



## Major Private School Provisions in the 2015 Every Student Succeeds Act Compared to Current Law

Current Law	Every Student Succeeds Act
<p><b>Sec. 6320. PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS.</b>  <b>(a) General Requirement-</b>            (1) IN GENERAL- To the extent consistent with the number of eligible children identified under section 6315(b) of this title in the school district served by a local educational agency who are enrolled in private elementary schools and secondary schools, a local educational agency shall, after timely and meaningful consultation with appropriate private school officials, provide such children, on an equitable basis, special educational services or other benefits under this part (such as dual enrollment, educational radio and television, computer equipment and materials, other technology, and mobile educational services and equipment) that address their needs, and shall ensure that teachers and families of the children participate, on an equitable basis, in services and activities developed pursuant to sections 6318 and 6319 of this title.</p>	<p><b>SEC. 1117. PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS.</b>  <b>(a) General Requirement-</b>            (1) IN GENERAL- To the extent consistent with the number of eligible children identified under section 1115(c) in the school district served by a local educational agency who are enrolled in private elementary schools and secondary schools, a local educational agency shall-            (A) after timely and meaningful consultation with appropriate private school officials, provide such children, on an equitable basis <b>and individually or in combination, as requested by the officials to best meet the needs of such children</b>, special educational services, <b>instructional services (including evaluations to determine the progress being made in meeting such students’ academic needs), counseling, mentoring, one-on-one tutoring</b>, or other benefits under this part (such as dual <b>or concurrent</b> enrollment, educational radio and television, computer equipment and materials, other technology, and mobile educational services and equipment) that address their needs; and            (B) ensure that teachers and families of the children participate, on an equitable basis, in services and activities developed pursuant to section 1116.</p>
<p>(2) SECULAR, NEUTRAL, NONIDEOLOGICAL- Such educational services or other benefits, including materials and equipment, shall be secular, neutral, and nonideological.</p>	<p>(2) SECULAR, NEUTRAL, NONIDEOLOGICAL- Such educational services or other benefits, including materials and equipment, shall be secular, neutral, and nonideological.</p>
<p>(3) EQUITY- Educational services and other benefits for such private school children shall be equitable in comparison to services and other benefits for public school children participating under this part, and shall be provided in a timely manner.</p>	<p>(3) EQUITY-            (A) IN GENERAL- Educational services and other benefits for such private school children shall be equitable in comparison to services and other benefits for public school children participating under this part, and shall be provided in a timely manner.  <b>(B) OMBUDSMAN- To help ensure such equity for such private school children, teachers, and other educational personnel, the State educational agency involved shall designate an ombudsman to monitor and enforce the requirements of this part.</b></p>
<p>(4) EXPENDITURES- Expenditures for educational services and other benefits to eligible private school children shall be equal to the proportion of funds allocated to participating school attendance areas based on the number of children from low-income families who attend private schools, which the local educational agency may determine each year or every 2 years.</p>	<p>(4) EXPENDITURES-            (A) DETERMINATION-            (i) IN GENERAL- Expenditures for educational services and other benefits to eligible private school children shall be equal to the proportion of funds allocated to participating school attendance areas based on the number of children from low-income families who attend private schools.  <b>(ii) PROPORTIONAL SHARE- The proportional share of funds shall be determined based on the total amount of funds</b></p>

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	<p>received by the local educational agency under this part prior to any allowable expenditures or transfers by the local educational agency.</p> <p>(B) OBLIGATION OF FUNDS- Funds allocated to a local educational agency 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 agency.</p> <p>(C) NOTICE OF ALLOCATION- Each State educational agency shall 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 under this part that the local educational agencies have determined are available for eligible private school children.</p> <p>(D) TERM OF DETERMINATION- The local educational agency may determine the equitable share under subparagraph (A) each year or every 2 years.</p>
<p>(5) PROVISION OF SERVICES- The local educational agency may provide services under this section directly or through contracts with public and private agencies, organizations, and institutions.</p>	<p>(5) PROVISION OF SERVICES- The local educational agency, or, in a case described in subsection (b)(6)(C), the State educational agency involved, may provide services under this section directly or through contracts with public or private agencies, organizations, and institutions.</p>
<p><b>(b) Consultation-</b></p> <p>(1) IN GENERAL- To ensure timely and meaningful consultation, a local educational agency shall consult with appropriate private school officials during the design and development of such agency's programs under this part, on issues such as -</p> <p>(A) how the children's needs will be identified;</p> <p>(B) what services will be offered;</p> <p>(C) how, where, and by whom the services will be provided;</p> <p>(D) how the services will be academically assessed and how the results of that assessment will be used to improve those services;</p> <p>(E) the size and scope of the equitable services to be provided to the eligible private school children, and the proportion of funds that is allocated under subsection (a)(4) of this section for such services;</p> <p>(F) the method or sources of data that are used under subsection (c) of this section and section 6313(c)(1) of this title to determine the number of children from low-income families in participating school attendance areas who attend private schools;</p> <p>(G) 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; and</p> <p>(H) 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.</p>	<p><b>(b) Consultation-</b></p> <p>(1) IN GENERAL- To ensure timely and meaningful consultation, a local educational agency shall consult with appropriate private school officials during the design and development of such agency's programs under this part. 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, the results of which agreement shall be transmitted to the ombudsmen designated under subsection (a)(3)(B). Such process shall include consultation on issues such as-</p> <p>(A) how the children's needs will be identified;</p> <p>(B) what services will be offered;</p> <p>(C) how, where, and by whom the services will be provided;</p> <p>(D) how the services will be academically assessed and how the results of that assessment will be used to improve those services;</p> <p>(E) the size and scope of the equitable services to be provided to the eligible private school children, and the proportion of funds that is allocated under subsection (a)(4)(A) for such services, and how that proportion of funds is determined;</p> <p>(F) the method or sources of data that are used under subsection (c) and section 1113(c)(1) to determine the number of children from low-income families in participating school attendance areas who attend private schools;</p> <p>(G) 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;</p> <p>(H) how, if the agency disagrees with the views of the private</p>

	<p>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;</p> <p>(I) whether the agency shall provide services directly or through a separate government agency, consortium, entity, or third-party contractor.</p> <p>(J) whether to provide equitable services to eligible private school children-</p> <p>(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</p> <p>(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;</p> <p>(K) when, including the approximate time of day, services will be provided; and</p> <p>(L) whether to consolidate and use funds provided under subsection (a)(4) in coordination with eligible funds available for private schools services under applicable programs, as defined in section 8501(b)(l) to provide services to eligible private school children participating in programs.</p>
	<p>(2) DISAGREEMENT- 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.</p>
<p>(2) TIMING- Such consultation shall include meetings of agency and private school officials and shall occur before the local educational agency makes any decision that affects the opportunities of eligible private school children to participate in programs under this part. Such meetings shall continue throughout implementation and assessment of services provided under this section.</p>	<p>(3) TIMING- Such consultation shall include meetings of agency and private school officials and shall occur before the local educational agency makes any decision that affects the opportunities of eligible private school children to participate in programs under this subpart. Such meetings shall continue throughout implementation and assessment of services provided under this section.</p>
<p>(3) DISCUSSION- Such consultation shall include a discussion of service delivery mechanisms a local educational agency can use to provide equitable services to eligible private school children.</p>	<p>(4) DISCUSSION- Such consultation shall include a discussion of service delivery mechanisms a local educational agency can use to provide equitable services to eligible private school children.</p>
<p>(4) DOCUMENTATION- 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 consultation required by this section has occurred. If such officials do not provide such affirmation within a reasonable period of time, the local educational agency shall forward the documentation that such consultation has taken place to the State educational agency.</p>	<p>(5) DOCUMENTATION- 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. If such officials do not provide such affirmation within a reasonable period of time, the local educational agency shall forward the documentation that such consultation has, or attempts at such consultation have,</p>

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<p>(5) COMPLIANCE-</p> <p>(A) IN GENERAL- A private school official shall have the right to complain to the State educational agency that the local educational agency did not engage in consultation that was meaningful and timely, or did not give due consideration to the views of the private school official.</p> <p>(B) PROCEDURE- If the private school official wishes to complain, the official shall provide the basis of the noncompliance with this section by the local educational agency to the State educational agency, and the local educational agency shall forward the appropriate documentation to the State educational agency.</p>	<p>taken place to the State educational agency.</p> <p>(6) COMPLIANCE-</p> <p>(A) IN GENERAL- A private school official shall have the right to <b>file a complaint with</b> the State educational agency <b>asserting</b> that the local educational agency did not engage in consultation that was meaningful and timely, did not give due consideration to the views of the private school official, <b>or did not make a decision that treats the private school students equitably as required by this section.</b></p> <p>(B) PROCEDURE- If the private school official wishes to <b>file a complaint</b>, the official shall provide the basis of the noncompliance with this section by the local educational agency to the State educational agency, and the local educational agency shall forward the appropriate documentation to the State educational agency.</p> <p><b>(C) STATE EDUCATIONAL AGENCIES- A State educational agency shall provide services under this section directly or through contracts with public or private agencies, organizations, and institutions, if the appropriate private school officials have-</b></p> <p><b>(I) requested that the State educational agency provide such services directly; and</b></p> <p><b>(II) demonstrated that the local educational agency involved has not met the requirements of this section in accordance with the procedures for making such a request, as prescribed by the State educational agency.</b></p>
<p><b>(c) Allocation for Equitable Service to Private School Students-</b></p> <p>(1) CALCULATION- A local educational agency shall have the final authority, consistent with this section, to calculate the number of children, ages 5 through 17, who are from low-income families and attend private schools by -</p> <p>(A) using the same measure of low income used to count public school children;</p> <p>(B) using the results of a survey that, to the extent possible, protects the identity of families of private school students, and allowing such survey results to be extrapolated if complete actual data are unavailable;</p> <p>(C) applying the low-income percentage of each participating public school attendance area, determined pursuant to this section, to the number of private school children who reside in that school attendance area; or</p> <p>(D) using an equated measure of low income correlated with the measure of low income used to count public school children.</p>	<p><b>(c) Allocation for Equitable Service to Private School Students-</b></p> <p>(1) CALCULATION- A local educational agency shall have the final authority, consistent with this section, to calculate the number of children, ages 5 through 17, who are from low-income families and attend private schools by-</p> <p>(A) using the same measure of low income used to count public school children;</p> <p>(B) using the results of a survey that, to the extent possible, protects the identity of families of private school students, and allowing such survey results to be extrapolated if complete actual data are unavailable;</p> <p>(C) applying the low-income percentage of each participating public school attendance area, determined pursuant to this section, to the number of private school children who reside in that school attendance area; or</p> <p>(D) using an equated measure of low income correlated with the measure of low income used to count public school children.</p>
<p>(2) COMPLAINT PROCESS- Any dispute regarding low-income data for private school students shall be subject to the complaint process authorized in section 7883 of this title.</p>	<p>(2) COMPLAINT PROCESS- Any dispute regarding low-income data for private school students shall be subject to the complaint process authorized in section 8503.</p>
<p><b>(d) Public Control of Funds-</b></p> <p>(1) IN GENERAL- The control of funds provided under this part, and title to materials, equipment, and property purchased with such funds, shall be in a public agency, and a public agency shall administer such funds, materials, equipment, and property.</p>	<p><b>(d) Public Control of Funds-</b></p> <p>(1) IN GENERAL- The control of funds provided under this subpart, and title to materials, equipment, and property purchased with such funds, shall be in a public agency, and a public agency shall administer such funds, materials, equipment, and property.</p>

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<p>(2) PROVISION OF SERVICES- (A) PROVIDER- The provision of services under this section shall be provided - (i) by employees of a public agency; or (ii) through contract by such public agency with an individual, association, agency, or organization. (B) REQUIREMENT- In the provision of such services, such employee, individual, association, agency, or organization shall be independent of such private school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency.</p>	<p>(2) PROVISION OF SERVICES- (A) PROVIDER- The provision of services under this section shall be provided- (i) by employees of a public agency; or (ii) through a contract by such public agency with an individual, association, agency, or organization. (B) REQUIREMENT- In the provision of such services, such employee, individual, association, agency, or organization shall be independent of such private school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency.</p>
<p><b>(e) Standards for a Bypass-</b> If a local educational agency is prohibited by law from providing for the participation in programs on an equitable basis of eligible children enrolled in private elementary schools and secondary schools, or if the Secretary determines that a local educational agency has substantially failed or is unwilling, to provide for such participation, as required by this section, the Secretary shall - (1) waive the requirements of this section for such local educational agency; (2) arrange for the provision of services to such children through arrangements that shall be subject to the requirements of this section and sections 7883 and 7884 of this title; and (3) in making the determination under this subsection, consider one or more factors, including the quality, size, scope, and location of the program and the opportunity of eligible children to participate.</p>	<p><b>(e) Standards for a Bypass-</b> If a local educational agency is prohibited by law from providing for the participation in programs on an equitable basis of eligible children enrolled in private elementary schools and secondary schools, or if the Secretary determines that a local educational agency has substantially failed or is unwilling to provide for such participation, as required by this section, the Secretary shall- (1) waive the requirements of this section for such local educational agency; (2) arrange for the provision of services to such children through arrangements that shall be subject to the requirements of this section and sections 8503 and 8504; and (3) in making the determination under this subsection, consider one or more factors, including the quality, size, scope, and location of the program and the opportunity of eligible children to participate.</p>
<p><b>SEC. 7881. PARTICIPATION BY PRIVATE SCHOOL CHILDREN AND TEACHERS.</b> <b>(a) Private School Participation</b> (1) IN GENERAL- Except as otherwise provided in this chapter, to the extent consistent with the number of eligible children in areas served by a State educational agency, local educational agency, educational service agency, consortium of those agencies, or another entity receiving financial assistance under a program specified in subsection (b) of this section, who are enrolled in private elementary schools and secondary schools in areas served by such agency, consortium, or entity, the agency, consortium, or entity shall, after timely and meaningful consultation with appropriate private school officials provide to those children and their teachers or other educational personnel, on an equitable basis, special educational services or other benefits that address their needs under the program.</p>	<p><b>SEC. 8501. PARTICIPATION BY PRIVATE SCHOOL CHILDREN AND TEACHERS.</b> <b>(a) Private School Participation-</b> (1) IN GENERAL- Except as otherwise provided in this Act, to the extent consistent with the number of eligible children in areas served by a State educational agency, local educational agency, educational service agency, consortium of those agencies, or another entity receiving financial assistance under a program specified in subsection (b), who are enrolled in private elementary schools and secondary schools in areas served by such agency, consortium, or entity, the agency, consortium, or entity shall, after timely and meaningful consultation with appropriate private school officials, provide to those children and their teachers or other educational personnel, on an equitable basis, special educational services or other benefits that address their needs under the program.</p>
<p>(2) SECULAR, NEUTRAL, AND NONIDEOLOGICAL SERVICES OR BENEFITS- Educational services or other benefits, including materials and equipment, provided under this section, shall be secular, neutral, and nonideological.</p>	<p>(2) SECULAR, NEUTRAL, AND NONIDEOLOGICAL SERVICES OR BENEFITS- Educational services or other benefits, including materials and equipment, provided under this section, shall be secular, neutral, and nonideological.</p>
<p>(3) SPECIAL RULE- Educational services and other benefits provided under this section for private school children, teachers, and other educational personnel shall be equitable</p>	<p>(3) SPECIAL RULE- <b>(A) In General-</b> Educational services and other benefits provided under this section for private school children,</p>

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<p>in comparison to services and other benefits for public school children, teachers, and other educational personnel participating in the program and shall be provided in a timely manner.</p>	<p>teachers, and other educational personnel shall be equitable in comparison to services and other benefits for public school children, teachers, and other educational personnel participating in the program and shall be provided in a timely manner.  <b>(B) OMBUDSMAN-</b> To help ensure equitable services are provided to private school children, teachers, and other educational personnel under this section, the State educational agency involved shall direct the ombudsman designated by the agency under section 1117 to monitor and enforce requirements of this section.</p>
<p>(4) EXPENDITURES- Expenditures for educational services and other benefits provided under this section for eligible private school children, their teachers, and other educational personnel serving those children shall be equal, taking into account the number and educational needs of the children to be served, to the expenditures for participating public school children.</p>	<p>(4) EXPENDITURES-  <b>(A) IN GENERAL-</b> Expenditures for educational services and other benefits provided under this section for eligible private school children, their teachers, and other educational personnel serving those children shall be equal, taking into account the number and educational needs of the children to be served, to the expenditures for participating public school children.  <b>(B) OBLIGATION OF FUNDS-</b> Funds allocated to a local educational agency 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 agency.  <b>(C) NOTICE OF ALLOCATION-</b> Each State educational agency shall 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 under this subpart that the local educational agencies have determined are available for eligible private school children.</p>
<p>(5) PROVISION OF SERVICES- An agency, consortium, or entity described in subsection (a)(1) of this section may provide those services directly or through contracts with public and private agencies, organizations, and institutions.</p>	<p>(5) PROVISION OF SERVICES- An agency, consortium, or entity described in subsection (a)(1) of this section may provide those services directly or through contracts with public and private agencies, organizations, and institutions.</p>
<p><b>(b) Applicability</b>  (1) IN GENERAL- This section applies to programs under -  <b>(A)</b> subparts 1 and 3 of part B of subchapter I of this chapter;  <b>(B)</b> part C of subchapter I of this chapter;  <b>(C)</b> part A of subchapter II of this chapter, to the extent provided in paragraph (3);  <b>(D)</b> part B of subchapter II of this chapter;  <b>(E)</b> part D of subchapter II of this chapter;  <b>(F)</b> part A of subchapter III of this chapter;  <b>(G)</b> part A of subchapter IV of this chapter; and  <b>(H)</b> part B of subchapter IV of this chapter.</p>	<p><b>(b) Applicability-</b>  (1) IN GENERAL- This section applies to programs under-  <b>(A)</b> part C of title I;  <b>(B)</b> part A of title II;  <b>(C)</b> part A of title III;  <b>(D)</b> part A of title IV; and  <b>(E)</b> part B of title IV.</p>
<p>(2) DEFINITION- For the purpose of this section, the term "eligible children" means children eligible for services under a program described in paragraph (1).</p>	<p>(2) DEFINITION- For the purpose of this section, the term 'eligible children' means children eligible for services under a program described in paragraph (1).</p>
<p>(3) Application  <b>(A)</b> Except as provided in subparagraph (B), this subpart, including subsection (a)(4) of this section, applies to funds awarded to a local educational agency under part A of subchapter II of this chapter only to the extent that the local educational agency uses funds under that part to provide</p>	<p>[Paragraph 3 deleted.]</p>

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<p>professional development to teachers and others. (B) Subject to subparagraph (A), the share of the local educational agency's subgrant under part A of subchapter II of this chapter that is used for professional development and subject to a determination of equitable expenditures under subsection (a)(4) of this section shall not be less than the aggregate share of that agency's awards that were used for professional development for fiscal year 2001 under section 2203(1)(B) (as such section was in effect on the day preceding January 8, 2002) and section 306 of the Department of Education Appropriations Act, 2001.</p>	
<p><b>(c) Consultation</b> (1) IN GENERAL- To ensure timely and meaningful consultation, a State educational agency, local educational agency, educational service agency, consortium of those agencies, or entity shall consult with appropriate private school officials during the design and development of the programs under this chapter, on issues such as - (A) how the children's needs will be identified; (B) what services will be offered; (C) how, where, and by whom the services will be provided; (D) how the services will be assessed and how the results of the assessment will be used to improve those services; (E) the size and scope of the equitable services to be provided to the eligible private school children, teachers, and other educational personnel and the amount of funds available for those services; and (F) 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 contract services through potential third-party providers.</p>	<p><b>(c) Consultation-</b> (1) IN GENERAL- To ensure timely and meaningful consultation, a State educational agency, local educational agency, educational service agency, consortium of those agencies, or entity shall consult with appropriate private school officials. <b>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 on issues such as -</b> (A) how the children's needs will be identified; (B) what services will be offered; (C) how, where, and by whom the services will be provided; (D) how the services will be assessed and how the results of the assessment will be used to improve those services; (E) 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, <b>and how that amount is determined;</b> (F) 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 or contractors; and (G) 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 (H) 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)(C) 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)(C) based on the number of children from low-income families who attend private schools.</p>
<p>(2) DISAGREEMENT- If the agency, consortium, or entity disagrees with the views of the private school officials on the provision of services through a contract, the agency, consortium, or entity shall provide to the private school officials a written explanation of the reasons why the local educational agency has chosen not to use a contractor.</p>	<p>(2) DISAGREEMENT- If the agency, consortium, or entity disagrees with the views of the private school officials on the provision of services through a contract, the agency, consortium, or entity shall provide to the private school officials a written explanation of the reasons why the local educational agency has chosen not to use a contractor.</p>
<p>(3) TIMING- The consultation required by paragraph (1) shall occur before the agency, consortium, or entity makes</p>	<p>(3) TIMING- The consultation required by paragraph (1) shall occur before the agency, consortium, or entity makes</p>

<p>any decision that affects the opportunities of eligible private school children, teachers, and other educational personnel to participate in programs under this chapter, and shall continue throughout the implementation and assessment of activities under this section.</p>	<p>any decision that affects the opportunities of eligible private school children, teachers, and other educational personnel to participate in programs under this Act, and shall continue throughout the implementation and assessment of activities under this section.</p>
<p>(4) DISCUSSION REQUIRED- The consultation required by paragraph (1) shall include a discussion of service delivery mechanisms that the agency, consortium, or entity could use to provide equitable services to eligible private school children, teachers, administrators, and other staff.</p>	<p>(4) DISCUSSION REQUIRED- The consultation required by paragraph (1) shall include a discussion of service delivery mechanisms that the agency, consortium, or entity could use to provide equitable services to eligible private school children, teachers, administrators, and other staff.</p>
	<p>(5) DOCUMENTATION- 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. If such officials do not provide such affirmation within a reasonable period of time, the local educational agency shall forward the documentation that such consultation has, or attempts at such consultation have, taken place to the State educational agency.</p>
	<p>(6) COMPLIANCE-  (A) IN GENERAL- If the consultation required under this section is with a local educational agency or educational service agency, a private school official shall have the right to file a complaint with the State educational agency that the consultation required under this section was not meaningful and timely, did not give due consideration to the views of the private school official, or did not make a decision that treats the private school or its students equitably as required by this section.  (B) PROCEDURE- If the private school official wishes to file a complaint, the private school official shall provide the basis of the noncompliance and all parties shall provide the appropriate documentation to the appropriate officials.  (C) SERVICES- A State educational agency shall provide services under this section directly or through contracts with public and private agencies, organizations, and institutions, if the appropriate private school officials have-  (i) requested that the State educational agency provide such services directly; and  (ii) demonstrated that the local educational agency involved has not met the requirements of this section in accordance with the procedures for making such a request, as prescribed by the State educational agency.</p>
<p><b>(d) Public Control of Funds</b>  (1) IN GENERAL- The control of funds used to provide services under this section, and title to materials, equipment, and property purchased with those funds, shall be in a public agency for the uses and purposes provided in this chapter, and a public agency shall administer the funds and property.</p>	<p><b>(d) Public Control of Funds-</b>  (1) IN GENERAL- The control of funds used to provide services under this section, and title to materials, equipment, and property purchased with those funds, shall be in a public agency for the uses and purposes provided in this Act, and a public agency shall administer the funds and property.</p>



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<p>(2) PROVISION OF SERVICES-</p> <p>(A) IN GENERAL- The provision of services under this section shall be provided -</p> <p>(i) by employees of a public agency; or</p> <p>(ii) through contract by the public agency with an individual, association, agency, organization, or other entity.</p> <p>(B) INDEPENDENCE; PUBLIC AGENCY- In the provision of those services, the employee, person, association, agency, organization, or other entity shall be independent of the private school and of any religious organization, and the employment or contract shall be under the control and supervision of the public agency.</p> <p>(C) COMMINGLING OF FUNDS PROHIBITED- Funds used to provide services under this section shall not be commingled with non-Federal funds.</p>	<p>(2) PROVISION OF SERVICES-</p> <p>(A) IN GENERAL- The provision of services under this section shall be provided-</p> <p>(i) by employees of a public agency; or</p> <p>(ii) through contract by the public agency with an individual, association, agency, organization, or other entity.</p> <p>(B) INDEPENDENCE; PUBLIC AGENCY- In the provision of those services, the employee, person, association, agency, organization, or other entity shall be independent of the private school and of any religious organization, and the employment or contract shall be under the control and supervision of the public agency.</p> <p>(C) COMMINGLING OF FUNDS PROHIBITED- Funds used to provide services under this section shall not be commingled with non-Federal funds.</p>
<p><b>Sec. 7882. STANDARDS FOR BY-PASS</b></p> <p><b>(a) In general-</b> If, by reason of any provision of law, a State educational agency, local educational agency, educational service agency, consortium of those agencies, or other entity is prohibited from providing for the participation in programs of children enrolled in, or teachers or other educational personnel from, private elementary schools and secondary schools, on an equitable basis, or if the Secretary determines that the agency, consortium, or entity has substantially failed or is unwilling to provide for that participation, as required by section 7881 of this title, the Secretary shall -</p> <p>(1) waive the requirements of that section for the agency, consortium, or entity; and</p> <p>(2) arrange for the provision of equitable services to those children, teachers, or other educational personnel through arrangements that shall be subject to the requirements of this section and of sections 7881, 7883, and 7884 of this title.</p>	<p><b>SEC. 8502. STANDARDS FOR BY-PASS.</b></p> <p><b>(a) In general-</b> If, by reason of any provision of law, a State educational agency, local educational agency, educational service agency, consortium of those agencies, or other entity is prohibited from providing for the participation in programs of children enrolled in, or teachers or other educational personnel from, private elementary schools and secondary schools, on an equitable basis, or if the Secretary determines that the agency, consortium, or entity has substantially failed or is unwilling to provide for that participation, as required by section 8501, the Secretary shall-</p> <p>(1) waive the requirements of that section for the agency, consortium, or entity; and</p> <p>(2) arrange for the provision of equitable services to those children, teachers, or other educational personnel through arrangements that shall be subject to the requirements of this section and of sections 8501, 8503, and 8504.</p>
<p><b>(b) Determination-</b> In making the determination under subsection (a) of this section, the Secretary shall consider one or more factors, including the quality, size, scope, and location of the program, and the opportunity of private school children, teachers, and other educational personnel to participate in the program.</p>	<p><b>(b) Determination-</b> In making the determination under subsection (a), the Secretary shall consider one or more factors, including the quality, size, scope, and location of the program, and the opportunity of private school children, teachers, and other educational personnel to participate in the program.</p>
<p><b>Sec. 7883. COMPLAINT PROCESS FOR PARTICIPATION OF PRIVATE SCHOOL CHILDREN.</b></p> <p><b>(a) Procedures for Complaints-</b> The Secretary shall develop and implement written procedures for receiving, investigating, and resolving complaints from parents, teachers, or other individuals and organizations concerning violations of section 7881 of this title by a State educational agency, local educational agency, educational service agency, consortium of those agencies, or entity. The individual or organization shall submit the complaint to the State educational agency for a written resolution by the State educational agency within a reasonable period of time.</p>	<p><b>SEC. 8503. COMPLAINT PROCESS FOR PARTICIPATION OF PRIVATE SCHOOL CHILDREN.</b></p> <p><b>(a) Procedures for Complaints-</b> The Secretary shall develop and implement written procedures for receiving, investigating, and resolving complaints from parents, teachers, or other individuals and organizations concerning violations of section 8501 by a State educational agency, local educational agency, educational service agency, consortium of those agencies, or entity. The individual or organization shall submit the complaint to the State educational agency for a written resolution by the State educational agency <b>within 45 days.</b></p>
<p><b>(b) Appeals to Secretary-</b> The resolution may be appealed</p>	<p><b>(b) Appeals to Secretary-</b> The resolution may be appealed</p>

by an interested party to the Secretary not later than 30 days after the State educational agency resolves the complaint or fails to resolve the complaint within a reasonable period of time. The appeal shall be accompanied by a copy of the State educational agency's resolution, and a complete statement of the reasons supporting the appeal. The Secretary shall investigate and resolve the appeal not later than 120 days after receipt of the appeal.

by an interested party to the Secretary not later than 30 days after the State educational agency resolves the complaint or fails to resolve the complaint **within the 45-day time limit**. The appeal shall be accompanied by a copy of the State educational agency's resolution, and, if there is one, a complete statement of the reasons supporting the appeal. The Secretary shall investigate and resolve the appeal not later than **90 days** after receipt of the appeal.