ARIZONA DEPARTMENT OF EDUCATION

Equitable Services Obligation of Funds/Carryover Procedures

The last consultation of the funding year is an end of year program review which must include an end of year program evaluation, discussions about any lapse in services, unexpended funds, and plans for any carryover. During this consultation, LEAs are required to complete the Obligation of Funds/Carryover Request document with an official from each participating private school whether requesting carryover or not.

Prepare for the Consultation: Gather the following information and documentation

- Date & method allocation was provided/communicated to each private school
- Date(s) funds were obligated on behalf of the private school (PO sent to vendor/first day personnel service provided)
- Date(s), reason, solution attempts for any lapse of service
  - LEA explanation
  - Private school explanation
- Formative and summative data source, frequency, and results for Title I-A program evaluation
- Approved Completion Report for carryover requests

Completion Report: LEAs must have an approved Completion Report prior to any equitable service carryover approval. Completion Reports must align with the Obligation of Funds/Carryover Request.

Carryover Considerations: Funds for equitable services should be obligated in the school year for which they were appropriated. The funds set aside to provide equitable services may be carried over when circumstance has prevented the obligation of funds.

- **Title I:** If funds remain at the end of the year because services for a particular private school were delayed or cost less than expected, Title I funds carried over to the next fiscal year remain designated for equitable services for the private school students from the original school for which they were reserved. If the original private school declines these services or if carryover results from closing of a private school, these funds should be used in the subsequent year for any other participating private school, and then, if funds cannot be used for participating private schools, they revert to the district Title I-A program.

- **Title II or IV:** If services were delayed for original private schools, funds should be carried over and used for the school for which they were originally reserved. If carryover is not due to the district's delay or circumstance (i.e. private school closing, services cost less than estimated), carryover funds may revert to the district.

SEA Carryover Determination:

- If funds were not obligated due to LEA negligence or circumstance, the original private school will be awarded all unexpended funds.
- If funds were not obligated due to private school negligence or circumstance, the original private school will be awarded up to 15% of the unexpended funds. **The LEA reserves the right to award all unexpended funds.*

Use of Carryover: Approved carryover will be added to the private school's current year allocation as additional funds. Therefore, the data used for eligibility remains the same. As with the original allocation, all funds including additional carryover should be expended by the end of the current funding period.

Submit for Equitable Services Monitoring:

- All Equitable Services Obligation of Funds/Carryover Request documents will be uploaded into EMAC [Equitable Services Monitoring by January 1]
- If a private school requests carryover, the Obligation of Funds/Carryover Request must be submitted to the SEA for approval. Email the request to privateschoolsombud@azed.gov
  **Only documents with carryover requests need to be emailed. All others will only be uploaded in EMAC.*
- If a private school is awarded carryover, the SEA signed Obligation of Funds/Carryover Request must be uploaded into the *current* year ESEA Consolidated Title I Related Documents as permanent record. *(The SEA will create a History Log comment noting any awarded carryover.)*

APPENDIX

SEC. 1117. [20 U.S.C. 6320] PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS.
(a) GENERAL REQUIREMENT.—
(4) EXPENDITURES.—
(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.

Title I-Part A Non-Regulatory Guidance Updated 2023

Timeframe for Obligations - OBLIGATION OF FUNDS

Funds allocated to an LEA for educational services and other benefits to eligible private school children, their teachers, and their families must be obligated in the fiscal year for which the funds are received by the LEA. (ESEA section 1117(a)(4)(B)).

B-26. What is the purpose of the obligation of funds requirement given that an LEA may carry over funds from a given fiscal year and spend those funds in the succeeding fiscal year?

The purpose of this requirement is to ensure that an LEA obligates the funds available under Title I to provide equitable services in the fiscal year for which the funds are appropriated so that eligible students, teachers and other educational personnel, and families receive the services to which they are entitled in a timely manner. This provision reinforces the requirement that an LEA conduct timely consultation with private school officials to design appropriate equitable services so that those services can begin at the beginning of the school year for which the funds are appropriated.

B-27. May an LEA carry over unobligated funds despite the statutory requirement regarding obligation of funds?

If an LEA is providing equitable services as required and meeting the obligation of funds requirement in ESEA section 1117(a)(4)(B), it generally should not have any, and certainly not significant, carryover. The ESEA, however, does not prohibit carryover of funds for equitable services and, in most cases, requires it. The following are examples of circumstances that could result in carryover of equitable services funds and how an LEA would use such carryover:

Reason for Carryover	Use of Carryover
Services for eligible children in one or more private schools are delayed (e.g., based on a natural disaster, delayed consultation, inability to employ qualified personnel, or unexpected procurement challenges). As a result, the LEA is unable to fully provide required equitable services, and some funds are unobligated at the end of the Federal fiscal year.	The LEA must use the funds to provide equitable services to eligible children in the affected private schools the following year.

Reason for Carryover	Use of Carryover
An LEA uses a third-party contractor to provide equitable services, and the invoiced amount for services in one of the private schools is $1,000 less than anticipated. Because this occurs late in the summer, the LEA is unable to responsibly obligate the funds prior to the end of the Federal fiscal year.	The LEA, in consultation with private school officials, must use these funds the following year to provide equitable services to students in the affected private school. If, after consultation, those private school officials decline such services, the LEA must add the funds to the proportional share available for equitable services to other participating private schools. If there are no other participating private schools, the funds may be used to provide Title I services in public schools.

B-28. How does the 15 percent carryover limitation in ESEA section 1127(a) apply to equitable services carryover?

The 15 percent carryover limitation in ESEA section 1127(a) is calculated based on an LEA's total Title I allocation, including the portion allocated for equitable services. However, because an LEA generally must carry over any equitable services funds not obligated in accordance with ESEA section 1117(a)(4)(B), if an LEA exceeds the carryover limitation, and an SEA reduces the LEA's allocation as a result, such reduction may not come from the portion of carryover funds used to provide equitable services. An exception would be if one or more private schools declines all or a portion of services, and there are no other participating private schools. In this case, the SEA would consider the funds generated for the declined services when making a reduction to an LEA's allocation.

B-29. When does an "obligation" occur? 34 C.F.R. § 76.707 governs when an obligation of Federal funds by an SEA or LEA occurs.

The following table shows when a State or a subgrantee makes obligations for various kinds of property and services.

If the obligation is for—	The obligation is made—
(a) Acquisition of real or personal property	On the date on which the State or subgrantee makes a binding written commitment to acquire the property.
(b) Personal services by an employee of the State or subgrantee	When the services are performed.
(c) Personal services by a contractor who is not an employee of the State or subgrantee	On the date on which the State or subgrantee makes a binding written commitment to obtain the services.
(d) Performance of work other than personal services	On the date on which the State or subgrantee makes a binding written commitment to obtain the work.
(e) Public utility services	When the State or subgrantee receives the services.
(f) Travel	When the travel is taken.
(g) Rental of real or personal property	When the State or subgrantee uses the property.
(h) A pre-agreement cost that was properly approved by the Secretary under the cost principles in 2 C.F.R. Part 200, Subpart E—Cost Principles	On the first day of the grant or subgrant performance period.

B-30. How long does an LEA have to meet the obligation of funds requirement in ESEA section 1117(a)(4)(B)?

The applicable fiscal year is the Federal fiscal year, which ends on September 30 of each year. Although the State in which an LEA is located may operate on a different fiscal year (e.g., July 1 through June 30), September 30 is the date by which an LEA must obligate funds for equitable services to meet ESEA section 1117(a)(4)(B). For example, with respect to fiscal year 2017 Title I funds that an LEA received for the 2017-2018 school year, the ESEA requires an LEA to have obligated all of the funds generated for equitable services by September 30, 2018. In other words, the obligation period does not end with the end of the school year or the State's fiscal year.

B-31. May an LEA impose reasonable deadlines on private school officials to facilitate meeting the obligation of funds requirement in ESEA section 1117(a)(4)(B)?

Yes. An LEA—not private school officials—is responsible for ensuring that Title I funds are obligated in a timely manner. In some cases, however, action by private school officials is necessary for the LEA to meet this obligation. For example, if an LEA plans to reimburse private school teachers for the cost of Title I professional development selected by private school teachers from a menu of approved courses, during consultation it could establish a reasonable deadline by which private school staff must participate in applicable courses (e.g., by September 1 so that the LEA has time to process reimbursement requests before the end of the Federal fiscal year).

If a deadline is established in consultation and in the context of the requirement to obligate funds generated for equitable services in the current fiscal year, it would be reasonable for the LEA to inform private school officials that, if the deadline is not met and the private school officials have not notified the LEA of obstacles to meeting the deadline in a timely manner, the LEA may consider the private school to have declined services. Generally, however, the ongoing consultation required by the ESEA (ESEA section 1117(b)(3)) will help prevent this situation from occurring because consultation throughout the year provides an established forum for private school officials to alert the LEA if there are obstacles to meeting a deadline (e.g., a private school participant was unable to attend professional development due to an illness).

Title VIII Equitable Service Non-Regulatory Guidance Updated July 2023

A-6. May an LEA establish reasonable deadlines for private school officials to submit information necessary to provide equitable services?

Yes. An LEA may set a reasonable deadline, taking into consideration private school schedules, for private school officials to submit information necessary to provide equitable services. For example, an LEA may set a reasonable deadline for private school officials to indicate their intent to participate or request services and materials. An LEA should provide clear and sufficient notice of the deadline, identify potential consequences for not meeting the deadline, and give adequate time for private school officials to respond.

If a deadline is established in consultation, it would be reasonable for the LEA to inform private school officials that, if the deadline is not met and the private school officials have not notified the LEA of obstacles to meeting the deadline in a timely manner, the LEA may consider the private school officials to have declined services. Generally, however, the ongoing consultation required by the ESEA (see ESEA section 8501(c)(3)) will help prevent this situation from occurring because consultation throughout the year provides an established forum for private school officials to alert the LEA if there are obstacles to meeting a deadline.

B-7. What happens if, during consultation, officials of one or more private schools choose not to seek equitable services for their eligible children or educators?

In general, an LEA needs to include the total number of children or the number of eligible children, as applicable, enrolled in only participating private schools in the calculation for equitable services to ensure that the most accurate per-pupil allocation is determined.
If a private school official decides not to have their eligible children and educators participate after allocations have been determined, the LEA may then treat the funds initially allocated for equitable services as additional funds that would be equitably redistributed for services for both public and participating private school children.

Timeframe for Obligations - OBLIGATION OF FUNDS

Funds allocated to an LEA for educational services and other benefits to eligible private school children and educators must be obligated in the fiscal year for which the funds are received by the LEA. (ESEA section 8501(a)(4)(B); 34 C.F.R. § 299.7(a)(3)).

B-9. What is the purpose of the obligation of funds requirement given that an LEA may carry over funds from a given fiscal year and spend those funds in the succeeding fiscal year?

The purpose of the obligation of funds requirement is to ensure that an LEA uses the funds available under a covered ESEA program to provide equitable services in the Federal fiscal year for which the funds are appropriated (i.e., through September 30 of the applicable fiscal year) so that eligible private school children and educators receive the services to which they are entitled in a timely manner. This provision reinforces the requirement that an LEA conduct timely consultation with private school officials so that services can begin at the beginning of the school year for which the funds are appropriated.

B-10. May an LEA carry over unobligated funds despite the statutory requirement regarding obligation of funds?

If an LEA is engaging in ongoing consultation, providing equitable services as required, and meeting the obligation of funds requirement in ESEA section 8501(a)(4)(B), it generally should not have any, and certainly no significant, carryover. The ESEA, however, does not prohibit carryover of funds for equitable services and, in most cases, requires it. The following are examples of circumstances that could result in carryover of funds for equitable services and how an LEA would use such carryover:

Reason for Carryover	Use of Carryover
Services for eligible children in one or more private schools are delayed (e.g., based on a natural disaster, delayed consultation, inability to employ qualified personnel, or unexpected procurement challenges). As a result, the LEA is unable to fully provide required equitable services, and some funds are unobligated at the end of the Federal fiscal year.	The LEA must use the funds to provide equitable services to eligible children and educators in the affected private schools the following year in addition to the equitable share for that year.

Reason for Carryover	Use of Carryover
An LEA uses a third-party contractor to provide equitable services, and the invoiced amount for services in one of the private schools is $1,000 less than anticipated. Based on consultation with private school officials, the LEA determines there are additional needs. However, because this occurs late in the summer, the LEA is unable to responsibly obligate the funds prior to the end of the Federal fiscal year.	The LEA, in consultation with private school officials, must use these funds the following year to provide equitable services to children and educators in the affected private school in addition to the equitable share for that year.
An LEA provided equitable services to private school children or educators, but the services cost less than what was budgeted or the private school official decides not to have eligible children and educators participate in planned activities. Based on timely and meaningful consultation, the LEA and private school officials agree there are no additional needs.	Any carryover funds become part of the general pool of funds available for expenditures for programs for public schools and participating private school children and educators for the next year.

B-11. When does an "obligation" occur? 34 C.F.R. § 76.707 governs when an obligation of Federal funds by an SEA or LEA occurs. The following table shows when a State or a subgrantee makes obligations for various kinds of property and services.

If the obligation is for—	The obligation is made—
(a) Acquisition of real or personal property	On the date on which the State or subgrantee makes a binding written commitment to acquire the property.
(b) Personal services by an employee of the State or subgrantee	When the services are performed.
(c) Personal services by a contractor who is not an employee of the State or subgrantee	On the date on which the State or subgrantee makes a binding written commitment to obtain the services.
(d) Performance of work other than personal services	On the date on which the State or subgrantee makes a binding written commitment to obtain the work.
(e) Public utility services	When the State or subgrantee receives the services.
(f) Travel	When the travel is taken.
(g) Rental of real or personal property	When the State or subgrantee uses the property.
(h) A pre-agreement cost that was properly approved by the Secretary under the cost principles in 2 C.F.R. Part 200, Subpart E—Cost Principles	On the first day of the grant or subgrant performance period.

B-12. By what date must an LEA obligate funds under ESEA section 8501(a)(4)(B)? ESEA section 8501(a)(4)(B) requires an LEA to obligate funds for equitable services "in the fiscal year for which the funds are received by the agency." The applicable fiscal year is the Federal fiscal year, which ends on September 30 of each year. Although the State in which an LEA is located may operate on a different fiscal year (e.g., July 1 through June 30), September 30 is the date by which an LEA must obligate funds for equitable services to meet ESEA section 8501(a)(4)(B). For example, with respect to fiscal year 2023 ESEA funds that an LEA receives for the 2023-2024 school year, section 8501(a)(4)(B) requires an LEA to obligate the funds generated for equitable services by September 30, 2024. In other words, the obligation period does not end with the end of the school year or the State's fiscal year. (See B-10 for examples of when an LEA might carryover ESEA funds to the subsequent fiscal year).