

Highlights FAQ for September 13, 2019 Meeting

A-9. What is entailed in achieving “the goal of reaching agreement” between an LEA and appropriate private school officials?

The “goal of reaching agreement” between an LEA and appropriate private school officials is predicated on the good faith efforts of all parties to reach an agreement regarding the provision of equitable services. Meaningful consultation that results in agreement begins well before the decisions are made or services are implemented, and provides a genuine opportunity for all parties to express their views, to have their views given serious, due consideration, and to discuss viable options for ensuring equitable participation of eligible private school students, teachers and other education personnel, and families.

B-10. How does an LEA determine the number of children, ages 5 through 17, who are from low-income families residing in participating public school attendance areas, and attend private schools?

After consultation with private school officials occurs, ESEA section 1117(c)(1) provides an LEA the final authority to decide which option it will use to calculate the number of children who are from low-income families and attend private schools:

1. Using the **same measure of poverty** used to count public school children. If the same measure of poverty used to count public school children is available for private school students (e.g., FRPL data) and an LEA concludes, after consultation with private school officials, that the data will yield an accurate count of private school students, the Department recommends that an LEA use the same measure.
2. Using **comparable poverty** data from a survey and allowing such survey results to be extrapolated if complete actual data are unavailable. In order to obtain the number of private school children from low-income families, an LEA may use a survey to obtain poverty data comparable to those used for public school students. To the extent possible, the survey must protect the identity of families of private school students. An LEA should not require that the private school officials give the names of low-income families. The only information necessary for an LEA to collect in such a survey of private school children is-
 - (1) verification of residence in a participating public school attendance area;
 - (2) grade level of each child; and
 - (3) income level of parents.
3. Using **comparable poverty** data from a different source. If data from the same source used for public school children are not available, an LEA may use poverty data for private school children that are from a different source than the data it uses for public school children so long as the income threshold in both sources is generally the same. For example, an LEA uses FRPL data but private school children do not participate in the free and reduced price lunch program; however, private school officials are able to provide an LEA with a count of children who are from low-income families using other sources of poverty data such as eligibility for means-tested tuition scholarship programs.
4. Using **proportionality**. An LEA may apply the low-income percentage of each participating public school attendance area to the number of private school children who reside in that school attendance area to derive the number of private school children from low-income families. To do this, the LEA will need the addresses and grade levels of those students attending private schools. For example, if the percentage of poverty in a public school attendance area is 60 percent and there are 50 private school

children residing in the public school attendance area, the LEA would derive 30 private school children from low-income families who reside in the attendance area.

5. Using an equated measure. An LEA may use an equated measure of low-income by correlating sources of data—that is, determining the proportional relationship between two sources of data on public school children and applying that ratio to a known source of data on private school children. For example, an LEA uses free and reduced-price lunch data, but those data are not available for private school students. However, if TANF data are available, the LEA could determine an equated measure of poor children in private schools based on FRPL data by correlating the two sets of data as follows:

$$\begin{aligned} \text{TANF (public)} &= \text{TANF (private)} \\ \text{FRPL (public)} &\times \text{(private)} \end{aligned}$$

In this example, the LEA may then use the equated number of private school children based on FRPL data (“X”) as the number of private school children from low-income families.

C-1. What private school students are eligible for Title I services?

In general, to be eligible for Title I services, a private school child must reside in a participating public school attendance area and must be identified by the LEA as low achieving on the basis of multiple, educationally related, objective criteria. (ESEA sections 1115(c)(1)(B) and 1117(a)(1)). In addition, children may be identified as eligible solely by virtue of their status as follows: homeless children; children who in the preceding two years had participated in Head Start, a literacy program under Title II, Part B, Subpart 2, a Title I preschool program, or a Title I, Part C (Migrant Education) program; and children in a local institution for neglected or delinquent children and youth or attending a community day program for such children. (ESEA section 1115(c)(2)(B)-(E)). Poverty is not a criterion for eligibility for services.

C-2. How are the criteria determined?

In consultation with private school officials, an LEA must establish multiple, educationally related, objective criteria to determine which private school children are eligible for Title I services, and, within the eligible group, which children will be served. To the extent appropriate, the LEA must select private school children who are low achieving. (ESEA section 1115(c)(1)(B)).

C-3. What are some of the educationally related criteria that an LEA may use to identify the lowest achieving private school children for Title I services?

The criteria may include achievement tests, teacher referrals and recommendations based on objective, educationally related criteria, grades, and more.

C-11. Who is responsible for planning and designing equitable services?

After meaningful consultation with appropriate private school officials, the LEA is responsible for planning, designing, and implementing the Title I program and may not delegate that responsibility to the private schools or their officials. (ESEA section 1117(a)(1)(A), (b)(1) and (d)).

C-14. What types of services are available for private school participants?

Services for participating private school children may include, but are not limited to, the following:

- Instructional services provided by public school employees or third-party contractors;
- Expanded learning time, including before-and after-school programs;
- One-on-one tutoring;
- Summer school programs;
- Family literacy programs;
- Counseling programs;
- Mentoring programs;
- Computer-assisted instruction;
- Home tutoring;
- Instruction using take-home computers; and
- Any combination of the above.

Title I services or other benefits, including materials and equipment, must be secular, neutral, and non-ideological. (ESEA section 1117(a)(2)).

C-15. If the funds allocated for private school children are not sufficient to provide instructional services, may the funds be used to provide other services?

Yes. After consultation with private school officials, an LEA may provide Title I services other than direct instruction if the provision of services, such as counseling, staff professional development, and parental involvement is appropriate to assist those children identified as low achieving. The LEA must measure the effect of the services on the academic achievement of participating children. (ESEA section 1117(a)(1)(A)).

C-18. To meet the equitable services requirements under Title I, may an LEA just provide a private school with instructional materials and supplies paid for with Title I funds?

No. Simply providing the private school with instructional materials and supplies does not meet the LEA's obligation to provide equitable services because it is neither a proper Title I program implemented by the LEA nor does it meet the requirement that services be equitable. (ESEA section 1117(a)(1)(A), (3)(A)).

C-25. May private school officials order or purchase materials and supplies needed for the Title I program and be reimbursed by an LEA?

No. Private school officials have no authority to obligate or receive Title I funds. The ESEA requires the LEA to maintain control of Title I funds, materials, equipment, and property. (ESEA section 1117(d)(1)). Thus, no Title I funds may be paid to a private school, even as reimbursement.

C-29. May an LEA employ a third-party contractor to provide equitable services?

Yes. Following consultation, an LEA may provide Title I services directly or indirectly through contracts with public and private agencies, organizations, and institutions so long as those entities are independent of the private school and of any religious organization in the provision of those services. (ESEA section 1117(d)(2)). Under these circumstances, the LEA remains responsible for the oversight of the Title I program.

C-30. May an LEA hire a private school teacher to provide Title I services to private school participants?

Yes, provided certain conditions are met. An LEA may hire a private school teacher to provide Title I services only if the teacher is independent of the private school in the provision of Title I services. The private school teacher must be employed by the LEA for Title I purposes outside of the time he or she is employed by the private school, and the private school teacher must be under the direct supervision of the LEA with respect to all Title I activities. (ESEA section 1117(d)(2)).

C-31. Must teachers and paraprofessionals hired by an LEA to deliver or support the delivery of Title I equitable services meet any qualification requirements?

Yes. The ESEA requires that teachers working in a Title I program must meet applicable State certification and licensure requirements. (ESEA section 1111(g)(2)(J)). In addition, ESEA section 1111(g)(2)(M) requires each State to ensure that its LEAs and schools continue to comply with the paraprofessional requirements in place on December 9, 2015, including those requirements under 34 C.F.R. § 200.58, and any State-specific requirements that were in place on that date.

C-32. How does an LEA provide equitable services for parents and families of private school students participating in the Title I program?

An LEA must ensure that parents and families of eligible children participate, on an equitable basis, in services and activities developed pursuant to ESEA section 1116. (ESEA section 1117(a)(1)(B)). Activities for the parents of private school participants must be planned and implemented after meaningful consultation with

Title I, Part A Equitable Services Non-Regulatory Guidance 3-2019 (PDF)
<https://www2.ed.gov/policy/elsec/leg/essa/drafteseatitleiequitable-services.pdf>

private school officials and parents, and can include parent meetings, communication between the Title I teachers and parents on students' academic progress, parent-teacher conferences, parent education, and more.

C-33. May funds for Title I instructional services be used for parental engagement if the one percent set aside is insufficient?

Based on consultation with private school officials, an LEA may use more than one percent required to be set aside for parent and family engagement activities (see B-7). Examples of parent and family engagement include parent meetings; parent-teacher conferences; parent training activities on how to work at home with children on content and skills; reasonable access to Title I staff to receive information about their child's progress; and private school parent representation on a district-wide private school working group.

C-34. What are an LEA's responsibilities regarding professional development for teachers of private school participants?

An LEA must ensure that teachers of participating private school students have the opportunity to participate, on an equitable basis, in Title I services and activities (ESEA section 1117(a)(1)(B)). Unlike under NCLB, however, the LEA is not required to set aside a specific percentage of its Title I, Part A allocation for professional development and, thus, there is no required percentage that must be spent for professional development for private school teachers. Rather, an LEA must determine, in consultation with appropriate private school officials, the professional development needs of private school instructional staff who teach Title I participating private school students in order to improve the academic outcomes for those students and use funds from the proportional share to provide those services. Such professional development activities might address, for example, information on research-based reading and mathematics instruction, or effective instructional approaches to improving students' writing skills. Coaching in the private school classroom is also permissible as long as the coaching is focused on assisting private school instructional staff who provide instruction to Title I participating private school students with strategies designed to improve the academic achievement of those students and is done during a time when secular, neutral, and non-ideological subjects are being taught. For example, an academic coach might model strategies on how to target or differentiate instruction for Title I students. In providing professional development opportunities, an LEA must ensure that they are focused on improving the academic achievement of participating private school students and do not benefit the general instructional program of the private school. (34 C.F.R. § 200.66(b)(2)(ii)).

C-35. May private school officials arrange for professional development services for staff who provide instruction to Title I participants and submit the invoice to the LEA for reimbursement?

No. Private school officials are not authorized to obligate or receive Title I funds.

C-36. May Title I funds be used to pay stipends to private school instructional staff who participate in Title I professional development?

Yes. Title I funds may be used to pay for stipends for private school instructional staff, if reasonable and necessary (e.g. time outside regular employment hours). Stipends for private school instructional staff must be available on the same basis as public school instructional staff, and the stipends must be paid directly to the private school instructional staff and not to the private school.

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