



Secretariat of Catholic Education

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ESSA Transition For Catholic Schools

On December 10, 2015, President Obama signed the Every Student Succeeds Act (ESSA), into law. ESSA reauthorizes and amends the Elementary and Secondary Education Act of 1965 (ESEA) and replaces the No Child Left Behind (NCLB) Act passed in 2002. The law supplements educational services for low-income and at-risk students. According to the National Catholic Educational Association, more than 118,000 students in 3,546 Catholic schools receive services under ESEA's Title I. The changes in ESSA will be important for maintaining and expanding the equitable services Catholic school students, teachers, and administrators receive.

In addition to this document, Catholic school administrators may benefit from the following resources:

- Council on American Private Education's (CAPE):
 - ["Private Schools and the Every Student Succeeds Act"](#)
- USCCB's Secretariat of Catholic Education
 - [Ombudsman Toolkit](#)
- NCEA
 - [Every Student Succeeds Act Primer](#)
- US Department of Education
 - [NCLB-ESSA Equitable Services Side-by-Side](#)
 - [ESSA Transition FAQ](#) (updated June 2016)

Preparing Now For ESSA

The upcoming 2016-17 school year is intended to be a transition year from NCLB to ESSA. Full implementation of the equitable services provisions in ESSA should occur in SY 2017-18. This guide is intended to inform your upcoming consultations so that there is a smooth transition to ESSA in SY 2017-18.

During this transition year, it may be prudent to review your current Title program – which services are offered, which students are receiving those services, are services being administered efficiently, is the LEA following all provisions of the consultation process – and discuss any potential improvements among your school community and with the LEA. By defining clearly your understanding of the law and your expectations of the LEA/SEA, you may help ensure equitable treatment of Catholic school students and teachers.

What's New? - Title I

Set-Asides

Under the Department's interpretation of NCLB, LEAs were able to "set-aside" funds for school improvement that reduced the total amount of money that Catholic students' proportional share was drawn from. Under ESSA, that can no longer happen. If your state had set-asides under NCLB, you should expect your students to receive more Title I services going forward. **During this transition year, address with your LEA/SEA how you will expand services in SY 2017-18.**

States with set-asides under NCLB already had to submit plans by May 6 for carrying out their improvement plans in SY 2016-17. Under any transition plan, they must set the proportional share from their entire Title I allocation – in short, this (most likely) means more dollars for Catholic students (see [C-5d and C-5e here](#) for ED’s detailed answer). **If you are in a set-aside state, check with your LEA/SEA what they decided for transition, and what impact that will have on Title I funds for your students.**

Additional Services

Under ESSA, Title I services can now include counseling, mentoring, and one-on-one tutoring in addition to the direct instructional services and other benefits already provided for. **As you consult during SY 16-17, discuss if your students would benefit from these additional options, and if so, determine with the LEA how they will be implemented come SY 17-18, especially if there will be more dollars available.** One important consideration, especially if you use a vendor for services, is if these new options *can* be offered by the current provider.

Although the funding for family and parent engagement does not change under ESSA, it may be helpful to discuss new materials for parents if service options are expanded as there may be more and/or new students in the programs.

Ombudsman

The ombudsman is a new role appointed by the SEA to be a neutral arbiter between the LEA and non-public school officials. For a full discussion of the ombudsman role, please see the USCCB’s [“Ombudsman Toolkit.”](#) In short – **it is vital this position be neutral and understand both sides of the consultation process.**

Obligation of Funds

Beginning in SY 17-18 under ESSA, “funds allocated to a LEA... shall be obligated in the fiscal year for which the funds are received.” In general, this provision should strengthen your position during consultation to use the entirety of funds for students in the year they are allocated. **Begin discussing how you will use past “rollover” funds and construct a program that serves students using all of the funds available each year** (keeping in mind there may be increased funds available for Catholic school students because of other changes).

Consultation Enhancements

In addition to the ombudsman position, which should provide clarity and a fair arbiter during consultation, there are a number of enhancements to the consultation process to be aware of:

- LEAs and Catholic school officials “shall both have *the goal of reaching agreement* on how to provide equitable and effective programs.” (emphasis added) This is new language which strengthens the position of Catholic school officials. No longer is the requirement simply that consultation happens, but good faith must be shown of the goal to reach “agreement.”
 - The documentation form is required to include the “option for private school officials to indicate such officials’ belief that timely and meaningful consultation has not occurred or that the program design is not equitable”. **During transition, ask for the LEA to draft this documentation form and share it with Catholic school officials.**
 - For especially troublesome or non-compliant LEAs, ESSA offers Catholic schools a more robust bypass provision by placing strict time requirements for action by the SEA.
- LEAs must inform Catholic school officials how the proportionate share of funds is determined. It may be advantageous to both sides to begin sharing this information during the transition year. **Discuss receiving a full report of how the proportionate share was determined; during the**

transition year, could the LEA begin offering this information so both sides are used to sharing and reading the data when the law is fully implemented?

- If an LEA disagrees with the views of Catholic school officials with respect to delivery of services, the LEA must submit to the officials their reasoning in writing. **During transition, begin asking for documentation of any disagreements – when the ombudsman is appointed it will be better to have begun these oversight procedures.**

Title II

The most important transition year change under Title II-A (teacher professional development) is the requirement that the proportional share for Catholic teacher's PD be drawn from the entire Title II-A budget, not just the amount designated for PD, as was the case in NCLB. This may result in more resources and development opportunities for Catholic teachers. **Ask your LEA for a projected allocation for PD in SY 2017-18 and begin discussions on how to use that money – if the consultation includes planning for those funds, they become more “real” for full implementation, instead of something to be negotiated later.**

In October 2016, the Department released guidance for implementing Title II-A under ESSA. On pages 27-28, the guidance highlights the requirement for SEAs and LEAs to consult with non-government school representatives to ensure equitable participation:

Under Title II, Part A and Title VIII, SEAs and LEAs are **required** to... Provide for the equitable participation of private school teachers and other educational personnel in private schools and engage in timely and meaningful consultation with private school officials during the design and development of their Title II, Part A programs.¹⁴ (ESEA sections 8501). [*emphasis in original*]

Title IV

The two new grant programs, “Student Success and Academic Enrichment” and “Supporting High-Ability Learners and Learning” both require equitable participation for nonpublic school students. As the SEA and LEA prepare their application for these funds, it is important to ensure participation in that discussion. SSAE grants can be helpful in purchasing computers and technology for students – to qualify, **it helps if your school is already an E-rate participant**. In October 2016, the Department of Education released [guidance](#) about this program. In a footnote on page 13, the Department reiterates the requirement that Title IV-A grants allow for equitable participation. Furthermore, the footnote promises further guidance on equitable participation under all applicable Titles soon. The footnote in full:

Under sections 8501- 8504 of the ESEA, LEAs and SEAs receiving funds under Title IV, Part A must provide for the equitable participation of private school students, teachers and other educational personnel in private schools located in areas these agencies serve in Title IV, Part A funded activities, including by engaging in timely and meaningful consultation with private school officials during the design and development of their Title IV, Part A programs. New or changed requirements that affect the equitable participation of private school students, teachers and other educational personnel under the ESEA will be addressed in forthcoming guidance. Except as otherwise provided in that guidance, the existing non-regulatory Title IX, Part E Uniform Provisions, Subpart 1 – Private Schools (Revised March 2009) will remain applicable.