

In general, an LEA must determine what educational activities it would support if no *Title II, Part A* funds were available. If it is clear that no State or local funds remain available to fund certain activities that previously were funded with State or local resources, then the LEA may be able to use *Title II, Part A* funds for those activities. In no event, however, may an LEA decrease State or local funds for particular activities simply because *Title II, Part A* funds are available.

Class-Size Reduction

F-16. What are some ways in which LEAs may use highly qualified teachers hired with *Title II, Part A* funds to reduce class size?

LEAs may reduce class sizes by creating additional classes in a particular grade or subject and placing highly qualified teachers hired with program funds in those classes. However, because of space constraints and other concerns, this is not always feasible. There are other methods of reducing class size that are effective in assisting students in increasing their level of achievement. For instance, the benefits of smaller class size can be provided by the creation of smaller instructional groups served by highly qualified teachers for sustained blocks of time on a regular basis. Some examples of how LEAs might use this approach to reduce class size include but are not limited to:

1. Having two highly qualified teachers team teach in a single classroom for either part of the school day or the entire day.
2. Hiring an additional highly qualified teacher for a grade level (e.g., providing three teachers for two 3rd grade classes) and dividing the students among the teachers for sustained periods of instruction each day in core academic subjects, such as reading and math.
3. Hiring an additional highly qualified teacher who works with half the students in a class for reading or math instruction, while the other half remains with the regular classroom teacher.

LEAs have the flexibility to explore these and other alternatives for reducing class sizes, provided that highly qualified teachers are used. Generally, the manner in which LEAs reduce class size should result in a meaningful reduction for all of the students in the class on a regular basis. Research shows that “pull-out” programs involving reducing class size by only a handful of students, or sporadic reduction of class size, are less likely than other methods of class-size reduction to result in increased achievement for students.

G. PRIVATE NONPROFIT SCHOOL PARTICIPATION (All references to Private Schools are only applicable to private nonprofit schools, Title II does not serve for profit private schools.)

General Issues

G-1. Are private nonprofit school teachers, principals, and other educational personnel eligible to participate in the *Title II, Part A* program?

Yes. Private nonprofit school teachers, principals, and other educational personnel are eligible to participate in *Title II, Part A*, professional development. Funds awarded to LEAs under *Title II, Part A* are subject to the uniform provisions of Section 9501 of the ESEA (*Participation by Private School Children and Teachers*). The statute requires LEAs to provide private school teachers and other educational personnel with educational services on an equitable basis and in a timely manner.

The requirement for the equitable participation of private school teachers and other educational personnel applies only to the LEA's *Title II, Part A* funds use for professional development of its teachers and other staff. However, this flexibility is constrained by the requirement described below in G-2.

G-2. How does an LEA determine the minimum amount required for equitable services to private school teachers and other educational personnel?

For purposes of determining 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, the statute has the LEA assume that it is spending *at least as much* for professional development under *Title II, Part A* as it did in FY 2001 under the Eisenhower Professional Development and Class-Size Reduction programs [*Title IX, Section 9501(b)(3)(B)*]. Hence, the district must provide equitable services based on this minimum amount or the current amount of funds budgeted for professional development, whichever is greater, to private school teachers and other educational personnel.

G-3. What is meant by “equitable participation”?

Participation is considered to be equitable if the public and private educational agencies and institutions:

1. assess, address, and evaluate the needs and progress of both groups of teachers in the same manner;
2. provide approximately the same amount of training, and where appropriate, instruction, to teachers with similar needs;
3. spend an equal amount of funds per student to serve public and private school teachers; and
4. provide private school teachers with an opportunity to participate in *Title II, Part A* program activities equitable to the opportunity provided public school teachers.

G-4. If a school district exercises *Title VI* transferability authority and moves funds from *Title II, Part A* to another covered program, is the district required to provide the “hold harmless” amount for private school teachers’ professional development?

Yes. As noted in G-2 above, for purposes of determining the amount of *Title II, Part A* funds it must reserve for professional development provided to private school teachers, the LEA must assume that it is spending at least as much *Title II, Part A* funds each year for professional development as it did with FY 2001 funds under the former Eisenhower Professional Development and Class-Size Reduction programs. Hence, the district must provide equitable services based on this minimum amount to private school teachers and other educational personnel even if the LEA transfers some *Title II* funds to other programs.

G-5. What are the obligations of the LEA regarding the participation of private school teachers in professional development programs funded under this program?

As part of the application process, LEAs must assure that they will comply with Section 9501 of ESEA (regarding participation by private school teachers). LEAs must consult with appropriate private school officials during the design, development, and implementation of the professional development program on such issues as:

- how the needs of children and teachers 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;
- the amount of funds available for those services; and
- how and when the LEA will make decisions about the delivery of services.

Consultation on the delivery of services must also include a thorough consideration and analysis of the views of the private school officials on the provision of contract services through potential third-party providers [Section 9501].

G-6. What happens if an LEA chooses not to participate in the *Title II, Part A* program and a private school in that LEA expresses a desire to do so?

There is no authority for allowing non-public school teachers to receive services if the LEA elects not to participate in the program, nor does the program statute authorize a State to reallocate funds to another LEA for the purpose of allowing participation of teachers at a private school located in a nonparticipating LEA.

Eligible Activities

G-7. 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 that the LEA carries out for public school teachers, activities supported with *Title II, Part A* funds that benefit private school teachers must meet the requirements of the statute. For example, activities to be 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. 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.

G-8. Must the expenditures that the LEA provides for professional development for private school teachers be equal on a per-pupil basis?

Title IX, Section 9501 of ESEA requires that *Title II, Part A* services for professional development that are provided to private school teachers and other educational personnel be equitable in comparison to those provided to public school teachers. It also requires that funds provided for professional development for private school teachers be equal on a per-pupil basis.

G-9. How does the LEA ensure that it is providing equitable services?

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

- Assess, address, and evaluate the needs and progress of both public and private school teachers;
- Spend an equal amount of funds per student to serve the needs of public and private school teachers and their students;
- Provide private school teachers with an opportunity to participate in *Title II* activities equivalent to the opportunity provided public school teachers; and
- Offer educational services to private school teachers that are secular, neutral, and non-ideological [Section 9501(a)(2)].

G-10. 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 teachers in designing the professional development program for private school teachers. If the professional development needs of the private school teachers are different from those of public school teachers, the LEA, in consultation with private school representatives, should develop a separate program.

G-11. May funds be used to pay stipends to private school teachers participating in a *Title II, Part A* professional development program?

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

G-12. May *Title II, Part A* 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.

G-13. May *Title II, Part A* 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 teachers.

G-14. 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 teachers and other educational personnel "off the top" of their allocations. 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 teachers and other personnel.

LEAs and Private Schools

G-15. 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. It is important that attention be given to the timing of the consultation so that decisions that affect the opportunities of eligible private school teachers to participate in *Title II, Part A* program activities are made only after discussions have taken place. The quality of the consultative process will likely have an effect on the quality of services to private school teachers [Section 9501(c)(3) and (4)].

G-16. 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 *Title II, Part A* program?

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 teachers to participate in the *Title II, Part A* program, regardless of whether or not those officials have recently indicated any interest in program participation.

G-17. May an LEA require private school representatives to submit an application in order to receive services for the teachers in a private school with *Title II, Part A* funds?

LEAs may request documentation, as needed, from private school officials that can help the LEA identify services that may be appropriate to the needs of private school teachers. However, requiring a formal application may, depending upon its form and content, constitute an administrative barrier that is inconsistent with the LEA's responsibility to ensure equitable participation of private school teachers.

G-18. What kinds of records should an LEA maintain in order to show that it has met its responsibilities for equitable participation of private school teachers?

To meet its general record-keeping responsibility, an LEA should document that:

- a) representatives of private schools were informed of the availability of *Title II, Part A* services;
- b) the needs of private and public school teachers were identified as part of a district-wide needs assessment;
- c) private school officials were consulted and provided an opportunity for input into the planning of the LEA's program activities; and
- d) the LEA designed a project that would permit their equitable participation.

The LEA also should maintain records of its efforts to resolve any complaints made by private school representatives that LEAs that should be serving their teachers are not doing so on an equitable basis.

G-19. Must the LEAs administer and retain control over the *Title II, Part A* funds used to serve private school teachers?

Yes. The LEAs must administer and retain control over the funds and, therefore, may not provide program funds directly to private schools. Before determining the amount of funds to be provided for services to private school teachers, an LEA could pay reasonable and necessary administrative costs of providing those services from its *Title II, Part A* allocation.

G-20. May professional development be conducted within private schools?

Yes, professional development activities may be conducted in the private school facilities.

G-21. Does the law require that LEAs provide equitable services with *Title II, Part A* 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.” NCLB defines “elementary” and “secondary” schools to mean only “nonprofit institutional day or residential school(s)” [Section 9101(18) and (38)].

G-22. Are teachers employed with LEA *Title I* funds who provide services to eligible private school children required to meet the highly qualified requirements?

Yes. If the teachers are hired using LEA *Title I* funds to teach core academic subjects at a participating private school, they are held to the same requirements as public school teachers.

G-23. Must an LEA count all the students in participating private schools even if some of the students enrolled in the private schools reside in other districts?

Yes. The LEA must provide equitable services based on the number of students who are enrolled in participating private schools located within the geographical boundaries served by the school district.