



Secretariat of Catholic Education

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(Submitted via Federal eRulemaking Portal)

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U.S. Department of Education
400 Maryland Avenue, SW, Room 3E306
Washington, DC 20202

Re: Implementing Programs Under Title I of the *Elementary and Secondary Education Act*—
Docket ID ED–2015–OESE–0130

We write today on behalf of the Secretariat of Catholic Education at the United States Conference of Catholic Bishops in response to the “Request for Information and Notice of Meetings” prior to the publication of proposed regulations to implement Title I of the *Elementary and Secondary Education Act* (ESEA), as amended by the *Every Student Succeeds Act* (ESSA). The request was published in the *Federal Register* December 22, 2015.

The Secretariat has worked with Congress on reauthorizing the ESEA and ensuring equitable services for teachers and students in Catholic schools since the expiration of the most recent authorization. We are encouraged by the progress made in ESSA to address the concerns of the Catholic education community. The new law offers several common sense improvements that should provide clarity, timeliness, assurances, and enhanced equity to those who benefit from federal education programs.

As you know, when ESEA was first enacted in 1965, Congress determined that federal education funding should be equitably distributed between public and private school students in order to improve the education of all children in need. However, under the recent iteration of ESEA, the principle of equitable services has eroded. As the Catholic Church teaches, “The refusal to provide economic support to non-public schools that need assistance and that render a service to civil society is to be considered an injustice.” In ESSA, Congress has made clear their desire to correct the current imbalance and strengthen the safeguards ensuring every student a high quality education, regardless of the type of institution providing it.

We submit the following comments:

First, the forthcoming regulations clearly state that provisions in Section 1117 of ESSA, which amends Section 1120 (20 U.S.C. 6320) of the *No Child Left Behind Act*, take effect starting with the 2016-17 school year, as prescribed in ESSA itself. Those provisions contain important changes that provide equity, clarity, timeliness, assurances, and overall improvements to the delivery of services to private school children and their teachers. Chief among those changes is the requirement found in Sec. 1117(a)(4)(A)(ii) that the proportionate share of funds for services to private school students be based on the total amount of funds received under Title I by the local educational agency (LEA) prior to any

allowable expenditures or transfers by the LEA. There is no reason why the implementation of this and other provisions under Section 1117, which serve only to strengthen and safeguard the law's intent that private school students receive equitable services, should be delayed. These are important and long-awaited amendments to ESEA, and a deferment in their implementation would serve no just purpose.

Second, to ensure that the intent of Congress is carried out through the implementation of ESSA, we submit that regulations should ensure that districts that are continuing their NCLB and/or education flexibility waiver interventions during the transition year as detailed in the Department's recent "Dear Colleague" letter of December 18, 2015, fund those interventions with the proportional share of funds allocated to public school students, determined after the equitable share of funds for private school students has been finalized.

Similarly, should districts activate the provisions under Section 1501 Part E for local flexibility, regulations should state that the funds in question should be flexed only after the equitable share of funds for the private school program have been allocated to serve eligible private school students.

Third, we request that, as in past rulemaking negotiations, in any negotiated rulemaking process for regulations that may impact private school students, a representative of private school students be included.

Finally, we want to bring to your attention the following two provisions in ESSA that are beyond the scope of the Title I program, but are nevertheless important to mention as issues on which non-regulatory guidance would benefit:

- Section 8015 deals with the pooling of funds. It appears the ESSA has taken this language directly from Section 1101 under the Title I program. While the content is germane to the Title I program, the language is less applicable to other covered programs in ESSA. As an example, for non-Title I programs low income students are not a factor in determining eligibility for participation. Similarly, there are no "participating attendance areas" under Titles II and III as there are under Title I. Either through regulation or guidance, the intent of this section dealing with the pooling of funds should be clarified and reconciled with each of these other program descriptions.
- Section 8015 also deleted language from NCLB that limited the funds under Title II that were subject to equitable participation. We believe that the non-regulatory guidance should make clear that the change means that a proportional share of funds should be determined on the basis of the entire allocation and not from a portion of the allocation as was done in the past under the previous authorization.

Thank you for continuing to ensure equitable services to students and teachers in private schools.

With prayerful best wishes,



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Executive Director



Greg Dolan
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