

## How the CAPE Community Did in ESSA

CAPE's Goal in Black; Result in Red

Page references are to [http://edworkforce.house.gov/uploadedfiles/every\\_student\\_succeeds\\_act\\_-\\_conference\\_report.pdf](http://edworkforce.house.gov/uploadedfiles/every_student_succeeds_act_-_conference_report.pdf)

Proposal / Result	Status
<p><b>1</b> Require that all funds generated by the count of private school students be clearly set aside for the benefit of such students and be spent for the benefit of such students. Allocations to benefit private school students should be determined before any “off the top” reservations are made for purposes that do not include such students and should not be dependent on how a state or school district elects to use ESEA funds under its waiver authority. <b>ESSA requires that the proportional share of funds for services to private school students under Title I-A be determined based on the total allocation received by the school district prior to any allowable expenditures or transfers by the district. (Sec. 1117(a)(4)(A)(ii)) [p. 187, line 20]</b></p>	Y
<p><b>2</b> Include in consultation requirements an examination of options for directing administrative and program funds set aside for the private school community through a public administrative agency or a third-party contractor who would be responsible for administering programs provided through ESEA to private school students and teachers. <b>ESSA specifies as a required topic for consultation, “whether the agency shall provide services directly or through a separate government agency, consortium, entity, or third-party contractor.” (Sec. 1117(b)(1)(I)) [p. 190, line 2]</b></p>	Y
<p><b>3</b> Require that equitable participation requirements for grants for Teacher Quality under Title II-A be determined on the basis of the full allocation of the grant, rather than only on the portion spent on professional development activities by the LEA. <b>ESSA eliminates the problematic restrictive language and requires that the determination of equitable expenditures for services to private school students be based on a district’s full allocation under Title II-A. (Sec. 8501(b)(1)(B) &amp; deletion of paragraph 3) [p. 835, lines 10 &amp; 14]</b></p>	Y
<p><b>4</b> Calculate at the state level all funds earmarked for services to students and teachers in private schools and indicate to the LEA separate allocations for services for both private and public school teachers and students. <b>ESSA requires state education departments to provide notice in a timely manner to the appropriate private school officials in the state of the allocation of funds for educational services and other benefits that local school districts have determined are available for services to eligible private school children and teachers. (Sec. 1117(a)(4)(C) [p. 188, line 9] and Sec. 8501(a)(4)(C)) [p. 834, line 22]</b></p>	P
<p><b>5</b> Require school districts to expend in a timely manner funds generated by private school students for services to such students during the school year for which the funds have been appropriated. If funds are not expended during the appropriate school year, require school districts to expend any remaining funds for services to private school students at the start of the</p>	Y

Y=Goal Achieved; N=Not Achieved; P=Partially Achieved

	subsequent school year in addition to any new allocations. ESSA states that funds allocated to a school district for educational services and other benefits to eligible private school children shall be obligated in the fiscal year for which the funds are received by the district. (Sec. 1117(a)(4)(B) [p. 188, line 3] and Sec. 8501(a)(4)(B)) [p. 834, line 16]	
6	Require school districts to provide private school officials the option to transfer or not transfer funds to benefit private school students and teachers under either Title VI or the waiver authority. ESSA Title IV-A establishes a brand new “Student Support and Academic Enrichment Grants” program for states and school districts that provides flexibility in directing funds to a broad array of educational purposes. Title IV-A is among the programs covered by ESSA’s uniform provisions relating to equitable services to students and teachers in private schools that address their needs. (Sec. 8501(b)(1)(D)) [p. 835, line 12]	P
7	Provide for the participation of private school students and teachers in any combined or newly proposed formula or competitive grant programs as well as in existing programs that are not currently available to them. See note above to #6 regarding the “Student Support and Academic Enrichment Grants.	Y
8	Establish a new section of ESEA that consolidates all provisions relating to services to private school students and teachers, or, as an alternative, include applicable private school provisions relating to the equitable participation of private school students currently found in Title I within each of the appropriate titles. ESSA accomplishes the latter by incorporating many of the equitable services safeguards of Section 1117 into Section 8501.	Y
9	Allow participants in the Troops-to-Teachers program to teach in private schools. ESSA does not amend Troops-to-Teachers.	N
10	Amend Section 1120(a)(1) to clarify that special education services provided to eligible students in private schools include, singly or in any combination, instructional services, counseling, mentoring, and tutoring. The school district would be required to provide these services and benefits at the school’s request in order to best address the needs of participating children. ESSA requires school districts to provide eligible students “on an equitable basis and individually or in combination, as requested by the [private school] officials to best meet the needs of such children, special educational services, instructional services (including evaluations to determine students’ progress in their academic needs), counseling, mentoring, one-on-one tutoring, or other benefits....” (Sec. 1117(a)(1)(A)) [p. 185, line 24]	Y
11	Require school districts to secure written affirmations from private school officials that timely and meaningful consultation has taken place in connection with all programs serving private school students and teachers. Provide a section on the written affirmation for private school officials to indicate that timely and meaningful consultation has not occurred, in order that the SEA might be informed about the process and results. ESSA states	Y

	the following: “Each local educational agency shall maintain in the agency's records and provide to the State educational agency involved 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 such officials’ belief that timely and meaningful consultation has not occurred or that the program design is not equitable with respect to eligible private school children.” (Sec. 1117(b)(5) [p. 191, line 19] and Sec. 8501(c)(5)) [p. 837, line 11]	
12	Require school districts that disagree with private school officials over any issues involved in the consultation process to provide in writing the reason why the LEA has chosen a different course of action. With respect to Title I, ESSA states, “If a local educational agency disagrees with the views of private school officials with respect to an issue described in paragraph (1), the local educational agency shall provide in writing to such private school officials the reasons why the local educational agency disagrees.” (Sec. 1117(b)(2)) [p. 191, line 9]	Y
13	Include among the topics of required consultation the issue of pooling funds generated by private school students for the purposes of improving services to students and teachers. Require that school districts honor the request by private school officials to pool funds. Although ESSA does not <i>require</i> school districts to honor a request for pooling, it does identify as a topic of consultation “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)(A) 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)(A) based on the number of children from low-income families who attend private schools; (Sec. 1117(b)(1)(J) [p. 190, line 6] and Sec. 8501(c)(1)(H))[with references to different subsections] [p. 836, line 21]	P
14	Establish that the goal of consultation be to reach agreement between school district officials and private school officials on the various issues identified in the law as required topics for consultation. ESSA provides, “Such agency and private school officials shall both have the goal of reaching agreement on how to provide equitable and effective programs for eligible private school children.” (Sec. 1117(b)(1) [p. 189, line 4] and Sec. 8501(c)(1)) [p. 835, line 23]	Y
15	Require states to include in their consolidated grant applications from school districts adequate and specific assurances that timely and meaningful consultation with private school officials has taken place. Various sections of ESSA require that state education departments and local school districts provide assurances in their respective applications for grants that the agency in question will comply with provisions relating to the equitable	Y

	participation of private school children and teachers. [e.g., p. 284, line 4; p. 328, line 5; p. 334, line 6; p. 472, line 10]	
16	Streamline the bypass provision and the complaint process and shorten the bypass/complaint implementation timeline. ESSA strengthens and streamlines the complaint procedure by (a) adding explicit complaint procedures to the uniform provisions in Title VIII that parallel those in Title I; (b) adding the failure of a local educational agency to “make a decision that treats the private school students equitably” as a reason for filing a complaint; and (c) specifying a 45-day time period by which a state must resolve a complaint, and a 90-day time period by which the U.S. Secretary of Education must resolve a complaint. (Sec. 1117(b)(6); (Sec. 8501(c)(6); (Sec. 8503(a); and (Sec. 8503(b)) [p. 192, line 16; p. 838, line 3; p. 839, line 19; p. 840, line 4]	Y
17	Establish a threshold for “substantial failure,” as used in Sections 1120(e) and 9502(a), based on a fixed number or percentage of eligible students in private schools within a district who should be served but are not, that would automatically require the delivery of services (e.g., through a bypass or an alternative method). Although ESSA does not identify a fixed number or percentage of students not served as a condition for a bypass, it does require a state education department to provide services, directly or through a third-party contract, if private school officials have requested it to do so and have demonstrated that the local school district has failed to provide equitable services. (Sec. 1117(b)(6)(C) [p. 193, line 1] and Sec. 8501(c)(6)(C)) [p. 838, line 21]	P
18	Require each state education agency to identify a private school ombudsman to advocate for private schools and to monitor and enforce requirements regarding private school participation in federal education programs. ESSA requires state education departments to designate an ombudsman to monitor and enforce the equitability requirements on school districts to help ensure equity for private school children, teachers, and other educational personnel. (Sec. 1117(a)(3)(B) [p. 187, line 3] and Sec. 8501(a)(3)(B)) [p. 833, line 21]	Y