

Supplemental Guidance on Title II, Part A

May 26, 2015 Revised October 19, 2015

Dear Public and Private School Leaders,

Recently, the Office of Federal Programs was asked to provide additional guidance on Title II, Part A equitable service topics regarding consultation and allowable uses of funds. Below are examples of the questions we received and the answers to those questions.

1. *My district received a request from its in-district private schools to use a portion of the Title II, Part A equitable service amounts to reimburse private school teachers who attend conferences to learn about equitable service requirements in federal law. Is this an appropriate use of Title II, Part A equitable services?*
 - A. Title II, Part A equitable services need to focus on the individual teacher needs to improve instruction and raise achievement of his/her students. Districts and the private schools (and private school representatives) should engage in on-going consultation to determine the individual teacher needs and how Title II, Part A funds can be used for professional development in ways that are sustainable and tied to his/her instructional needs. If the conference only provides sessions to learn about federal law requirements on equitable services, this is not professional development designed for the teacher to improve instruction. However, if the conference has sessions to improve instruction to raise student achievement specific to the individual teachers' needs, the district may provide partial reimbursement to the teacher for the conference cost specific to the secular, neutral and non-ideological sessions that meet the teacher's needs for professional development. The district, in consultation with the private school officials, should develop criteria to determine the appropriate amounts and/or percentages that would be reimbursable for such purposes.
2. *May a district use Title II, Part A equitable services to reimburse private school teachers who attend faith based conferences that have secular learning sessions?*
 - A. Districts may use Title II, Part A equitable service amounts to reimburse a teacher for those costs of attending a faith-based conference that reflect the portion of the conference in which the teacher attended professional learning sessions that were specific to that teacher's instructional needs and that were secular, neutral and non-ideological (See section 9501 (a)(1)—(2) of ESEA). In other words, the district may not cover the entire conference cost. The district, in consultation with private school officials, should develop criteria that the district would use in providing reimbursement to teachers attending such conferences, and some form of documentation that Title II, Part A funds would only be paying for attendance at allowable professional learning sessions.

For the U.S. Department of Education two-page guidance document on reimbursement for individuals attending faith-based conferences click [here](#).

3. *A neighboring district provides more reimbursement to its private school teachers to attend a conference than what my district of residence provides to its private school teachers. Why are the teachers attending the same conference not receiving the same amount of reimbursement with Title II, Part A equitable service amounts?*
 - A. In part, this is an individual local district decision. In other words, districts are responsible for determining the rationale and criteria they use to provide reimbursement with Title II, Part A equitable services to private school teachers attending professional development conferences. The criteria used to determine reimbursement does not have to be the same across districts. In addition, by law the

amount of Title II, Part A funds that each district has available for equitable services varies by district since this amount depends on factors that vary across each districts such as the amount of Title II, Part A funds the district receives and the amount it spends on professional development.

4. *My private school wants its teachers to receive professional development through a certain third party provider but the district is using a different delivery method than the private school officials requested. Doesn't the district have to provide services that the private schools request?*
 - A. A district is responsible for providing private school teachers with Title II, Part A equitable services but the district does not have to use the delivery method requested by the private school as long as the district meets the professional development needs of the private school teachers and can demonstrate that using a different delivery method than the one requested by the private school officials is reasonable. In addition, if private school officials request that certain services be delivered through a contract and the district chooses not to do so, the district must provide a written explanation of the reason why it chose not to do so.

5. *If a district uses a third party provider to provide equitable services, does the district have to pay an administrative fee?*
 - A. No, that is a district determination. The district is responsible for providing equitable services to private school teachers and students. The district may contract with a third party provider to render the equitable services. If the third party provider requires an administrative fee, the district may not use the equitable service portion to pay that fee. Any administrative fee would need to come from the district's Title II, Part A portion, not the equitable service portion. It is important to note that any selection by the district to use a third party provider would need to follow the district's procurement policies and any amount spent on an administrative fee must be reasonable.

6. *Can private schools pool equitable service amounts across the district?*
 - A. At the request of the private schools, the district may pool the equitable service funds generated by the enrollment of the in-district private school students. However, the district always maintains control of public funds.

7. *How are the private school teachers' needs determined?*
 - A. As part of the ongoing consultation process, a district should work with the private school officials to ensure that the needs of the private school teachers to improve instruction and raise student achievement have been reasonably identified. How this is done is left to the consultation process. For example, through consultation, the district could decide that it is satisfied with the private school officials' description of these needs and how they were identified, or could request that private school officials conduct some form of needs assessment to determine the professional development that the private school teachers need.

8. *Does attending a one or two day conference fulfill the professional development needs of a teacher?*
 - A. No. The ESEA law provides a definition of professional development which, among other activities, is of high quality, sustained, intensive and classroom-focused in order to have a positive and lasting impact on classroom instruction and the teacher's performance in the classroom. One or two day conferences or workshops are allowable as long as they are a part of the sustained professional development plan.

For a complete listing of professional development activities in ESEA Section 9101 (34) click [here](#).

9. *Where can I find guidance on what should take place in consultation between the districts and private schools?*
 - A. Timely and meaningful consultation should be an on-going process. The consultation process must continue throughout the implementation and assessment of services and must occur before the district

makes any decisions that affect the opportunities for eligible private school students, teachers and other education personnel to participate. Below is a link to the law requirements for consultation as well as a guidance document to assist in this consultation process.

ESEA Part E Section 9501 (c) is available [here](#)

USDOE webinar on Title II, Part A equitable services including slides on the consultation process (November 24, 2014) click [here](#)

10. *Can a district pay a Catholic Diocese or other religious organizations directly to provide secular, non-ideological professional development to a teacher in a nonpublic school as part of the professional development planned developed in consultation between the nonpublic school and the district?*
 - A. No. The Catholic Diocese or other religious organizations cannot receive payment from public districts. The use of Title II, Part A funds for professional development provided by the Catholic Diocese or other religious organization is not allowable use of funds for two reasons. First, the Diocese or other organization is not independent of its private schools and second, it is a religious organization. Per Section 9501(d)(2)(B) of the *ESEA*, in the provision of services, the "organizations, or other entity shall be independent of the private school and of any religious organization, and the employment or contract shall be under the control of and supervision of the public agency." (Added 10-19-15)

11. *If a faith-based conference is sponsored by a Catholic Diocese or other religious organization, can Title II-A funds be used to pay for registration directly to the sponsoring organization?*
 - A. No. As in question #10, the diocese or other religious organization cannot receive payment directly from a public district. As discussed in [questions #2](#) of this guidance, teacher can be reimbursed for attending a secular portion of a faith-based conference, however the sponsoring organization cannot receive payment directly from a school district. (Added 10-19-15)