

Bulletin No. 02.08

August 15, 2002

Topic: ESEA Provisions for Private Schools

Under the general provisions in Title IX of the No Child Left Behind Act (NCLB) of 2001, the reauthorization of the Elementary and Secondary Education Act (ESEA), Local Education Agencies, Cooperative Educational Service Agencies (CESAs), and consortiums receiving funds must comply with provisions of participation by private school children and teachers. This provision requires, after meaningful consultation with private schools, the equitable participation in services and/or benefits to private school children, their teachers, and other educational personnel. The educational services or other benefits including materials and equipment shall be secular, neutral, and nonideological.

Specifically, the equitable participation provision applies to funds received by LEAs, CESAs or consortiums under the following programs:

Title I Part A	Local Education Agency's Basic Programs*
Title I Part B	Reading First and Even Start Family Literacy Programs
Title I Part C	Education of Migratory Children*
Title II Part A	Teacher and Principal Training and Recruiting* (only to the extent the LEA uses funds under this part for professional development)
Title II Part B	Math and Science Partnerships
Title II Part D	Enhancing Education Through Technology*
Title III Part A	English Language Acquisition*
Title IV Part A	Safe and Drug-Free School and Communities* and Community Service Grants for Suspended and Expelled Youth
Title IV Part B	21 st Century Community Learning Centers
Title V Part A	Innovative Programs*

*Indicates those that local education agencies apply for through consolidated application.

Each LEA is responsible for undertaking meaningful consultation with representatives of private schools located within its boundaries, or maintaining evidence that opportunities for consultation were provided for all private schools. The Wisconsin School Directory has information on public and private schools in Wisconsin. Additional information on private schools within respective school district boundaries can be found on the DPI website at www.dpi.state.wi.us.

The requirement for providing services to eligible children enrolled in private schools does not include home schools.

Meaningful Consultation

To ensure timely and meaningful consultation, LEAs shall consult with private school officials during the design and development of programs offered under the titles mentioned above on issues such as:

- How children’s needs will be identified;
- What services will be offered;
- How, where and by whom services will be offered;
- How the services will be assessed and how the results of the assessments will be used to improve these services;
- The size and scope of the equitable services to be provided to the eligible private school children, teachers, and other educational personnel, and the amount of funds available for those services;
- How and when the agency will make decisions about the delivery of services, including a thorough consideration and analysis of the views of the private school officials on the provisions of contract services through potential third-party providers.
(Note: Where an LEA disagrees with the views of the private school representatives on the provision of services through a third party contractor, the LEA must provide a written explanation of the reasons why the LEA has chosen not to use a contractor.)

Private school participation requirements cannot be satisfied simply by inviting private schools to participate in programs and/or activities designed for public school students, teachers, or other educational personnel. Consultation with private school representatives should result in defining programs and services that meet the needs of both entities. Each LEA must have on record a written affirmation signed by officials of each participating private school that consultation has occurred. The private school participation verification can be downloaded from the DPI website at www.dpi.state.wi.us/dpi/esea/9550/verify.pdf.

LEAs also must conduct timely and meaningful consultation with private schools prior to transferring funds, under the transferability provisions found in ESEA section 6121-6123, from one program that provides for the participation of private school students, teachers, or other educational personnel.

Funding

Federal funds do not flow to individual private schools or religious organizations. Following meaningful consultation, the LEA either provides programs and services using its own personnel or pays contracted third-party providers to deliver approved programs and services to participating private schools. When the latter option is employed, the selected entities must be independent of the private school and of any religious organization in the provision of these services.

Title I Program Specific Requirements

Title I requires LEAs to allocate funds on the basis of all children from low-income families residing in the participating attendance areas. The LEA determines the per pupil allocation (PPA) for each eligible attendance area and allots that amount for each low-income child (public and private) residing in the area. The public and private school representatives need to work cooperatively to locate and utilize the best source of data to determine the poverty count of children enrolled in private schools.

The LEA and private school representatives may employ one or a combination of the following options for funding services:

- equitable services may be provided with funds generated by children from low-income families residing in participating public school attendance areas and who are enrolled in private schools within participating public school attendance centers;
- elect to combine funds generated by low-income private school children in all eligible and participating attendance areas to create a pool of funds. This provides more funding to reach an increased number of eligible students from the various attendance areas.

If a district identifies a public school as eligible based on enrollment, the district must, in consultation with the private school, determine an equitable way to identify eligible private school children.

A private school student eligible for Title I services must reside in a participating public school attendance area and, according to objective educational assessments, be found to be failing or at risk of failing. The educational assessments used to determine academic need do not have to be the same instruments as those used by the public school, but must be comparable. Title I services are to be designed based on the identified needs.

Consequently, the program needs may vary from the public school. The services do not have to be in the same subject area if the needs assessment documents different needs. Title I services must be provided at the same grade span for the participating public and private school pupils.

Private schools are not eligible for schoolwide programs, however equitable services must be offered. Equitable services are to be provided to eligible private school children in terms of extent of times, access to quality teachers, and instructional time.

Alternative method(s) may be used to provide equitable services to small numbers of eligible students re-enrolled in private schools when, due to circumstances of location or funding levels, it is cost prohibitive (e.g. take-home computers or individual tutoring).

The public and private school representatives will need to work cooperatively to assess student progress in the subject areas in which Title I services are offered, and utilize the results to plan for program effectiveness.

Appeal and Complaint Process

Section 9503 of the No Child Left Behind Act requires the U.S. Department of Education (USDE) Secretary to develop and implement written procedures for receiving, investigating, and resolving complaints from parents, teachers, and other individuals concerning violations of the provision for participation by private school children and teachers (reference USDE website for complaint procedures). All complaints shall be submitted to the Wisconsin Department of Public Instruction (DPI) for a written resolution by DPI within a reasonable timeframe. The resolution by DPI may be appealed within 30 days to the USDE Secretary.

Questions related to the equitable participation of private schools in a specific ESEA-related program can be directed to the following individuals:

Grant Manager List

Title	DPI Grant Manager
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Title I Part A—Local Education Agency's Basic Programs	Myrna Toney (608) 266-2690 myrna.toney@dpi.state.wi.us
Title I Part B—Reading First and Even Start Family Literacy Programs	Reading First: Kathleen Ellickson (608) 266-9616 kathleen.ellickson@dpi.state.wi.us Even Start: Monica Notaro (608) 267-9141 monica.notaro@dpi.state.wi.us
Title I Part C—Education of Migratory Children	Myrna Toney (608) 266-2690 myrna.toney@dpi.state.wi.us
Title II Part A—Teacher and Principal Training and Recruiting (only to the extent the LEA uses funds under this part for professional development)	Abdallah Bendada (608) 267-9270 abdallah.bendada@dpi.state.wi.us
Title II Part B—Math and Science Partnerships	Abdallah Bendada (608) 267-9270 abdallah.bendada@dpi.state.wi.us
Title II Part D—Enhancing Education through Technology	Rob Roy (608) 261-6332 robert.roy@dpi.state.wi.us
Title III Part A—English Language Acquisition	Seree Weroha (608) 266-7292 seree.weroha@dpi.state.wi.us
Title IV Part A—Safe and Drug-Free Schools and Communities and Community Service Grants for Suspended and Expelled Youth	Steve Fernan (608) 266-3889 steven.fernan@dpi.state.wi.us
Title IV Part B—21 st Century Community Learning Centers	Steve Fernan (608) 266-3899 steven.fernan@dpi.state.wi.us
Title V Part A—Innovative Programs	Bette Achtor (608) 267-9106 bettejane.achtor@dpi.state.wi.us

Specific questions related to this bulletin should be directed to:

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