



CALIFORNIA  
DEPARTMENT OF  
EDUCATION

**JACK O'CONNELL**  
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

August 4, 2010

Dear County and District Superintendents:

### **TITLE I SERVICES TO ELIGIBLE PRIVATE SCHOOL CHILDREN**

During the week of February 22–26, 2010, a team from the Student Achievement and School Accountability Programs (SASA) Office, United States Department of Education (ED) visited four California local educational agencies (LEAs) as part of their review of the California Department of Education's (CDE) implementation of Elementary and Secondary Education Act (ESEA). Title I, Part A was among the several programs selected for the monitoring visit. The final report issued by the ED team identified five findings regarding Title I, Part A services for eligible students in private nonprofit schools. This letter provides guidance to all LEAs regarding implementation of the Title I, Part A program for eligible children who attend private nonprofit schools.

The following citations and guidance for implementing the Title I, Part A program for students in private schools will assist you to properly and effectively implement these services.

#### **Calculating Amounts Available to Serve Private School Children, Their Teachers and Families**

LEAs must annually calculate the correct amount of funds to provide equitable services for the teachers and families of participating private school students. If an LEA reserves funds off the top of its Title I allocation for district-wide activities, the Title I *Code of Federal Regulations (CFR)* require that the LEA must also provide equitable services from these set-aside funds (34 *CFR*, Section 200.65). Some of the examples for the district-wide set aside are: instructional activities (such as assistance to schools, funds set aside for reading coaches, summer school, etc.), professional development, and parent involvement. The amount of funds available to provide equitable services from the applicable reserved funds must be proportional to the number of private school children from low-income families residing in participating public school attendance areas.

LEAs must meet the set-aside requirement with respect to the American Recovery and Reinvestment Act (ARRA) the same way that they do for Title I, Part A basic funds.

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LEAs must include the amount of ARRA funds received in the base amount to determine the equitable share to provide instructional services to participating private school children, services to families of private school children, and professional development to the teachers of the Title I private school students. LEAs must also include the amount of ARRA funds in the base to determine applicable set-aside requirements for 2009–10. For example, if an LEA receives \$300,000 in Title I, Part A basic funds, the LEA is not subject to the 1 percent set-aside for parent involvement. If the same LEA receives \$200,001 in ARRA funds in addition to the basic \$300,000, the LEA is subject to the 1 percent set-aside for parent involvement and must calculate the 1 percent set-aside on \$500,001. A proportional amount of the set-aside amount must be reserved for equitable services at the private schools.

The CDE has developed the Title I, Part A ARRA Application to be completed by all the LEAs in the state. The Title I, Part A ARRA Application, which will be available to download in July, documents the required reservations including the applicable reservations for equitable services for students in private schools.

The instructions for the reservations pages of the 2009–10 Consolidated Application (ConApp), Part II include examples for calculating proportional amounts for equitable services to private school students, their teachers, and families. Although the 2009–10 ConApp includes automatic calculations of the equitable participation amounts from the set-asides, LEAs are advised to review pages 34 and 35 of the ConApp to ensure that correct amounts for equitable participation of private school students have been calculated and budgeted for the 2009–10 school year. Furthermore, LEAs must implement the Title I, Part A program to be consistent with the amounts calculated in the ConApp. Funds reserved to meet the Program Improvement (PI) requirements and preschool are not subject to the equitable participation requirement. You may wish to use the sample worksheet (Attachment 1) to determine equitable services from the district-wide reservations.

### **Reimbursement to Another LEA**

An LEA in which the child resides is responsible for providing services to the eligible private school children. However, the LEA of residence may arrange to have services provided by another LEA or a third party provider. If the LEA of residence decides to have another LEA provide the Title I, Part A services on its behalf, the two LEAs must establish an interagency agreement which spells out the details of the reimbursement; i.e., the total amount and the per-pupil amounts for the number of children served. The LEA of residence reimburses the LEA that provides the Title I, Part A services at the per-pupil amount rate of the Title I, Part A participating public school attendance area of the child's residence. LEAs with reciprocal agreements must identify the reimbursement

amounts in the agreements. For example, if Alpha Unified School District (AUSD) serves eligible private school students on behalf of Omega Unified School District (OUSD), OUSD must reimburse AUSD for these services. OUSD will use the per-pupil rate of public school attendance area where the child lives to determine the amount of reimbursement.

### **Maintaining Control of the Title I, Part A Program**

LEAs receiving Title I, Part A funds and providing services to students in private nonprofit schools have the administrative responsibility for implementing the Title I program. In consultation with appropriate private school officials, an LEA must design a Title I program that meets the needs of the private school participants. An LEA is responsible for planning, designing, and implementing the Title I program, including how students will be selected, what services will be provided and how the Title I program will be evaluated. An LEA must not delegate that responsibility to the private school officials or to the third party contractor. LEAs must also maintain control over funds and any materials, equipment, or property purchased with such funds (Section 1120[d] [1]).

An LEA is considered the fiscal agent and is responsible for operating a program that is compliant with the ESEA, Title I, Part A requirements. While an LEA may hire a third party contractor (in consultation with private school officials) to provide the services agreed upon during the consultation with the private school officials, the contractor does not design or evaluate the program. It is inappropriate for a contractor to conduct consultation meetings either on behalf of an LEA or on behalf of a private school.

### **Consultation with Private School Officials**

One of the key requirements of the equitable participation of private school students is that LEAs engage in a timely and meaningful consultation with the private school officials in the development and implementation of the Title I program (Section 1120[b]). Title I, Part A funds may only be used to serve eligible children attending nonprofit elementary and secondary private schools. Annually, an LEA must contact officials of nonprofit private schools with children who reside in the LEA regardless of whether the private school they attend is located in the LEA. Therefore, LEAs must consult with nonprofit private schools located within an LEA's attendance boundary and with private schools located within the boundaries of the adjoining districts to ensure that eligible private school students are provided an opportunity to participate in the Title I program. California *Education Code* Section 33190 requires private schools to register with the CDE by October 15 of each year. A list of private schools that have filed an affidavit with the CDE is located on the CDE Private Schools Web page at

<http://www.cde.ca.gov/ds/si/ps/>. The consultation must include meetings with the appropriate private school staff and must occur before an LEA makes any decisions that affect the opportunity for private school students to participate and should continue through implementation and assessment of services. The consultation must include such topics as:

- LEA identification of the needs of the eligible students
- Services to be provided, where, and by whom
- Academic assessment by an LEA of Title I services and how the results will be used to improve the program
- The size and scope of service and amount of funds allocated to those services
- Determination of method and sources of low-income data by an LEA
- Decisions made by the LEA regarding the delivery of services
- Professional development needs of the teachers of private school participants
- Involvement of private school families in the Title I program

The consultation with private school officials is critical to providing appropriate professional development activities for teachers of Title I participants in private schools. If an LEA reserves funds under ESEA Section 1119 off the top of its Title I allocation for carrying out professional development activities, an LEA must provide equitable services to teachers of private school participants from this set-aside. As required under Section 200.65 of the federal regulations (34 *CFR* 200.65), an LEA calculates these equitable services from the reserved funds in proportion to the number of private school children from low-income families residing in participating public school attendance areas. It is not sufficient to extend an invitation to eligible private school teachers to attend the same professional development activities planned for an LEA's Title I teachers. Activities for the teachers of private school participants must be planned and implemented to address how those teachers can better serve their Title I students, such as by providing information on research-based reading and mathematics instruction. Consultation with private school officials will determine whether an LEA provides for these activities independently or in conjunction with the LEA's professional development activities.

As stated in the instructions for Part I of the ConApp, Page 3, LEAs are required to maintain, and provide to the CDE upon request, a written affirmation signed by the

officials of the participating private schools that the consultation regarding program evaluation and other required activities stated in ESEA, Title I, Part A Section 1120(b) has occurred.

### **Evaluation of Title I Program**

Each year the LEA and private school officials must consult on what constitutes **annual progress** for the title I program. Public school students who participate in Title I programs must be held to the same challenging content and student achievement standards that the State expects all public school students to meet. Private school students who participate in Title I programs must also be held to high standards. In some instances, however, it may not be appropriate to expect private school children to meet the State's standards, if, for example, those standards are not aligned with the curriculum of the private school.

If the LEA, in consultation with private school officials, determines that it would be inappropriate to measure the achievement of participating private school children in relation to the State's standards, the LEA must use alternative standards that reasonably promise that the services provided will enable the private school participants to achieve the high levels called for by the State's student achievement standards.

An LEA must **annually** assess the progress of the Title I program toward enabling private school Title I participants to meet the agreed-upon standards. The LEA may use the State's assessment system (Section 1111[b][3] of Title I) or other assessment measures that more accurately reflect the progress of the private school participating students toward meeting the standards that the LEA, in consultation with private school officials, has determined is appropriate.

In measuring annual progress, the LEA has the flexibility to group children in a manner that will provide the most accurate information about their progress. For example, the LEA may decide to group children by instructional method, grade level, school, or other appropriate basis. If the Title I program for the private school participants does not make the expected annual progress, the LEA must annually make modifications to the Title I program.

While LEAs are required to assess progress of Title I students annually, they should also consult with private school officials/teachers regularly about the progress the Title I private school participants are making in their regular classrooms.

You may find the sample template (Attachment 2) helpful in determining standards to measure annual progress of the Title I program services.

### Third Party Provider Contracts

If an LEA enters into a contract with a third party provider for the delivery of Title I services to the private school participants, their teachers, or families, such contracts must provide technical descriptions of the Title I services with detail sufficient to enable LEAs to determine that all Title I statutory and regulatory requirements will be met (ESEA Section 9306[a] [1] and [2]).

LEAs receiving Title I, Part A funds are allowed to reserve and expend Title I funds to administer the program. Any administrative costs should be identified in the contract and budgeted by the third party provider in the provision of services, but must be paid out of the funds reserved by an LEA for administrative costs and must not be charged to the funds allocated for services for the private school students, their teachers, and families.

The third party provider contracts that cover more than one type of service (for example, services to private school students, family involvement, and/or professional development activities) must delineate specific amounts for each type of activity.

Following is an example budget detail for the third party provider contract:

(a) Tutoring Services: (description)	\$ _____
(b) Professional Development: (description)	\$ _____
(c) Parent Involvement: (description)	\$ _____
<b>Total (a+b+c)</b> (to be paid from funds generated by the low-income count at the private school)	\$ _____
(d) Administrative costs (must be paid from funds reserved by the LEA for the administration of the Title I program)	\$ _____

### Reimbursement to Third Party Providers

Federal law requires LEAs to use fiscal controls and to establish accounting procedures to ensure proper disbursement of, and accounting for, federal funds paid to the LEA (ESEA Section 9306 [a][5]). LEAs must review and if necessary update their accounting procedures to ensure that all invoices submitted under third party contracts include adequate descriptions of the activities for which the payments are authorized and approved. The invoices must list expenditures in one of four categories: instructional

activities, parent involvement, professional development (these three paid with funds allocated for services at the private schools), and administrative costs (paid with funds reserved by an LEA for administration of the Title I program). Likewise, an LEA that contracts with the third party providers must explain the amount of funding available for each purpose. Within each category, the contractors must provide detail sufficient to enable an LEA to determine that the requested invoices are in accordance with Title I requirements and the General Education Provisions Act (GEPA). Information could include the name and salary of each teacher, the instructional materials purchased, and the specific administrative costs, such as supervisor's salary, office expenses, travel costs, capital expense type costs, and fees.

Invoices that are for more than one type of service, for example, direct services for private school students, parental involvement activities for their parents, or professional development for their teachers, must itemize the charges for instruction, family involvement, and professional development. LEAs have the authority under the GEPA to require documentation to support requested expenditures.

### **Additional Information**

Additional information regarding the implementation of the ESEA, Title I, Part A program in private schools may be found on the following Web sites/pages:

- 1) CDE Title I Services for Students in Private Schools Web page located at <http://www.cde.ca.gov/sp/sw/t1/privateschoolsvs.asp> for information on legislation and resources
- 2) Non-Regulatory Guidance issued by the ED titled, *Title I Services to Eligible Private School Children*, a Web document located at <http://www.ed.gov/programs/titleiparta/psguidance.doc> (Outside Source)
- 3) Equitable Participation Provisions for Private School Students in ARRA Programs, a Webcast by the ED with PowerPoint at <http://www2.ed.gov/policy/gen/leg/recovery/rms-web-conferences.html> (Outside Source)
- 4) CDE Private School Provisions in NCLB Act of 2001 Web page located at <http://www.cde.ca.gov/sp/ps/cd/nclbequitprov.asp>

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If you have any questions regarding the implementation of the ESEA Title I, Part A program in private schools, please contact the Title I Accountability and Partnerships Office, by phone at 916-319-0917.

Sincerely,

A handwritten signature in black ink, appearing to read "Deborah V.H. Sigman". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Deborah V.H. Sigman, Deputy Superintendent  
Curriculum, Learning, and Accountability Branch

DS:js  
Attachments

cc: Categorical Program Directors  
District Chief Business Officers



**Sample Worksheet to Calculate Title I Funds for Equitable Services\***

District \_\_\_\_\_

**1. District-wide Instructional Programs(s) Reservation (does not apply to Program Improvement activities or preschool programs)**

In **participating** public school attendance areas:

Number of private school children from low-income families**		Total number of children from low-income families		
_____	÷	_____	=	_____ Proportion of Reservation
_____ Proportion of Reservation	X	\$ _____ Reservation Amount	=	\$ _____ for Equitable Services

**2. Parental Involvement Reservation**

In **participating** public school attendance areas:

Number of private school children from low-income families		Total number of children from low-income families		
_____	÷	_____	=	_____ Proportion of Reservation
_____ Proportion of Reservation	X	\$ _____ Reservation Amount	=	\$ _____ for Equitable Services

**3. Professional Development Reservation**

In **participating** public school attendance areas:

Number of private school children from low-income families		Total number of children from low-income families		
_____	÷	_____	=	_____ Proportion of Reservation
_____ Proportion of Reservation	X	\$ _____ Reservation Amount	=	\$ _____ for Equitable Services

\*This worksheet is provided only as an example.  
\*\*See Section 200.78(a)(2) of the Title I Regulations.

**Sample Template  
Development and Evaluation of the Title I Services**

Follow all steps and complete all elements.

- After analysis of appropriate data, the LEA and the private school will establish priorities to meet the needs of the students served.
- The LEA and the private school will establish a consultation schedule and a plan of services.
- The LEA and the private school will design a plan of Title I instructional services to **supplement** the school's core curriculum.
- The private school adopted \_\_\_\_\_ reading materials for the core curriculum.
- The private school adopted \_\_\_\_\_ mathematics materials for the core curriculum.
- The LEA and the private school will use agreed-upon performance levels (standards) to determine the annual progress of the Title I services for private school students.

**NOTE:** An LEA must annually assess the results of the Title I services provided toward enabling private school Title I participants to meet the agreed-upon student performance levels (standards).

**Reading/Language Arts**

<b>A. Instrument</b>	<b>B. Student Performance Level</b> (The target student achievement level, e.g. number of points, percentile rank etc. of growth in the service period)	<b>C. Annual Progress Measure</b> (Target percent of students to achieve student performance level)	<b>D. Year End: Student Performance Results</b> (Actual percent of students achieving student performance level)
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Gr. K-2: \_\_\_\_\_

Gr. 3-12: \_\_\_\_\_

**Mathematics**

<b>A. Instrument</b>	<b>B. Student Performance Level</b> (The target student achievement level, e.g., number of points, percentile rank etc., of growth in the service period)	<b>C. Annual Progress Measure</b> (Target percent of students to achieve student performance level)	<b>D. Year End: Student Performance Results</b> (Actual percent of students achieving student performance level)
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Gr. K-2: \_\_\_\_\_

Gr. 3-12: \_\_\_\_\_

- Evaluation Plan: The LEA will annually review overall year-end student performance results with the private school. The Title I teacher and/or other LEA representative(s) and the private school representative(s) will analyze the test results for the participating students as soon as the standardized test information is available. The goal will be to determine whether or not the year-end student performance results (Column D), as measured by the agreed-upon test instrument (Column A), meet or exceed the annual progress measure (Column C) toward the student performance level (Column B) specified in consultation for each subject area.

The LEA and the private school will compare or contrast the **targeted** percent of students from Column C to reach the established student performance level (Column B) and the **actual** year-end student performance results in Column D. In the event the performance results fail to meet the annual progress measure (Column C), consultation will include an examination of the student performance data to determine needed modifications. To improve student achievement, the modifications may include, but will not be limited to:

- Increased Title I teacher time
- Implementation of extended day or extended year for Title I services
- Increased focus or time with specific grade level(s), if there is a demonstrated need
- Evaluation of supplemental materials for effectiveness in improving student academic achievement, with replacement possible
- Also, the consultation process will include a development of the performance standards for evaluation of services in the following year. The consulting parties will modify the student performance levels and annual progress measures as necessary.

\*This worksheet is provided only as an example.