

Title II-A Teacher and Principal Training and Recruiting Fund
Q & A Related to Equitable Services for Private Schools

The purpose of this document is to outline a consistent statewide process for implementing programs under the Title II, Part A, Teacher and Principal Training Recruiting Fund. This Question and Answer (Q & A) document is to provide information and clarification on the requirements for equitable participation of private schools and their educational personnel to local education agencies (LEAs), consortia and other eligible entities receiving federal funding under the Title II, Part A - Teacher and Principal Training Recruiting Fund (Title II-A) authorized by No Child Left Behind Act (NCLB).

The legal and/or non-regulatory guidance documents for this Q & A on private school implementation under Title II-A are:

- No Child Left Behind, P.L. 107.110, January 8, 2002; specifically Title II, Part A, Teacher and Principal Training Recruiting Fund; however, legislation for the federal program is in Title IX, Part E - Uniform Provisions at <http://www.ed.gov/about/offices/list/oese/legislation.html>;
- Title IX, Uniform Provisions – Non-Regulatory Guidance - Private Schools, March 2009 (IX UP) at <http://www.ed.gov/policy/elsec/guid/equitableserviceguidance.doc>;
- Title II-A Non-Regulatory Guidance (NRG), October 5, 2006 (Title II-A NRG) at <http://www.ed.gov/programs/teacherqual/legislation.html#guidance>; and
- Direct email correspondence from United States Education Department (USED correspondence).

Background

No Child Left Behind Act requires that Local Educational Agencies (LEAs) and other eligible entities, after timely and meaningful consultation, provide education services that are equitable to those provided in the public schools to private school teachers and other appropriate personnel. These services and benefits must be secular, neutral and non-ideological; must be provided directly by the LEA or eligible entity or through a third-party contractor; and must benefit the teachers and students, not the nonprofit private school. More importantly, the delivery of services must occur only after timely and meaningful consultation with the private school(s). The focus of this Q & A is the definition of timely and meaningful consultation with private school officials, the expected services and benefits, the timelines for consultation and the documentation that must be maintained by the LEA or eligible entity to demonstrate compliance with the specific requirements for equitable private school participation.

Prior to getting started in providing equitable services to private schools and to ensure the LEA begins the process of consultation and program implementation for private schools, it is important to lay some groundwork both within the LEA and with the private school officials.

Preparing the LEA

Because procedures and requirements for providing services with federal funds to private schools differ in some ways from those used with LEA programs, it is important to make sure everyone who might be involved with the program is aware of these

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requirements and works out necessary procedures to support these services. To ensure the LEA is prepared:

- Identify NCLB programs available in the LEA for which private school students and teachers are eligible; include potential competitive grant funding services;
- Identify LEA contacts for various federal programs available to private school students and teachers;
- Review requirements for serving private school students and teachers with LEA program consultants (Title II-A Non-Regulatory Guidance and Title IX – Uniform Provisions Non-Regulatory Guidance);
- Determine what procedures will be used and who will be involved in the consultation process;
- Discuss approval processes for services (third-party contracts, conferences, etc.) for private school students and teachers with appropriate representatives;
- Meet with financial services staff to review procedures for payments, reimbursements, and contracts as they apply to services for private school students and teachers. Make sure they understand the prohibition on providing funding (reimbursement) directly to private schools or diocese;
- Identify any potential roadblocks in the LEA system (e.g., fiscal procedures for reimbursing private school teachers for professional development, paying for consultant services, and approval process for contracts);
- Establish procedures to ensure all expenditures related to programs for private school students and teachers are made in a legal and appropriate manner; and
- Determine administrative needs and associated costs required to implement and monitor services (clerical, administrative time required for consultation, documentation, budget oversight, review/approval of requests) and budget for these costs.

Preparing the Private School Officials

It is important to keep in mind that private school officials may not be familiar with many of the processes, procedures and protocols that public school staff live with and take for granted. They may not be used to working with systems such as school boards, administrative processes or public school business practices. Also, they may not be familiar with the planning and evaluation processes generally associated with program development and implementation of programs in most public schools. Although private school officials may be very familiar with what programs are available to private school teachers through federal programs, the specific legal requirements that fall upon the LEA may not be as clear. The following are suggestions to help prepare private school officials to support effective program implementation:

- Utilize the initial consultation meeting as an opportunity to assist private school officials in understanding the purposes and requirements for various programs and determine whether or not the intent of each program matches the private school program goals;

- Work with private school officials to develop plans that are based on teacher needs and meet the intent of the law. If appropriate, provide sample plans and plan development assistance as part of the consultation process;
- Inform private school officials that services must benefit eligible children, not the needs of the private school, specifically core area teachers and appropriate personnel;
- Inform private school officials of fiscal requirements for federal programs (public control of funds, provision of "services" vs. funding, equipment control, purchasing);
- Inform private schools of funding cycle;
- Provide training and information regarding accountability and use of data in designing programs and developing evaluation procedures;
- Work with private school staff to develop evaluation questions and methods for collecting data for program evaluation and improvement;
- Provide specific information regarding procedures for approval and processing of contracts, purchase requests, etc.;
- Provide information regarding LEA procedures, timelines and contacts (e.g., items needing board approval, timelines for such approval, list of program contacts); and
- Establish procedures and ground rules regarding how the LEA will monitor federal programs.

Initiating Contact

1. What are the first steps that an LEA needs to conduct in order to meet the requirements of equitable participation for private schools?

Notwithstanding the previous overview, the LEA shall acquire the list of private schools in the service area. Go to <http://www.floridaschoolchoice.org/default.asp> click on the link entitled *Private School Information for Administrators* then click on *Directory of Private Schools*. Move to the screen that allows by LEA selection; use the pull down menu to select the specific LEA for listing of individual private schools and contacts (IX UP D-2, E-1).

2. Is the LEA required to make the initial steps of the consultation process?

Yes. This is an obligation of the LEA (IX UP, D-1).

3. What if the LEA does not contact the private school(s) in the service area?

The private school officials should contact the LEA in which their school(s) is located (IX UP, D-1).

4. How should the LEA notify private schools that their teachers may be eligible to participate in the Title II-A program?

Once the list of schools has been acquired, the LEA or eligible entity should contact a central office or diocese first, if applicable, to determine if the central office or diocese will represent all member schools in the attendance area. The central office or diocese will also be able to provide the contact information for their member schools. All other private schools should be contacted annually to verify which schools wish to participate in Title II-A programs.

Contact should be through a certified return receipt mailing system.

5. Are there a specific number of times an LEA should request a private school to reply to the intent to participate request?

No. However, the LEA should establish procedures for a reasonable number of times the certified return receipt request for intent to participate is disseminated.

6. Should an LEA allow a private school(s) to receive services after the LEA has reached out to the private school(s) numerous times with no response from the private school(s), and later in the fiscal year (after the due dates have passed), the private school requests services?

No. However, it is recommended that the LEA consider such occurrences on a case-by-case basis.

7. If the LEA determines to allow said private school(s) to participate after the school year has begun, will their participation effect the service allocations to all participating private schools?

Yes. Allowing the additional private school to participate would likely effect the service allocation for each private school in the service area.

8. What should the intent to participate include?

At a minimum, the date, name, address of school, school code, contact information, number of eligible students participating, selection of federal programs to choose participation in, signature and date of private school administrator. Title IX, Uniform Provisions (IX UP) has a sample intent to participate form in Appendix J-11. This template form may be edited and can be used for the initial contact to begin the process.

9. What are the obligations for private schools that did not participate in federal programs in the preceding year?

Private school officials within the eligible attendance area must be contacted on an annual basis to determine whether such schools desire that their teachers and

appropriate personnel participate in the Title II-A program, regardless of whether the school(s) participated in the program during the previous year. Once a school agrees on behalf of its appropriate personnel to participate, the enrollment of students is considered in the calculation of equitable funding.

10. Is it mandatory that all private schools participate in the consultation process or receive all available program services and benefits?

No. Private schools may decline both participation in the consultation process and receipt of services. Private school officials may also elect to receive only certain program services or benefits and are not obligated to participate in all services offered by the LEA or eligible entity.

11. Is the residency of a private school student a factor that must be considered when determining the receipt of benefits from programs governed by the Title IX Uniform Provisions?

Students who are enrolled in private nonprofit elementary and secondary schools that are located in areas served by an LEA are eligible to receive services. A student's residency is not a factor, even if a student resides in a state that is different from the state in which the private school is located (IX UP, E-4 and Title II-A NRG, G-27).

12. Does the law require an LEA to provide equitable services to students and teachers in private for-profit schools?

No. Section 9501(a) of NCLB requires an LEA to provide equitable services to teachers in "private elementary and secondary schools." Section 9101(18) and (38) of NCLB defines "elementary schools" and "secondary schools" to mean "nonprofit institutional day or residential school[s]" that provide elementary and secondary education, respectively (IX UP, E-2 and Title II-A NRG, G-25).

Timely and Meaningful Consultation

The cornerstone to successful implementation of NCLB private school participation is the timely and meaningful consultation with private school officials before decision-making occurs regarding the equitable provision of services and benefits.

1. How does an LEA begin the consultation process?

An LEA generally begins the consultation process each year by contacting private school officials representing the private schools located within its boundaries. One way to accomplish this is for the LEA to extend an invitation to officials of the private schools and convene a meeting with them during which LEA officials describe the NCLB programs and allowable activities available to private school students and teachers, explain the roles of public and private school officials, address the specific needs of

private school students and teachers, and provide opportunities for the private school officials to ask questions and offer suggestions.

A consultation process that involves an LEA simply sending a letter to private school officials explaining the purpose of federal education programs and the LEA's intent to apply for funds is not adequate consultation. Likewise, a letter describing the services that an LEA intends to provide for private school students, without any prior consultation, is not sufficient to meet the consultation requirement. For a list of suggested activities, see J-5: Sample Consultation Checklist for LEAs (UP IX, D-6).

2. May consultations with all participating private schools occur concurrently or must the schools be consulted separately?

The LEA should contact any entity in the district that administers an NCLB program that requires private school participation (e.g., 21st Century Community Learning Centers, Title I Programs, etc.) to determine if they wish to coordinate consultation and service delivery. During the initial consultation with private school officials, the LEA or eligible entity should provide a menu of services from which the private school officials can select those services that best fit their needs. All further consultation will focus on meeting the needs of private school students, educational personnel and families through the NCLB programs selected by the private school officials.

It is at the discretion of the LEA or eligible entity to determine if consultation with all participating private schools occurs concurrently or individually. The decision to consult with all private schools together or separately may be made based on the number of participating private schools.

3. What is meant by “timely and meaningful” consultation?

Timely and meaningful consultation is required in order to ensure the equitable participation of private school students, teachers and, in some programs, parents. Timely consultation begins early enough for the entire process of program design and development to be completed, for exploring the option of third-party providers, and for services to begin by the start of the school year. Timely consultation requires that LEAs provide advance notice of consultation meetings to private school officials. Meaningful consultation covers all required topics and affords private school officials a genuine opportunity to express their views.

Effective consultation is ongoing, two-way communication and discussion of the best ways to meet the needs of private school students and teachers under the provisions of the particular program. Consultation is significantly enhanced when public school officials provide an agenda of consultation topics, along with information about the amount of funds available for services for each eligible program, in advance of any consultation meeting, in order for private school officials to have the opportunity to adequately prepare for discussions (IX UP, D-17).

4. Should consultation between the LEA and private school officials be ongoing?

Yes. In order to help ensure effective design, development and implementation of programs, consultation between the LEA and private school officials should be ongoing throughout the school year. Issues often arise concerning service delivery and implementation, and ongoing consultation provides the means for adequately addressing them in a timely and efficient manner (IX UP, D-18).

5. May an LEA develop a yearly timeline for consultation?

Yes. To ensure timely consultation, LEAs in consultation with private school officials may develop yearly consultation timelines listing the date and location of each meeting along with specific agenda topics. For examples of consultation timelines, see Appendix J-3: Sample General Consultation Timeline; and J-4: Sample Consultation Timeline of the Title IX Uniform Provisions, (IX UP, D-5 and D-19).

6. Who is a “private school official” or “representative” of private school students?

Most often, the principal or headmaster of the private school serves as the official or representative of the students and teachers in the school. At times, the principal or headmaster may designate someone else to participate in the consultation process on behalf of the students and teachers at the school(s).

In the case where a group of private school officials seeks to be represented by a central office administrator, that administrator should inform, in writing, the LEA superintendent that she/he will serve as the designated primary contact for such schools, and that any communication and correspondence regarding NCLB programs and the participation of those private school students and teachers should be directed to her/his attention. In addition, the administrator should provide a list of the private schools that she/he represents (IX UP, D-4 and D-20).

7. What should happen if a private school, previously using a representative, wishes to be removed from under the representative and act independently?

The administrator who has been acting as the private school representative should notify the superintendent in writing that she/he will no longer be serving as the primary contact for the specific private school(s).

8. Are there requirements for private school officials in the consultation process?

Although NCLB does not include any requirements for private school officials, the only way to ensure that consultation is timely and meaningful is for the private school officials to participate actively in the consultation meetings. By participating, the private school officials will have an opportunity to:

- Provide input in the development of a timeline for consultation;
- Provide data and information about the needs of their students and teachers;
- Offer suggestions regarding program design, implementation and evaluation;
- Inquire about participation in any discretionary grant programs;
- Address the use of third-party providers, if appropriate; and
- Complete any appropriate forms needed by the LEA to ensure the delivery of equitable services.

For additional suggestions on what private school officials can do, see Appendix J-13: Sample Consultation Checklist for Private School Officials within the Title IX Uniform Provisions, (IX UP, D-7 and D-21).

9. Does an offer of services from an LEA meet the requirement of consultation?

No. An offer of services by an LEA without an opportunity for timely and meaningful consultation does not meet the requirement of the law. Only after discussing key issues relating to the provision of services, identifying the needs of the students and teachers to be served, and receiving input from the private school officials, does an LEA make its final decisions with respect to the services and benefits it will provide to meet the needs of eligible private school students and teachers (IX UP, D-8).

10. May an LEA request that private school officials provide relevant documentation in order to participate in programs?

Yes. LEAs may request documentation, as needed, from private school officials that enables the LEA to identify appropriate services that meet the needs of private school teachers and appropriate personnel. Such documentation might include, but not be limited to, data indicating the academic needs of students, as well as the professional development needs of teachers. However, the request for documentation should not constitute an administrative barrier that is inconsistent with the LEA's responsibility to ensure equitable participation of private school students and teachers. For an example documentation, see Appendix J-8: Sample Needs Assessment and Program Development Plan (IX UP, D-10, D-22 and Title II-A NRG, G-21).

11. Is consultation regarding third-party providers required?

Yes. If appropriate, a thorough consideration of private school officials' views must be considered regarding the use of third-party providers for the delivery of services.

12. If a private school official requests that certain services be delivered through a third party and the LEA chooses not to do so, what should the LEA include in the written explanation as to the reasons why it chose not to grant that request?

Section 9501(c)(2) of NCLB requires an LEA to provide a written explanation of the reasons why it chose not to use a third party for services. An adequate explanation would address concerns expressed by private school officials about the LEA's direct

services and fully explain the reasons why the LEA chose not to use a third party, such as any financial, administrative, regulatory, or statutory impediments, or the ability of the LEA to provide the services directly. The written explanation should not simply reiterate the LEA's decision but also provide reasons for the decision (IX UP, D-24).

13. May an LEA use a sign-off form with private school officials in order to verify that timely and meaningful consultation has occurred?

Yes. While there is no statutory requirement to do so, some LEAs have developed annual sign-off forms that include a place for signatures of the LEA and private school officials to verify that timely and meaningful consultation has occurred. However, these forms should be specific about the required consultation topics that were covered under each specific Title covered by Title IX (IX UP, D-9). All records are subject to monitoring by the state.

14. Should an LEA keep minutes or notes of consultation meetings?

Yes. Meeting notes and minutes are good ways of documenting that timely and meaningful consultation has occurred. Both LEA and private school officials are encouraged to keep notes of consultation meetings that include information about issues addressed and decisions made. These notes may be used for later reference (IX UP, D-14).

15. What kinds of records should an LEA maintain in order to show that it has met its responsibilities for equitable participation of private school teachers?

To meet its general record-keeping responsibility, an LEA should document that:

- Representatives of private schools were informed of the availability of Title II, Part A services;
- The needs of private and public school teachers were identified as part of a district-wide needs assessment;
- Private school officials were consulted and provided an opportunity for input into the planning of the LEA's program activities; and
- The LEA designed a project that would permit their equitable participation.

The LEA also should maintain records of its efforts to resolve any complaints made by private school representatives that LEAs should be serving their teachers and are not doing so on an equitable basis (Title II-A NRG, G-22).

Appropriate Activities

1. What are the obligations of the LEA regarding the participation of private school teachers in professional development programs funded under the Title II-A program?

As part of the application process, LEAs must assure that they will comply with section 9501 of NCLB (regarding participation by private school children and teachers). LEAs must consult with appropriate private school officials during the design, development, and implementation of the professional development program on such issues as:

- How the needs of children and teachers will be identified;
- What services will be offered;
- How, where, and by whom the services will be provided;
- How the services will be assessed and how the results of the assessment will be used to improve those services;
- The size and scope of the equitable services;
- The amount of funds available for those services; and
- How and when the LEA will make decisions about the delivery of services.

Consultation on the delivery of services must also include a thorough consideration and analysis of the views of the private school officials on the provision of contract services through potential third-party providers (Title II-A NRG, G-6).

2. In designing and developing programs for private school students and teachers, how should the needs of private school students and teachers be assessed?

The needs of the private school students and teachers to be served are the foundation for designing programs to serve such students and teachers, within the parameters of the particular program statute and regulations. During the consultation process, the LEA must discuss with private school officials the needs of their students and teachers as well as how best to meet those needs. For an example of a needs assessment form, see J-8: Sample Needs Assessment and Program Development Plan (IX UP, D-16).

3. Does the professional development program for private school teachers have to be the same as the professional development program for public school teachers?

No. Consultation and coordination are essential to ensuring high-quality, sustained, intensive and classroom-focused professional development activities for private school teachers. LEAs must assess the needs of private school teachers in designing the professional development program for private school teachers. If the professional development needs of the private school teachers are different from those of public school teachers, the LEA, in consultation with private school representatives, should develop a separate program (Title II-A NRG, G-11).

4. What measures can be used to assess the services to private school teachers and appropriate personnel?

The types of assessments that may be used to evaluate the services provided must be determined through the consultation process. The LEA or eligible entity and private school officials must also agree on how the results of the assessment will be used to improve the programs.

5. How can the professional development needs of educational personnel in private schools be met?

To meet the professional development needs of appropriate personnel, documented needs should be assessed through consultation. Opportunities may be provided to allow participation in district professional development activities. Professional development activities may also be provided independently if the documented needs of the private school teachers are not the same as public school teachers.

6. What are the core academic subjects?

Title IX-General Provisions, Part A - Definitions, section 9101 defines core academic subjects to mean English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history and geography.

7. What are the eligible activities under the Title II-A program in which private school teachers and other educational personnel may participate?

As with any activity that the LEA carries out for public school teachers, activities supported with Title II-A funds that benefit private school teachers must meet the requirements of the statute. For example, activities to be carried out for private school personnel must be based on a review of scientifically based research and must be expected to improve student academic achievement. Professional development for appropriate private school personnel activities may include:

- Improving the knowledge of teachers, principals and other educational personnel in one or more of the core academic subjects and in effective instructional teaching strategies, methods and skills;
- Training in effectively integrating technology into curricula and instruction;
- Training in how to teach students with different needs, including students with disabilities or limited English proficiency, and gifted and talented students;
- Training in methods of improving student behavior, identifying early and appropriate interventions, and involving parents more effectively in their children's education;
- Leadership development and management training to improve the quality of principals and superintendents; and
- Training in the use of data and assessments to improve instruction and student outcomes (Title II-A NRG, G-8).

8. Who are the appropriate personnel who may participate in activities implemented under the Title II-A program in private nonprofit schools?

Providing professional development activities that improve the knowledge of teachers and principals and, in appropriate cases, paraprofessionals, concerning one or more of the core academic subjects that the teachers teach; carrying out professional development activities designed to improve the quality of principals and assistant principals, including the development and support of academies to help talented aspiring or current principals and assistant principals become outstanding managers and educational leaders (NCLB, section 2123(3)&(6)).

9. What does sustained and intensive professional development mean?

The legislation and the Title II-A NRG are clear on the duration of time for professional development activities. Title IX - General Provisions, section 9101, definitions (34) states that the term professional development includes activities that

- Improve and increase teachers' knowledge of the academic subjects the teachers teach, and enable teachers to become highly qualified;
- Are an integral part of school-wide and district-wide educational improvement plans;
- Give teachers, principals and administrators the knowledge and skills to provide students with the opportunity to meet challenging state academic content standards and student academic achievement standards;
- Improve classroom management skills;
- Are high quality, sustained, intensive and classroom-focused in order to have a positive and lasting impact on classroom instruction and the teacher's performance in the classroom; and
- Are not one-day or short-term workshops or conferences.

The Title II-A NRG and the Title IX, Part E Uniform Provision does not elaborate on “not one-day or short-term”. Thus, inquiry was made to the Office of Non-Public Education, U.S. Department of Education (USED). The reply is as follows: Given this provision and its presumed intent to prohibit use of federal funds for attendance at short-term meetings that likely would not provide “high quality, sustained, intensive and classroom-focused” professional development, an LEA might reasonably interpret this provision to require that Title II-A funds only support attendance at conferences that would provide professional development – whether to public or private school staff – that are both longer than one day and for some minimum number of hours, e.g., 12. In determining equitable services for private school staff, the private school administrators generally determine the needs of their teachers, which may be different from the needs of public school teachers supported with Title II-A funds. However, the professional development provided to private school staff still must meet requirements of NCLB, and in this case, the statutory requirement that the professional development is not a one day or short-term workshop.

However, to the extent that the one day conference is truly part of a high-quality, sustained, intensive and classroom-focused professional development program, an LEA

may expend Title II-A funds to pay for teachers and other appropriate personnel to attend a one day conference. Thus, if in determining the professional development needs of the teachers, a private school official believes that a particular one day conference meets those identified needs and is also part of a high-quality, sustained, intensive, and classroom-focused professional development program for the teachers, the private school official should raise this with the LEA during the consultation process. To the extent the LEA concurs, the LEA could use Title II-A funds to pay for such professional development. It is important to note, however, that the LEA has the final decision-making authority on this issue. If the LEA, after consultation deems a one day conference appropriate, documentation must be provided to support these types of conferences/workshops for the LEAs to avoid audit and monitoring findings as the LEA is the responsible party for the expenditures (IX UP, F5 and Title II-A NRG, G-23).

10. Is it a requirement to provide services to private school educational personnel on the private school campus?

No. Services may be provided at a private or public school or at another neutral site. However, decisions regarding site-based delivery must only be made after consultation with the private school officials. If space is not available at the private schools, the services must be provided in another location (Title II-A NRG, G-24).

11. What types of safeguards should be in place when services are provided on-site at the private school?

Services provided to private school students and educational personnel must be secular, neutral and non-ideological regardless the location of services. If services are provided on-site at the private school, it is not necessary to remove religious objects from the room(s) where services are provided. However, safeguards must be instituted to ensure that federally funded employees do not promote religious beliefs in the course of service delivery (Title II-A NRG, G-24).

12. How may it be ensured that services and benefits are provided in a proper manner for the benefit of private school teachers and appropriate personnel?

Procedures should be implemented by the LEA or eligible entity to ensure that federal funds are used properly to provide services that benefit private school children. Private school officials should be fully informed of and agree to the limitations on the use of any equipment and materials located in the private school.

The LEA or eligible entity should obtain a written guarantee from the appropriate private school that:

- Any equipment and materials placed in the private school will be used only for secular, neutral and non-ideological purposes;
- Private school personnel will be informed of these limitations; and

- The equipment and materials will supplement, and in no case supplant, the equipment and materials that, in the absence of the federally funded program, would have been made available for the participating students.

All equipment and materials purchased with federal funds should be marked so that these are clearly identifiable as property of the LEA or eligible entity. An updated inventory of all equipment and materials provided for the benefit of private school students should also be maintained by the LEA. It is also a helpful practice for private schools to maintain logs to document the use of equipment and materials located in their schools. Periodic on-site monitoring of the use of the equipment and materials should be performed by the LEA. The monitoring could include on-the-spot checks of the use of the equipment and materials, discussions with private school officials, and a review of any logs maintained.

One employee of the LEA or eligible entity should be assigned to oversee services for private school students and ensure that those services, materials and equipment provided for appropriate personnel are secular, neutral and non-ideological.

The designated official also should be responsible for receiving and handling any complaints or allegations that the private school is using federal funds for improper activities for private school students or teachers. LEAs and eligible entities need to ensure that if any violations occur, they are corrected at once. Materials and equipment should be removed from a private school immediately if removal is necessary to avoid unauthorized use.

13. What services are offered if the needs of private school students and teachers are different from those of public school students and teachers?

The LEA offers services that meet the specific educational needs of the participating private school teachers and appropriate personnel and that show reasonable promise of effectiveness. The services can be different from those provided to public schools, but must be allowable services under the Title II-A program. In addition, all services and benefits provided must be secular, neutral and non-ideological, see section 9501(a)(1) - (2) of NCLB (IX UP, G-2).

14. What are some service delivery mechanisms that an LEA may use to provide equitable services?

An LEA may provide services to private school teachers through an employee of the LEA or through a contract with a third-party provider, an individual, an education institution or some other agency that, in the provision of those services, is under the control and supervision of the LEA and is otherwise independent of the private school and any religious organization, see NCLB, section 9501(d)(2) of NCLB (IX UP, G-3).

15. May an LEA provide equitable services for private school students and teachers beyond the school year and during the summer?

Yes. In most cases, an LEA has the authority to provide services both during and beyond the school year. To the extent that private school officials have requested some services in the summer in order to better meet the needs of teachers, an LEA should consider accommodating such a request (IX UP, G-7).

16. May an LEA establish a blanket rule that precludes private school teachers from receiving certain services authorized by NCLB?

No. An LEA may not establish a blanket rule that precludes certain services and programs that the statute otherwise authorizes and that meet the needs of private school students and teachers. Each LEA is responsible for determining, on the basis of the consultation process, the kinds of professional development opportunities that private school teachers will have available. The LEA decision must reflect how private school teachers, consistent with the availability of Title II-A funds, can best secure the professional development they need to address their own identified teaching needs. How the needs of private school teachers will be assessed is a topic for consultation between the LEA and private school officials, and there is no expectation that, through the process of assessing the teaching needs of private school teachers, the needs of private school teachers will be the same as those of public school teachers.

In general, in carrying out its responsibility to provide equitable services to private school teachers an LEA can (and should) establish policies that, for reasons of effectiveness, quality, cost and other relevant factors, favor certain kinds of courses or other forms of professional development the Title II-A statute authorizes over others (USED correspondence and IX UP, G-9).

17. May an LEA set deadlines for submission of requests from private school officials for services and materials?

Yes. Assuming that the LEA has provided clear and sufficient notice of the deadlines, identified potential consequences for not meeting the deadlines, and given adequate time for private school officials to gather the data and respond, LEAs may set a time limit for submission of requests for services and materials by private school officials (IX UP, D-23).

18. May private schools request professional development outside of a specific geographical region, e.g., outside the state?

Yes. However, the LEA must ensure that costs associated with the Title II-A professional development, whether within or outside of the state, are reasonable and necessary, per OMB Circular A-87. For example, if comparable professional development were to be available locally at a lower cost than the out-of-state professional development, the LEA, in its role as responsible fiscal agent of the program

funds, could legitimately determine that the higher cost out-of-state professional development was not a reasonable expenditure (USED correspondence).

19. May Title II-A funds be used to pay for a private school teacher's attendance at a professional conference sponsored or conducted by a faith-based organization?

Yes. To the extent that the conference is part of a sustained and comprehensive secular professional development plan for the teacher, then Title II-A funds may be expended to pay for the portion of the costs of the conference that, as determined by the LEA, represents the secular professional development in which the teacher participated. The LEA would pay or reimburse the teacher for attendance at the conference (Title II-A NRG, G-12).

20. May private schools request a copy of the local Title II-A application that's submitted?

Yes. The LEA or state should provide, in a timely manner, a copy of the program application to those private school officials who participate in the ongoing consultation process when they request them. Such applications are a matter of public record and, therefore, generally are accessible for public review. An application can provide private school representatives with information that enhances consultation and helps them understand the scope of program activities within the LEA and the equitable participation of private school students in programs authorized under NCLB (USED correspondence).

Allocations and Expenditures

The requirement for the equitable participation of private school teachers and other educational personnel applies only to the LEA's Title II-A funds to the extent that the LEA uses these funds for professional development of its teachers and other staff (NCLB, section 9501(b)(3)(A)).

1. How should Title II-A funds be allocated to provide services to private schools?

The funds must be allocated equitably. The allocation should reflect the number of participating private school students.

2. How does the LEA ensure that it is providing equitable services?

To ensure that it is providing equitable professional development services to private school teachers and other educational personnel, the LEA should consider ways to:

- Assess, address and evaluate the needs and progress of both public and private school teachers;

- Spend an equal amount of funds per student to serve the needs of public and private school teachers and their students;
- Provide private school teachers with an opportunity to participate in Title II-A activities equivalent to the opportunity provided public school teachers; and
- Offer educational services to private school teachers that are secular, neutral and non-ideological [section 9501(a)(2)] (Title II-A NRG, G-10).

3. Who are the eligible private school students who may be calculated in the service allocation?

School children ages five to 17. This is based on the allocations issued to the state through the federal formula (NCLB section 2121(a)(3)).

4. Who pays the cost for administering programs for private school students?

The LEA or other eligible entity pays the costs for administering programs for public and private school students (IX UP, F-3).

5. What are allowable expenditures that an LEA may reserve off the top of the total allocation prior to determining the private school service allocation?

An LEA may reserve the following costs off the top of a program's total allocation:

- Administrative costs for administering the program for public and private school students and teachers;
- Costs associated with Charter School Reimbursement Plans (SB 1108);
- Indirect costs associated with administering the program for public and private school students and teachers;
- Other allowable administrative costs as defined in Title IX (e.g., for district-wide programs); and
- A third-party provider's fee or profit, if applicable (IX UP, F-3 and Title II-A NRG, G-16).

6. How are administrative costs of providing services to private school students determined?

In some cases, NCLB specifies the percentage of a program's total allocation that may be used for administrative costs. When NCLB is not explicit regarding the amount of funds that may be used for administrative costs, as is the case with the Title II-A funds, the amount of funds that may be spent for this category of expenses is subject to the cost principles in the Office of Management and Budget (OMB) Cost Circular A-87—including the principle that, among other things, all costs must be necessary, reasonable and allocable to the program.

7. How does an LEA determine the minimum amount required for equitable services to private school teachers and other educational personnel?

Under Title II-A, LEAs are required to provide equitable services for private school teachers and other educational personnel only to the extent that they use the funds for professional development. For purposes of determining the amount of Title II-A funds that an LEA must make available for equitable services to private school teachers and other educational personnel, the statute has the LEA assume that it is spending at least as much for professional development under Title II-A as it did in FY 2001-02 under the Eisenhower Professional Development and Class-Size Reduction programs [Title IX, section 9501(b)(3)(B)] (Title II-A NRG, G-4).

8. Does the Hold Harmless rule apply to the allocation for services of private schools?

Yes. The LEA is the responsible entity for providing information to the private school officials about the amount of Title II-A funds available for equitable services. The law requires that consultation is meaningful and, thus, a private school official can seek clarification from the LEA regarding how the LEA determined the amount of Title II-A funds for equitable services (USED correspondence).

9. If the LEA does not know the amount of funds expended for private school services from 2001-02, how should the LEA determine the amount of hold harmless from that fiscal year (FY)?

For the purposes of determining the amount of program funds that must be made available for professional development for private school teachers, the law requires that the amount “shall not be less than the aggregate share of that agency’s awards that were used for professional development for fiscal year 2001-02 under section 2203(1)(B) and section 306 of the Department of Education Appropriations Act, 2001 [Eisenhower Professional Development Program and the federal Class Size Reduction Program] (section 9501(b)(3)(B) of the NCLB). For example:

If an LEA spent a total of \$5 million in FY 2001-02 for professional development for both private and public school teachers under the former Eisenhower Professional Development program and professional development under the Class-Size Reduction program, then, when figuring out the minimum amount it must spend in 2014, the LEA should take the total amount allocated for professional development in 2001 -- \$5 million -- and divide this amount by the total number of public school students and private school students (enrolled in participating private elementary and secondary schools in areas served by the LEA) to arrive at a per-pupil amount. This per-pupil amount should then be multiplied by the total number of students enrolled in the participating private schools to arrive at a total amount of funds to be designated for professional development for private school teachers participating in the program (USED correspondence).

10. May third-party contractors hired by an LEA incur administrative costs?

Yes. A third-party contractor hired to provide services to private school students and teachers may incur administrative costs. However, these costs must come off the top of the program allocation as administrative costs. A third-party contractor's administrative costs may not be charged to the funds allocated for services for private school students and teachers. To facilitate this determination, the parties should identify in the contract the portion of the costs that are administrative and the LEA should use funds taken off the top of its allocation to pay this portion of the contract (IX UP, F-4 and Title II-A NRG, G-17).

11. Who is responsible for the implementation of the third-party contract?

The LEA is responsible for the implementation of the third-party contract and must have the process in place to write, review and ensure all third-party contracts are within the legal requirements of the policies in the LEA and are implementing allowable Title II-A activities (IX UP, G-1).

12. Who has control of the Title II-A program funds?

The LEA must always maintain control of the program funds as well as the titles to all materials, equipment and property purchased with federal funds (IX UP, F-5).

13. Are LEAs required to provide the amount of funds annually available for services for private school students and teachers?

Yes. LEAs must provide private school officials with the amount of funding available for services for private school students and teachers under the various NCLB programs requiring equitable participation. While LEAs generally address this topic during consultation discussions, some LEAs also provide such information through their websites or in written form. For an example, see J-14: Sample Funding Allocations for Services Notification Form (IX UP, D-27).

14. May a private school be reimbursed for any materials it has purchased or services it has procured to implement one of the NCLB programs?

No. Only the LEA or eligible entity may expend funds on behalf of private school students and teachers. The LEA or eligible entity must purchase materials or procure services on behalf of the private school(s) (IX UP, F-6).

15. May a private school or representative send teachers to professional development trainings and/or conferences without requesting approval through consultation and expect the LEA to reimburse for these services?

No. Approval through timely and meaningful consultation must occur prior to teachers and/or appropriate personnel in private schools implementing or attending professional

development activities if the private school wishes teachers to be reimbursed through Title II-A program funds.

16. May federal funds be used to purchase textbooks or classroom sets of materials for private school student use in their regular classrooms?

No. Title II-A funds may not be used to purchase textbooks for private school student use in their regular classrooms because materials, programs and benefits purchased with these funds must be supplemental and must not supplant what the private school would otherwise provide in the absence of federal funds (IX UP, G-5).

17. If a private school requires and annually provides, as part of its teacher contract, four days of professional development, may the LEA provide requested services to private school teachers on these same days supported by Title II-A funds?

No. If the private school is legally bound by contract to provide a certain level of professional development, it would presumably provide those services regardless of whether federal funds are available, and it would be supplanting to use federal funds to provide professional development in place of those services. The law requires that all uses of Title II-A funds supplement non-federal funds that would otherwise be used for activities, and hence, the professional development provided with federal funds needs to be in addition to, and not in place of, what the private school would otherwise provide (Title II-A NRG, G-18).

18. May stipends be provided to private school teachers?

Yes. If the professional development program is conducted after school hours or during the summer, stipends may be needed to compensate teachers for their participation outside their regular employment hours. In addition, stipends for private school teachers must be available on the same basis as for public school teachers, and the stipends must be paid to private school teachers for their own use. The stipends must not be paid to the private school or be for the benefit of the private school (IX UP, F-7).

19. May Title II-A funds be used to pay any portion of a private school teacher's salary or benefits?

No. While LEAs must set aside an amount of Title II-A funds for the equitable participation of private school teachers in professional development activities, funds may not be used to pay or subsidize any portion of a private school teacher's salary or benefits (Title II-A NRG, G-14).

20. May Title II-A funds be used to pay for substitute teachers who replace teachers from private schools while they attend professional development activities?

No. The Title II-A program does not authorize payments to private schools to be used for hiring substitute teachers (Title II-A NRG, G-15).

21. What is the timeline for the obligation of funds?

States that have been awarded funds under the Title II-A formula grant program generally have 27 months to obligate funds, for example July 1, 2013, through September 30, 2015.

However, LEAs that have been awarded Title II-A formula program funds by the state are on an annual fiscal year basis to obligate funds. In most cases, Florida has the authority to award these funds on July 1st of each year; thus, funds that are awarded July 1, 2013, must be obligated by June 30, 2014, allowing the agency fifty days to complete paperwork and submit final reports on August 20th and in turn allowing the department's comptroller's office to complete internal calculations for closeouts by September 30th. (IX UP, F-8).

22. How is the carryover or roll-forward funds handled in regard to the equitable participation of private school students?

In general, if equitable services are provided to private school teachers in any given fiscal year (FY), any carryover funds for services to private school teachers would be considered additional funds for that program for public and private school teachers in the subsequent year. Those funds then would be used, along with any other carryover funds, for both public and private school teachers on an equitable basis.

If equitable services for private school teachers were not provided in a given year and, as a result, there are funds remaining that should have been expended for private school teachers, those carryover funds should be used exclusively for private school teachers in the subsequent year; these funds would be allocated in addition to the funds that the LEA uses for private school teachers from the subsequent year's allocation.

However, federal funds are available to states for a period of 27 months. For example, a private school service allocation determined for use in FY 2012-13 must be expended by the end of FY 2014-15. If these specific funds are not expended, they would not continue to roll forward for private school services. These funds would revert to the USED as unexpended (IX UP, F-9).

23. What options are available to LEAs for expending funds for equitable services for private school teachers?

In consultation with private school officials, the LEA may choose one or both of the following options for expending the funds reserved for equitable services for private school teachers and appropriate personnel.

- Individual School-by-School Option: Provide equitable services to private school teachers based on the number of children enrolled in the school.
- Pooling Option: Combine funds allocated for private school teachers for two or more private schools interested in participating in this option to create a pool of funds from which the LEA provides equitable services to private school teachers in some or all schools that have agreed to pool funds. However, an LEA may not pool funds across multiple NCLB programs for this purpose. If the LEA pursues this option, the LEA, in consultation with private school officials, establishes criteria to determine how services will be allocated among the private school teachers in different schools. Under this option, the services provided to private school teachers in any particular school are not dependent on the amount of funds generated by students in that school, but rather by the amount of funds generated in total and the criteria developed for allocating services among the private school teachers and appropriate personnel (IX UP, F-10).

24. If an LEA, in consultation with private school officials, decides to pool Title II-A funds annually allocated for private school teachers and, later, a private school(s) chooses not to participate, should the funds allocated for such teachers and appropriate personnel remain in the pool?

Yes. Once funds are allocated, if a particular private school does not wish to have its teachers participate, such funds should remain in the pool to use for services for the private school teachers in the original agreement for that fiscal year (IX UP, F-11).

25. What responsibilities does the state have for ensuring that LEAs provide equitable services to private school teachers?

The state is responsible for ensuring that its sub-grantees, in most cases LEAs, comply with the statutory and regulatory requirements related to providing equitable services to private school students and teachers. One way the state can help to ensure that their sub-grantees are in compliance is to develop policies and procedures that assist them in administering and implementing programs for eligible private school students and teachers. States can also provide additional guidance and other resources, such as this Question and Answer document, to aid in this effort. Such assistance also serves to ensure uniformity in program administration throughout the state.

States are required to monitor LEAs for compliance with the provisions of equitable services to private school students and teachers and must develop a process for the filing of complaints by private school officials. Florida provides workshops on equitable

services under NCLB to which they invite both LEA officials who are NCLB program directors and private school officials in order to ensure that all participants involved in the consultation process receive the same information and technical assistance (IX UP, G-10).

26. Are private school teachers' who receive equitable services subject to the NCLB highly qualified teacher requirements?

No. The highly qualified teacher requirements do not apply to private schools whose students or teachers receive equitable services because the highly qualified teacher requirements under Title I of NCLB do not apply to teachers hired by private elementary and secondary schools (IX UP, I-2).

27. Are private school teachers' who receive equitable services subject to the NCLB requirements relating to state standards, adequate yearly progress (AYP) and annual assessments?

No. A state's academic standards and AYP determinations do not apply to private schools. States are not required to include private schools in their state academic assessment system (IX UP, I-3).

28. Are private schools whose students or teachers receive equitable services subject to the military recruiter requirements in section 9528 of NCLB?

No. Private secondary schools whose students or teachers receive equitable services but that do not receive funds under NCLB are not subject to the military recruiter requirements (IX UP, I-4).

Private secondary schools that do receive funds under NCLB are subject to the requirements. However, private schools that maintain a religious objection to service in the armed forces that is verifiable through the corporate or other organizational documents or materials of that school are not required to comply with this requirement.

29. Are private schools whose students or teachers receive equitable services subject to the Family Educational Rights and Privacy Act (FERPA)?

No. Private schools whose students or teachers receive equitable services are not subject to FERPA unless they otherwise receive federal funds from a program administered by the U.S. Department of Education (IX UP, I-5).

Complaint Process

By engaging in timely and meaningful consultation and developing positive relationships with private school officials, an LEA can facilitate creation of a cooperative environment and minimize problems and complaints. If private school officials believe that timely and meaningful consultation has not occurred, they should first discuss this matter with the

LEA official responsible for coordinating the consultation between the two entities. Private school officials may also contact the LEA superintendent or program director of the federally funded program to ask for assistance. If the response at the local level is not satisfactory, the private school official may contact the state official responsible for ensuring that the Title II-A program is implemented at the local level. Often, these steps will resolve the matter. In the event the problem is not resolved, private school officials have the right to file a formal written complaint with the state.

1. Is there a complaint process?

Yes. Private school officials may appeal to Florida Department of Education (FDOE) if they believe that the law has not been followed or that their concerns have not been adequately addressed. When a complaint occurs, the agency should write to the appropriate program contact at FDOE.

2. What information must a formal written complaint include?

A formal written complaint must include:

- A statement that the state, LEA, or other entity receiving federal financial assistance has violated a requirement of a federal statute or regulation that applies to a program requiring equitable participation;
- The facts on which the statement is based and the specific statutory or regulatory requirement allegedly violated; and
- The signature of the complainant (IX UP, H-1).

3. What options are available to private school officials if they file a complaint with the state, but the state does not answer their complaint in a timely manner or if the state's response fails to resolve the problem?

The state is required to resolve the complaint in writing within a reasonable period of time. The state's resolution (or its failure to resolve the complaint within a reasonable period of time) may be appealed by private school officials to the secretary of the U.S. Department of Education (secretary). The appeal to the secretary must be filed no later than 30 days following the state's resolution of the complaint (or its failure to resolve the complaint within a reasonable period of time). The secretary investigates and resolves the appeal no later than 120 days after receipt of the appeal (IX UP, H-2).