

**Private Schools and No Child Left Behind**

April 25, 2008

The *No Child Left Behind Act of 2001* (NCLB) requires that students attending private schools receive services from Title I, Part A; Title I, Part B; Title II, Part A; Title II, Part D; Title III, Part A; and Title IV, Part A. Planning and implementing the services must be done in consultation with private school officials. Title I, Part A, and Part B, has specific sections in NCLB addressing private school student participation. Non-Regulatory Guidance is available for Title I, Part A, at: <http://www.ed.gov/programs/titleiparta/psguidance.doc> and for Title I, Part B at: <http://www.ed.gov/programs/readingfirst/guidance.doc>.

Requirements for other title programs are addressed in Title IX, Part E, Private Schools, Non-Regulatory Guidance: <http://www.ed.gov/policy/elsec/guid/equitableserguidance.doc>, as well as in individual program guidance. Several of the requirements are the same for all title programs that serve private school teachers and students. These include, but are not limited to, the following:

Consultation: Title IA Sec. 1120,(b), Title VA Sec. 5142,(a), Title IX, Part E, Subpart 1, 9501 (c), Regulations 200.63

Consultations must be documented and shall:

- Include meetings of the division and private school officials;
- Occur before the division makes decisions that affect the opportunities of private schools to participate; and
- Continue throughout implementation and assessment of services.

Determining Equal Expenditures: Title IA Sec. 1120,(c), Title VA Sec. 5142,(b), Title IX, Part E, Subpart 1, 9501 (a)(4), Regulations 200.77 - 200.78

Title I, Part A, personnel must in consultation with the private school officials, determine the number of eligible students attending the private school. To be counted, students must be residents of the school division and come from economically disadvantaged families. The school division has final authority to set the economic criteria. A per pupil amount is determined by the school division using criteria described in Title I, Part A. In consultation with private school officials, school division Title I, Part A, staff determines criteria for service. The criteria must include multiple, objective, academic measures.

Under Title I, Part B, Reading First, the equal expenditure requirement in Title IX, Section 9501 (a)(4) applies to the program. It requires that expenditures for educational services and other benefits provided for eligible private school children, their teachers, and other educational personnel serving those children be equal, taking into account the number and educational needs of the children to be served.

Title II, Part A, and Title II, Part D, funding for services is calculated using the enrollment of the private school during the previous fiscal year. Title II, Part A, allows eligible private school personnel the opportunity to participate in professional development activities to the extent the division uses funds to provide for professional development, but at least to the Fiscal Year 2001 level.

Title III students are identified and may be served on the basis of their English language proficiency.

Title IV students must be identified as in need of services to be served.

Determining Services: *Title IA Sec. 1120,(b)(1), Title VA sec. 5142,(a)(1) (B), Title IX, Part E, Subpart I, 9501 (c)*

All titles instruct divisions, in consultation with private school officials, to determine:

- How the students' (or teachers', Title II, Part A) needs will be identified
- What services will be offered
- How, where, and by whom the services will be provided
- How the services will be academically assessed
- How the results of the assessment will be used to improve those services
- The size and scope of equitable services to be provided and the proportion of funds that is allocated for services
- How and when the division will make decisions about the delivery of services

Public Control of Funds: *Title IA Sec. 1120,(d), Title VA guidance, Title IX, Part E, Subpart I, 9501 (d), Regulations 200.66,200.67,200.78*

All titles require:

- That the division retains control of funds, materials, equipment and property purchased using title funds. Funds must benefit the students, not the private school.
- Educational services, materials, and equipment shall be secular, neutral, and non-ideological.
- Supplement, not supplant, regulations be followed.

Title I, Part A:

- May not be used to meet the general needs of children in private schools
- May not benefit the private school
- May be used only for Title I, Part A, purposes
- Division staff must remove equipment and supplies:
  - If the program serving private school students no longer uses them to provide Title I services
  - Or removal is necessary to avoid unauthorized use of equipment

Provision of Services: *Title IA Sec. 1120,(d)(2), Title VA sec. 5142,(guidance), Title IX, Part E, Subpart I, 9501 (d)(2)Regulations 200.64(3)(i) (ii)* Services must be provided by employees of the division or through a contract by the division with a third party. The third party must be independent of the private school and any religious organization and the employment or contract shall be under the supervision of the division.