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Office of Non-Public Education (ONPE)

PRIVATE SCHOOL PARTICIPATION IN TITLE III PROGRAMS

- Authorities
- Statutory and Regulatory Requirements
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AUTHORITIES

No Child Left Behind Act of 2001, Title IX, Part E, Secs. 9501-9506

Education Department General Administrative Regulations (EDGAR), Part 76, Secs. 76.650-76.662

STATUTORY AND REGULATORY REQUIREMENTS

- After timely and meaningful consultation with appropriate private school officials, local education agencies (LEAs) receiving Title III funds must provide educational services to limited English proficient (LEP) children and educational personnel in private schools that are located in the geographic area served by the LEA.
- To ensure timely and meaningful consultation, the LEA must consult with appropriate private school officials during the design and development of the Title III program on issues such as:
    1. How the LEP children's needs will be identified.
    2. What services will be offered.
    3. How, where and by whom the services will be provided.
    4. How the services will be assessed and how the results of the assessment will be used to improve those services.
    5. The size and scope of the services to be provided to the private school children and educational personnel.
    6. The amount of funds available for those services.
    7. How and when the LEA will make decisions about the delivery of services, including a thorough consideration of the views of the private school officials on the provision of contract services through potential third-party providers.
- Title III services provided to children and educational personnel in private schools must be equitable and timely and address their educational needs.
- Funds provided for educational services for private school children and educational personnel must be equal, taking into account the number and educational needs of those children, to the funds provided for participating public school children.
- Title III services provided to private school children and educational personnel must be secular, neutral, and nonideological.
- LEAs may serve private school LEP children and educational personnel either directly or through contracts with public and private agencies, organizations and institutions.
- The control of funds used to provide services and the title to materials and equipment purchased with those funds must be retained by the LEA.
- Services for private school children and educational personnel must be provided by employees of the LEA or through a contract made by the LEA with a third party.
- Providers of services to private school children and educational personnel must be independent of the private school and of any religious organization, and the providers' employment or contract must be under the control and supervision of the LEA.
- Funds used to provide services to private school children and educational personnel must not be commingled with nonfederal funds.

FREQUENTLY ASKED QUESTIONS

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 (1) assesses, addresses and evaluates the needs and progress of public and private school students and educational personnel on a comparable basis; (2) provides, in the aggregate, approximately the same amount of services to students and educational personnel with similar needs; (3) spends an equal amount of funds to serve similar public and private school students and educational personnel; and (4) provides both groups of students and educational personnel equal opportunities to participate in program activities.

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 meets the needs of the students being served and assists those students in attaining English proficiency and meeting the same challenging state academic content and student academic achievement standards as all children are expected to meet. The LEA must assess the needs of private school students and educational personnel in designing a program that meets 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.

What recourse is available if an LEA will not use its Title III funds to provide equitable services to private school children and educational personnel?

Complaints about an LEA's failure to provide equitable services to private school children and educational personnel must first be submitted to the state education agency for resolution. The state's resolution or failure to make a resolution may be appealed to the U.S. Department of Education.

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 LEP students, teachers providing Title III services to private school students, whether LEA employees or third-party contract employees, are subject to the requirement that teachers in a Title III program must be fluent in English and any other language used for instruction.