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## Topic: Private School Student and Educator Participation in ESEA/NCLB Programs

### The No Child Left Behind Act of 2001

The Elementary and Secondary Education Act (ESEA) provides educational services and benefits to private school students and educational personnel, including those in religiously affiliated schools. These services are considered to be of assistance to students and educators and not to private schools. The reauthorized ESEA requires the equitable participation of private school students and educational personnel in some of its major programs. Following are explanations of some of the law's provisions, brief summaries of each program, and questions and answers regarding the participation of private school students and educational personnel in the programs. Information is also provided on the transfer of funds from one program to another. Much of the information in this document has been drawn from federal guidance documents posted on the United States Department of Education website, [www.ed.gov](http://www.ed.gov).

The following programs, which are administered by the Department of Public Instruction, are addressed in this document:

- A. Title I, Part A—Improving Basic Programs Operated by LEAs
- B. Title II, Part A—Improving Educator Quality
- C. Title II, Part D—Enhancing Education through Technology
- D. Title III, Part A—English Language Acquisition, Language Enhancement, and Academic Achievement

## Questions and Answers

Following are questions and answers to *general* and *program specific* private school participation requirements of NCLB.

### General

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The following questions and answers apply to all of the programs listed on page 1 unless otherwise noted.

**1. What does equitable participation by private school students and educational personnel mean?**

The uniform provisions in Title IX of ESEA, sections 9501-9504, govern the participation of private school students and educational personnel in the ESEA programs (<http://www.ed.gov/legislation/ESEA02/pg111.html>).

Under the uniform provisions, local education agencies (LEAs) or other entities receiving federal financial assistance are required to make educational services available to eligible private school students and educational personnel *consistent with the number* of eligible students enrolled in private elementary and secondary schools in the areas served by the LEA. These educational services and other benefits must be comparable to the services and other benefits provided to public school students and educational personnel participating in the program and address their needs under the program. The services are to be provided in a timely manner. Private schools are not required to accept the educational services.

To ensure equitable participation, the LEA receiving federal financial assistance must:

- ☞ consult with private schools to assess, address, and evaluate the needs of private school students and educators;
- ☞ spend an equal amount of funds per student to provide services;
- ☞ provide private school students and educators with an opportunity to participate in activities equivalent to the opportunity provided to public school students and educators; and
- ☞ offer services that are secular, neutral, and non-ideological.

Equitable participation is not achieved when an LEA invites private schools to participate in pre-planned programs without prior consultation. In order to facilitate consultation between public and private school officials and the effective implementation of programs and services for private school students and teachers, SEAs/LEAs are encouraged to create non-public school working groups, made up of representatives from the full spectrum of private schools. Such groups exist in some states and LEAs, meet on a regular basis, and smooth the progress of federal education program implementation for private school students and teachers.

**2. What are the requirements for timely and meaningful consultation?**

To ensure timely and meaningful consultation, the LEA shall consult with appropriate private school officials during the design and development of the programs under this act. At a minimum, the LEA must consult with private school representatives on:

- Ⓒ how the needs of private school students and educational personnel 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 to be provided to the eligible private school students and educational personnel and the amount of funds available for those services; and
- Ⓒ how and when the LEA will make decisions about the delivery of services, including a thorough consideration and analysis of the views of the private school officials on the provision of contract services through potential third-party providers.

The LEA is to consult with private school administrators prior to the submission of the grant application to the department. During the grant application process, the Department of Public Instruction annually will collect information on how the LEA has complied with this requirement through the Application Requirements Checklist in the ESEA Application.

**3. Must an LEA contact the officials of all private schools every year, even when there have been no recent indications of a desire to participate in the federal program(s)?**

Yes. The LEA is required to contact appropriate officials of all private schools within the boundaries of the school district annually to determine if they want their educators and/or students to participate in the program, regardless of whether or not those officials have indicated any interest in program participation in the past. In addition, for Title I, the LEA must contact the private schools in other communities that are serving eligible students who are residents of the school district. The LEA is required to annually collect and maintain on file an Affirmation of Consultation with Private School Officials form (PI-9550-AC) for each nonprofit private school in the district. This form can be found at [dpi.wi.gov/files/forms/doc/f9550-ac.doc](http://dpi.wi.gov/files/forms/doc/f9550-ac.doc)

**4. When must an LEA consult with appropriate private school officials?**

To ensure timely and meaningful consultation, an LEA must consult with appropriate private school officials during the design and development of the proposed programs and prior to the submission of the grant application to the department. Decisions that affect the opportunities of eligible private school

educators and/or students to participate in federal program activities should be made only after consultation has taken place. [Section 9501(c)(3) and (4)].

**5. May an LEA require private school representatives to submit written documentation in order to receive services?**

LEAs may request that reasonable documentation be submitted in a timely manner, as needed, from private school officials to help the LEA identify educational services that may be appropriate to the needs of private school students and educators. Such documentation should be limited to a description of the needs of the students and/or educators and a brief description of the services and programs desired to meet those needs.

**6. What kinds of records should an LEA maintain to show that it has met its responsibilities for equitable participation of private school educators and/or students?**

To meet its general record-keeping responsibility, an LEA should document that: (a) representatives of private schools were informed of the availability of services; (b) the needs of private school educators and/or students were identified; (c) private school officials were consulted and provided an opportunity for input into the planning of the LEA's program activities; and (d) the amount of funds made available were equitable to that for public school students and educators. The LEA is required annually to collect and maintain on file an Affirmation of Consultation with Private School Officials form (PI-9550-AC) for each nonprofit private school in the district. This form can be found at [dpi.wi.gov/files/forms/doc/f9550-ac.doc](http://dpi.wi.gov/files/forms/doc/f9550-ac.doc)

The LEA also should maintain records of its efforts to resolve any complaints by private school representatives regarding equitable services.

Note: For Title I, see Question A.7 in the Program Specific section.

**7. Who has control of the funds?**

The LEA maintains control of the federal funds used to provide services under the grant programs funded through ESEA. It also maintains title to materials, equipment, and property purchased with those funds. LEAs may allow the private schools to keep the items from year to year, in accordance to approved ongoing activities, so long as records are maintained.

**8. What are the private school involvement requirements if an LEA decides to transfer ESEA funds from one title to another?**

In general, an LEA may transfer up to 50 percent of each fiscal year's allocations that it receives *by formula* under the following provisions:

Title II, Part A—Improving Educator Quality Grants

Title II, Part D—Enhancing Education through Technology Grants

Before transferring funds, an LEA must:

- (a) conduct consultations in accordance with section 9501 of the ESEA to provide for the equitable participation of private school students and staff (see II-C-2);
- (b) determine what funds are to be transferred (subject to the applicable percentage limitation) and the programs to which the funds will be transferred on the basis of the LEA's priorities and after engaging in the consultations referenced in paragraph (1);
- (c) modify each affected LEA plan or application to account for the transfer;
- (d) establish an effective date for the transfer; and
- (e) notify the department of the transfer at least 30 days *before* the effective date of the transfer. (If a transfer results in a significant change in the administration or operation of a local plan or application, the LEA must also submit to the department, within 30 days after the transfer, a copy of its revised local plan or application.)

Each of the programs covered by the LEA transferability authority is subject to the equitable participation requirements of each title. Thus, before an LEA may transfer any funds, it must engage in timely and meaningful consultation with private school officials. With respect to the transferred funds, private school students and teachers are entitled to receive equitable services from the LEA under the programs to which the funds are transferred.

An LEA may not transfer funds to a particular program solely to provide services for private school students and/or educators. Rather, the LEA provides equitable services to private school students and educators from the overall funds of a program, including the transferred funds.

For more information on this topic, see ESEA Information Update bulletin 02.13, "Flexible Use of ESEA Program Funds Across Titles (Transferability)," at [http://esea.dpi.wi.gov/files/esea/pdf/bul\\_0213.pdf](http://esea.dpi.wi.gov/files/esea/pdf/bul_0213.pdf)

Also, complete guidance on private school involvement in the transferring of funds can be found at <http://www2.ed.gov/programs/transferability/finalsummary04.doc>.

**9. Are private school students and educators entitled to equitable participation in competitive grants funded by ESEA as well as in formula grants?**

In some cases, private school students and educators are entitled to equitable participation in competitive grants. Review each competitive grant's guidelines for more information.

The department will include information in this regard in the relevant Requests for Proposals (RFPs).

**10. How can private schools assist the LEA in meeting the obligation for equitable participation and consultation?**

Private schools can facilitate the process by:

- Ⓒ annually completing and submitting the Affirmation of Consultation with Private School Officials form (PI-9550-AC) to the district (this form can be found at [dpi.wi.gov/files/forms/doc/f9550-ac.doc](http://dpi.wi.gov/files/forms/doc/f9550-ac.doc));
- Ⓒ responding to the LEA's request for information in a timely manner;
- Ⓒ providing documentation on the needs of students and educators in accordance with each grant program's requirements; and
- Ⓒ assessing student achievement in accordance with the grant program requirements (see A.1, B.1, E.3).

**11. What recourse is available if an LEA will not use its federal funds to provide equitable services to private school students and educational personnel?**

The private school should first work to resolve the concerns at the local level. If this does not work, then concerns about an LEA's failure to provide equitable services to private school students and educational personnel may be submitted in writing to the state superintendent. The state department's resolution may be appealed to the United States Department of Education.

**12. Do non-district and (2R) charter schools need to provide equitable services to private schools?**

No. Although non-district and (2R) charter schools are considered LEAs for the purpose of receiving federal entitlement funds, they are not subject to the provisions regarding equitable participation of private schools.

**13. Does the law require that LEAs provide equitable services with ESEA funding only to private "nonprofit" schools?**

Yes. Section 9501(a) requires LEAs to provide equitable services to teachers and students in "private elementary and secondary schools." ESEA defines "elementary" and "secondary" schools as "nonprofit institutional day or residential school(s)" [Section 9101(18) and (38)].

## PROGRAM SPECIFIC INFORMATION

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The following questions and answers pertain to specific programs.

### A. Title I, Part A—Improving Basic LEA Programs: Overview

Title I, Part A, provides supplementary instruction by public school teachers or through a third-party contractor to students who are educationally disadvantaged and failing or are most at risk of failing to meet high academic standards and who live in areas of high poverty. Instruction may take place during the school day, before or after school, or during the summer.

#### A.1. What is the applicability of state academic assessment to private schools?

Private schools, including private schools with Title I students, are not required to participate in a state's academic assessments. If a private school has students who receive Title I services, the LEA must consult with private school officials about how those students will be assessed.

34 CFR section 200.10 addresses this issue. Specifically, it states:

Nothing in Sec. 200.1 or Sec. 200.2 requires a private school whose students receive Title I services to participate in a state's academic assessment system.

(a) If an LEA provides services to eligible private school students, the LEA must, through timely consultation with appropriate private school officials, determine how services will be academically assessed and how the results of that assessment will be used to improve those services.

(b) The assessments **may** be the state's academic assessments **or** other appropriate academic assessments. These Title I regulations for standards and assessment requirements went into effect August 5, 2002, and are available at <http://www2.ed.gov/legislation/FedRegister/finrule/2002-3/070502a.html>.

#### A.2. How are Title I funds for private school students determined?

Funds are generated on the basis of the number of students from low-income families who **reside** in participating public school attendance areas and attend private schools, whether the private **schools** are located **within or outside** district boundaries. Private school students who **reside** within a Title I attendance area and who are failing or most at risk of failing to meet high academic standards are eligible for services.

Methods an LEA may use for determining low-income private school students are:

- ☞ same poverty data as for public school students,
- ☞ comparable poverty data,
- ☞ extrapolated data based on representative sample,
- ☞ comparable data from a different source (e.g., scholarship applications),

- ☞ apply low-income percentage of each participating public school attendance area to the number of private school children who reside in that attendance area, or
- ☞ equated measure of low income correlated with the measure used for public school children. Final Regulations, Sec. 200.78 (a)(2)(ii)(A-E).

After timely and meaningful consultation, "...the LEA shall have the final authority in determining the method used to calculate the number of private school children from low-income families." Final Regulations, Sec. 200.78 (a)(2)(iv).

The amount of funds available to provide equitable services from the applicable reserved funds must be proportionate to the number of private school children from low-income families residing in participating public school attendance areas. Final Regulations, Sec. 200.64 (a)(2)(i)(B).

### **A.3. Where may Title I services be provided to private school students?**

Title I services may be provided at the private school, including religiously affiliated schools, or at other locations. See Guidance on the Supreme Court's Decision in *Agostini v. Felton* and Title I (Part A) of ESEA at <http://www2.ed.gov/legislation/ESEA/feltguid.html>.

### **A.4. What services may be provided to private school students, parents, and educators?**

Services may include assistance through a pullout model, supplementary instruction, direct instruction, computer-assisted instruction, tutoring, counseling, family literacy, and early childhood programs. In addition, the law requires equitable participation of private school educators of Title I students in professional development activities and of parents of Title I students in parent involvement activities.

### **A.5. Who may be contracted to provide services in private schools?**

Services shall be provided:

- ☞ by employees of the LEA or another public agency, or
- ☞ through a contract by the public agency with an individual, association, agency, organization, or other entity.

In the provision of those services, the employee, person, association, agency, organization, or other entity shall be independent of the private school and of any religious organization. The employment or contract shall be under the control and supervision of the LEA.

### **A.6. What qualifications must contracted service providers have?**

Educators hired with Title I, Part A funds must be "highly qualified" as defined by the No Child Left Behind Act of 2001. "Draft Non-Regulatory Guidance:

Improving Teacher Quality State Grants” can be found at <http://www.ed.gov/programs/teacherqual/guidance.doc>.

**A.7. What records does the LEA need to maintain regarding private school participation in Title I services?**

Under Title I, LEAs are required to maintain records of an offer of consultation to officials at private schools where eligible students attend, as well as a written affirmation signed by an official for each participating private school that the required consultation has occurred. The LEA is required annually to collect and maintain on file an Affirmation of Consultation with Private School Officials form (PI-9550-AC) for each nonprofit private school in the district. This form can be found at [dpi.wi.gov/files/forms/doc/f9550-ac.doc](http://dpi.wi.gov/files/forms/doc/f9550-ac.doc).

**B. Title II, Part A— Preparing, Training, and Recruiting High Quality Teachers and Principals**

Title II, Part A provides assistance for preparing, training, recruiting, and retaining highly qualified teachers. The amount of funding available or services to private school personnel is governed by Section 9501(b)(3), which requires equitable participation of private school education personnel to the extent that the LEA uses its funds for professional development. The activities allowed under the law are summarized as follows: (1) Providing professional development activities that improve the knowledge of teachers, principals, and paraprofessionals; (2) Developing and implementing initiatives to promote retention of highly qualified teachers and principals, particularly within schools with a high percentage of low-achieving students, and initiatives, including activities related to PI 34, to improve the quality of teachers, principals, and superintendents; (3) Staff advancement initiatives that promote professional growth and emphasize multiple career and pay differentiation, including activities related to PI 34; and (4) Developing and implementing mechanisms and initiatives to assist in recruiting, hiring, and retaining highly qualified teachers for the purpose of reducing class sizes. Private schools can only participate in the first three activities above.

**B.1. What are the previous uses of Title II, Part A by private schools?**

The participation of private schools in Title II, Part A has shown a significant increase during the last seven years. In 2002, only 3.2% of Title II funds were spent in providing professional development services to private schools. In 2008, about 4.2% of the funds were allocated to provide professional development services to private schools. Almost all private schools in Wisconsin developed their own professional development plans ranging from participation in workshops and graduate courses in core academic areas to obtaining advanced degrees and acquiring new licenses.

**B.2. How does an LEA determine the amount of funds required for equitable services to private school educational personnel?**

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Funds provided for professional development for private school teachers pupil basis. Hence, on a per-pupil basis, expenditures for professional development for public and private school teachers must be equal.

LEAs are required to provide equitable services for private school teachers and other educational personnel for that portion of Title II, Part A funds used for professional development. The amount of Title II, Part A funds that an LEA must make available for equitable services to private school teachers and other educational personnel must be at least as much for professional development under Title II, Part A as was available in FY 2001 under the Eisenhower Professional Development Program.

To determine the per pupil allocation, the LEA divides the total amount allocated for professional development by the number of eligible private and public school children. This amount should then be multiplied by the total number of students enrolled in private schools to arrive at a total amount of funds to be designated for professional development for nonpublic school educators participating in the program.

**B.3. What happens if an LEA decides not to use any of its Title II, Part A funds for professional development? How does the LEA meet its obligation to provide for the equitable participation of private school educators?**

To determine the amount of Title II, Part A funds that an LEA must make available for equitable services to private school educational personnel, the LEA must assume that it is spending at least as much for professional development under Title II, Part A as it did in 2001-02 under the Eisenhower Professional Development and federal Class-Size Reduction programs.

**B.4. How does the LEA ensure that it is providing equitable services?**

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

- assess, address, and evaluate the needs and progress of both public and private school educators through meaningful consultation;
- spend an equal amount of funds per student to serve the needs of public and private school educators and their students;
- provide private school educators with an opportunity to participate in Title II activities equivalent to the opportunity provided public school educators; and
- offer educational services to private school educators that are secular, neutral, and non-ideological [*Section 9501(a)(2)*].

**B.5. What are some of the eligible activities under this program in which private school teachers and other educational personnel may participate?**

As with any activity sponsored by the LEA for public school educators, activities supported with Title II, Part A funds benefiting private school educators must meet the requirements of the Title II statute. Activities 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. Only activities meeting these standards are eligible for funding.

Professional development 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.

**B.6. 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 educators in designing the professional development program for private school teachers. If the professional development needs of the private school educators are different from those of public school educators, the LEA, in consultation with private school representatives, should develop a separate program.

**B.7. What happens if an LEA's professional development offering address some, but not all, of a private school's needs? How are**

**costs calculated for private school participation in these activities, and how does this affect the total private school allocation?**

After consultation, a district and private school may decide that the district's professional development activities address some of the private school's needs but not all. Therefore, they may determine that the private school should participate in those activities and receive a reduced allocation to address its other needs. This reduction in allocation would reflect the cost of a private school's participation in a district's activity.

To arrive at the reduced allocation, the district would determine the cost of the professional development activity the private school wants to attend and then divide the total cost by the number of total participants to arrive at a per participant figure for that particular district offering. The district would then multiply the number of private school attendees by the per-participant cost to determine the private school's cost for participating in the activity. The district and private school would then deduct this amount from the total private school allocation. The private school would be able to use the remainder of its "allocation" for other activities that address its needs.

**B.8. May funds be used to support the acquisition of advanced degrees by private school teachers?**

Yes. An LEA may use Title II, Part A funds to support a teacher's acquisition of an advanced degree if the degree program is consistent with the results of the needs assessment conducted for private school teachers. The financial support must be for graduate courses that would enable the teacher to provide more effective instruction.

**B.9. May funds be used to pay stipends to private school educators participating in a Title II, Part A, *Improving Educator Quality Grants* professional development program?**

Yes. Title II, Part A funds may be used to pay for stipends for private school educators. The use of funds for stipends must be reasonable and necessary. For example, if the professional development activity is conducted during after-school hours or in the summer, stipends may be needed to compensate educators for their participation outside their regular employment hours. The stipends must be paid directly to the private school educators for their own use and not to the private school.

**B.10. May Title II, Part A, *Improving Educator Quality Grants* funds be used to pay for substitute teachers who replace teachers from private schools while they attend professional development activities?**

No. The Title II, Part A program does not authorize payments to private schools to be used for hiring substitute teacher.

**B.11. May *Improving Teacher Quality State Grant* 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, Part 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.

**B.12. May administrative costs be considered in determining the per-teacher expenditures for private school teachers?**

No. LEAs pay the costs of administering professional development programs for public and private school educational personnel "off the top" of their total allocation. This is calculated **before** determining how much of the Title II, Part A funds are to be made available for professional development of public and private school educators.

**B.13. Must the LEAs administer and retain control over the Title II, Part A, *Improving Educator Quality* grant funds used to serve private school educators?**

The LEA must administer and retain control over the funds and, therefore, may not provide program funds directly to private schools.

**C. Title II, Part D—Enhancing Education through Technology: Overview**

The Enhancing Education through Technology program provides funds for innovative initiatives to support the integration of educational technology into classrooms to improve teaching and learning. Activities may include professional development in technology integration and the use of the Internet, distance learning initiatives, acquiring educational technology, and using technology to enhance parental involvement. This program is governed by the uniform provisions and requires the equitable participation of students and educators in private schools located in school districts that receive a Title II-D grant.

**C.1. What do the equitable participation provisions in Title II-D require LEAs to do?**

LEAs must engage in timely and meaningful consultation with appropriate private school officials during the design and development of programs and continue the consultation throughout the implementation of these programs. Therefore, for both Ed Tech formula and competitive awards, the consultation should begin during the development of the local grant proposals. Eligible LEAs that seek both competitive and formula funding under Ed Tech may engage in consultations that simultaneously involve the Ed Tech competitive and formula grants.

LEAs must provide, on an equitable basis, educational services or other benefits that address the educational technology needs of students and educational personnel in private schools in areas served by the LEAs.

Activities may include professional development in technology integration and the use of the Internet, distance learning initiatives, acquiring educational technology, and using technology to enhance parental involvement.

**C.2. Must the expenditures that the LEA provides for private school educators be equal on a per-pupil basis?**

Title II, Part D services for private school students and educational personnel must be equitable in relation to services to public school students and educational personnel. The law also requires that funds for private schools be equal on a per-pupil basis. Hence, on a per-pupil basis, expenditures for public and private school students and educators must be equal.

The per-pupil allocation is based on the number of eligible students "enrolled in private elementary schools and secondary schools in areas served" by the school district. Residence is not a factor here as it is in Title I.

**C.3. Who has control of the funds?**

The LEA maintains control of funds used to provide services under Title II, Part D. It also maintains title to materials, equipment, and property purchased with those funds.

**D. Title III, Part A—English Language Acquisition, Language Enhancement, and Academic Achievement: Overview**

The English Language Acquisition, Language Enhancement, and Academic Achievement program provides funds for helping limited English proficient (LEP) students attain English proficiency and meet the same challenging state academic content and student achievement standards as all students are expected to meet. Private school students and educators whose schools are located within an LEA that receives a grant from the state are eligible to participate in this program as required by the uniform provisions.

**D.1. What is meant by “equitable” participation by public and private school students and educational personnel in a Title III program?**

Participation is considered to be equitable if the LEA (a) assesses, addresses, and evaluates the needs and progress of public and private school students and educational personnel on a comparable basis; (b) provides, in the aggregate, approximately the same amount of services to students and educational personnel with similar needs; (c) spends an equal amount of funds to serve similar public and private school students and educational personnel; and (d) provides both groups of students and educational personnel equal opportunities to participate in program activities.

**D.2. Must an LEA’s Title III program design be the same for both public and private school students and educational personnel?**

No. Consultation and coordination between LEA and private school officials are essential to ensure a high-quality program that addresses the needs of the

students being served and assists those students in attaining English proficiency and meeting the same challenging standards as all students are expected to meet. The LEA must assess the needs of private school students and educational personnel in designing a program that addresses their needs. If their needs are different from those of public school students and educational personnel, the LEA, in consultation with private school officials, must develop a **separate program** design that is appropriate for their needs.

**D.3. Are private school students receiving Title III services required to participate in the same English language proficiency assessments that are required of public school students receiving Title III services?**

No. However, private school students receiving Title III services, like participating public school students, must be assessed annually for their level of English proficiency in the domains of speaking, listening, reading, writing, and comprehension. The state assessments may be used, if they are appropriate, or other assessments may be used. In any case, the assessments must be comparable to those used for the public school students and aligned with the academic learning standards established by the state or by the private school.

**D.4. Does the Title III requirement on language qualifications for teachers providing Title III services to public school students apply to teachers providing these services to private school students?**

Yes. Like teachers serving public school limited English proficient students, teachers providing Title III services to private school students must be fluent in English and any other language used for instruction.

**D.5. How are limited English proficient students identified?**

Private schools receiving Title III services must establish a consistent and reasonable process for identifying LEP students. The use of the “Home Language Survey” is the first step in the identification process. After the consultation meeting the district and the school will determine which language proficiency assessment will be used. This will entail using qualified staff and appropriate procedures and assessments to assess the ability of students whose first language is not English to do ordinary classwork in English.

Specific questions related to this bulletin should be directed to:

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