

# Equitable Services to Non-public Schools

## Carryover Request under the Every Student Succeeds Act



**COLORADO**  
Department of Education

### Requirements under the Every Student Succeeds Act

Non-public schools are eligible to receive equitable services under Title I, Part A and Title VIII provisions of the Elementary and Secondary Education Act (ESEA), reauthorized as the Every Student Succeeds Act (ESSA). Sections 1118(a)(4)(B) and 8401(a)(1)(B) require funds allocated to a local educational agency (LEA) for educational services and other benefits to eligible private school children, teachers and other educational personnel, and families to be obligated in the fiscal year for which the funds are received by the LEA. Inherent in the requirement to obligate funds in the year in which they are received is a restriction against permitting LEAs to carryover the funds intended to provide equitable services to non-public schools.

### Guidance from the U.S. Department of Education

The U.S. Department of Education released guidance in November 2016 addressing changes to the equitable services requirements under ESSA, including the requirement to obligate funds in the year in which they are appropriated. The guidance reiterates that the purpose of the requirement is to ensure the funds set-aside for equitable services are supporting eligible students, teachers, families, and staff in a timely manner, and also emphasizes the importance of the consultation process in meeting this requirement.

The U.S. Department of Education further clarifies that the requirement should be generally enforceable, but also acknowledges that LEAs may, *in extenuating circumstances*, be unable to obligate all funds within the given timeframe. In the event that an extenuating circumstance occurs and results in carryover, the U.S. Department of Education permits LEAs to consult with appropriate non-public school officials regarding the option to carryover the funds.

### Equitable Services Carryover Request Process

To ensure LEAs comply with the intent of the provisions within ESSA and to balance the need for flexibility in carrying over funds that have not yet been obligated, the Colorado Department of Education (CDE), together with the Non-public Schools Working Group, has determined the following:

- LEAs should, generally, be able to obligate the funds set-aside to provide equitable services to participating non-public schools in the year in which the funds are appropriated.
- Extenuating circumstances that occur may inhibit the LEA from obligating the funds within the intended timeframe. When this occurs, the LEA must consult with the appropriate non-public school officials regarding the option to carryover the funds. To ensure that LEAs and non-public schools foster a consultation process that aligns with the intent of the programmatic requirements for equitable services under ESSA, non-public schools may only elect to carryover funds once every three years – inclusive of all programs in which the non-public school is participating. This process permits LEAs and non-public schools to consult

### Frequently Asked Questions

*Q: Is the LEA required to set-aside funds to provide equitable services to non-public schools?*

A: Yes. After the LEA has initiated consultation with eligible non-public schools and the non-public school chooses to participate in the LEA's federal programs, the LEA must set-aside funds to provide services to the non-public school. Services should be determined through consultation.

*Q: What happens if the funds are not obligated in the year in which they are appropriated?*

A: The funds set aside to provide equitable services may be carried over when an extenuating circumstance has prevented the LEA from obligating the funds in the current fiscal year. The decision regarding whether an extenuating circumstance has occurred lies within the non-public school's decision making authority. Non-public schools are permitted to carryover funds once every three years to ensure the LEA and non-public school meet the intent and requirements of statute regarding the obligation of funds for equitable services.

*Q: How does the LEA submit a carryover request?*

A: In the event that a non-public school elects to carryover funds in a given year, the LEA will submit a carryover request through the end of year report process, due annually by September 30.



regarding whether the amount to be carried over would have a substantial impact on services to be provided in the subsequent year for each individual school within the context of local priorities.

- In the event the non-public school **elects** to carryover funds in a given year, the funds will be carried over categorically and should support the equitable services to be provided to non-public school, as determined through consultation.
- In the event the non-public school **declines** to carryover funds that have not been obligated, the funds will revert to the LEA's allocation and may be redistributed to the public schools.
- In the event the non-public school **elects** to carryover funds in a given year and the funds are not obligated in the subsequent year, the funds will revert to the State and will not be reallocated to the LEA for distribution.

Upon determining that the funds set-aside to provide equitable services to non-public schools will be carried over, the LEA must submit a carryover request through the end of year report process, due no later than September 30 annually.

## Where can I learn more?

- Go to [Equitable Services under the Every Student Succeeds Act](http://www.cde.state.co.us/fedprograms/equitable-services-colorado) for additional information.  
([www.cde.state.co.us/fedprograms/equitable-services-colorado](http://www.cde.state.co.us/fedprograms/equitable-services-colorado))