

**TEA Procedure for Offering PNP Equitable Services upon Request  
ESSA, Sections 1117, 8501**

**1. PURPOSE OF POLICY AND PROCEDURES**

The purpose of this policy and procedure is to meet the ESSA requirements when a participating private nonprofit school files a complaint against the school district and requests the state to provide its equitable services under ESSA programs, and the ombudsman substantiates the validity of the complaint.

**2. REGULATORY REQUIREMENT**

**Federal Requirements**

- SEC. 1117. PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS.
  - (b) CONSULTATION.—
  - (6) COMPLIANCE.—
    - (A) IN GENERAL.—*A private school official shall have the right to file a complaint with to the State educational agency asserting 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, or did not make a decision that treats the private school students equitably as required by this section.*
    - (B) PROCEDURE.—*If the private school official wishes to file a complaint, 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.*
    - (C) STATE EDUCATIONAL AGENCIES.—*A State educational agency shall provide services under this section directly or through contracts with public or private agencies, organizations, or 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.*
- SEC. 8501. PARTICIPATION BY PRIVATE SCHOOL CHILDREN AND TEACHERS.
  - (c) CONSULTATION.—
  - (6) 14 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.*

### **3. STATEMENT OF POLICY**

Pursuant to ESSA statutory provisions listed above, the TEA office of the PNP ombudsman within the Department of Contracts, Grants and Financial Administration will provide equitable services to private nonprofit schools through a provision of services grant to the regional education service center (ESC) within whose boundaries the PNP is located, or an adjacent ESC if preferred by the PNP due to location. If the PNP requests services through a third party contractor other than the ESC, TEA will consider such requests.

### **4. PROCEDURES FOR ESC SERVICES**

- a) If the provision of services is required above, TEA will reduce the appropriate LEA's grant award by the amount of equitable services plus an additional 10% for administration of the equitable services to be provided.
- b) TEA will notify the appropriate ESC and award a grant for the provision of the equitable services to the PNP.
- c) The ESC will conduct PNP consultation in coordination with TEA staff.
- d) The ESC will provide the equitable services directly or enter into a third-party contract with a vendor off TEA's approved list of providers (discussed below).

### **5. THIRD-PARTY CONTRACTOR SERVICES**

- a) To prepare for the possibility of other third party contractors for equitable services, TEA will conduct a contractual solicitation in the Fall of 2018 to develop a list of approved third party equitable services providers.
- b) TEA will issue a noncompetitive procurement approval in response to the ESC's written request (allowed under EDGAR) for the ESC to contract with any approved vendor on the state list without any additional procurement activities being required.

### **6. MONITORING**

The ombudsman's staff will ensure ESCs maintain compliance with applicable programmatic equitable services requirements through random validation processes.

Through monitoring activities, Federal Fiscal Monitoring Division staff will ensure that ESCs maintain compliance with applicable fiscal requirements of federal grants to meet project goals. By applying a risk assessment methodology to select the appropriate subrecipients for monitoring, the agency can identify subrecipients that are at risk of not complying with federal statutes and terms and conditions of applicable grants, which may ultimately result in federal funds being used for unauthorized purposes.

## **7. ASSESSMENT OF RISK AT THE SUBRECIPIENT LEVEL**

### **Annual Federal Fiscal Risk Assessment**

As a pass-through entity, TEA awards federal grant funds to eligible subrecipients, including local educational agencies (school districts and open-enrollment charter schools). The responsibilities of pass-through entities are given in Title 2 of the Code of Federal Regulations, Part 200.331, which requires TEA to “evaluate each subrecipient’s risk of noncompliance with federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring.”

The risk assessment criteria include indicators and weights derived from multiple sources. Each subrecipient is allotted points based upon these criteria, and assigned a risk level of high, medium, or low based on the total number of points allotted.