-12, Regardless of LEA of Residence	\$	\$	<input type="checkbox"/> Receiving Services <input type="checkbox"/> Declining Services <input type="checkbox"/> No Eligible Students <input type="checkbox"/> Out of District Private School  <input type="checkbox"/> Pooling within LEA <input type="checkbox"/> Pooling Across LEAs	
<b>Title IV Part A</b>	# of Students in Grades K-12, Regardless of LEA of Residence	\$	\$	<input type="checkbox"/> Receiving Services <input type="checkbox"/> Declining Services <input type="checkbox"/> Out of District Private School  <input type="checkbox"/> Pooling within LEA <input type="checkbox"/> Pooling Across LEAs	

Private School Administrator's Signature: \_\_\_\_\_ Date signed: \_\_\_\_\_



# What Documentation is Needed for Monitoring?

- Written Affirmation of LEA Consultation with Private School Officials
- Documentation of ongoing communication throughout the year
- Fiscal Documentation – purchase orders, invoices, expenditure reports

# Allowability

- Instructional services provided by public school employees or third-party contractors
- Instructional services that supplement and do not replace the instructional program in the participants' regular classrooms
- Expanded learning time, including before-and after-school programs
- One-on-one tutoring
- Summer school programs
- Family literacy programs
- Counseling programs
- Mentoring programs
- Computer-assisted instruction
- Home tutoring
- Instruction using take-home computers
- Materials that are secular, neutral, and nonideological

# Equitable Services Resources

<http://www.nysed.gov/essa/guidance>

## Equitable Services for Private Schools

- [Equitable Services to Non-Public Schools Consultation](#)  - July 2018



# **NYSED Support**

Please contact the Office of ESSA  
Funded Programs at (518) 473-0295  
or via email at [conappta@nysed.gov](mailto:conappta@nysed.gov) if  
you have any questions or concerns  
regarding the content of the video.

**Thank You for Your  
Continued Collaboration!**

*For Additional Guidance and  
Support*, please visit our web-  
site at:

[http://www.nysed.gov/essa/  
schools/consolidated-  
application](http://www.nysed.gov/essa/schools/consolidated-application)



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