

Equitable Services Requirements - Services to Limited English Proficient (LEP) Students in Private Schools

August 21, 2013



Title III State Consolidated Grant Group

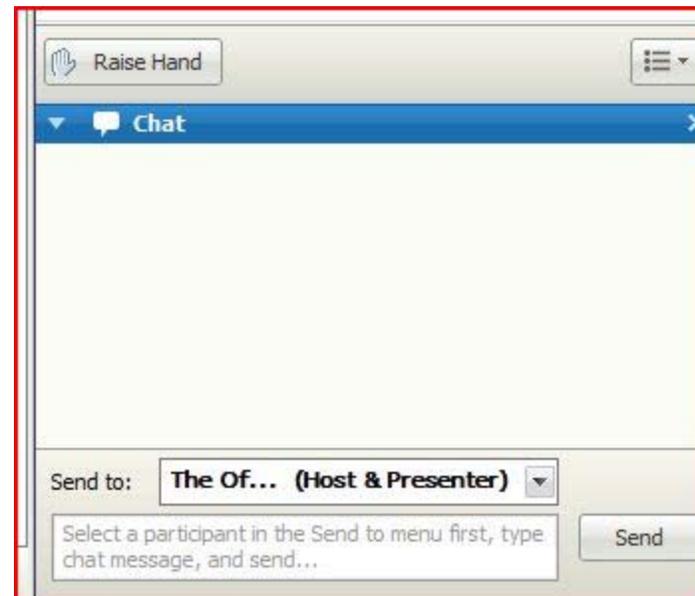
**Student Achievement and School Accountability Programs
(SASA), Office of Elementary and Secondary Education (OESE)**

Office of Non-Public Education (ONPE)

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Today's Webinar

This webinar will address the obligations of State and local educational agencies (SEAs/LEAs) to provide for the equitable participation of private school LEP students and their teachers or other educational personnel in Title III, Part A of the *Elementary and Secondary Education Act (ESEA)*.

Presenters:

Supreet Anand, Group Leader, Title III Group, Student Achievement and School Accountability Programs (SASA),

Amy Huber, Education Program Specialist, ONPE

Millie Bentley-Memon, Education Program Specialist, Title III Group, SASA

Webinar Agenda

- Overview of the Office of Non-Public Education (ONPE), OII
- Overview of the Title III Group, Student Achievement and School Accountability Office (SASA), OESE
- *ESEA* equitable services requirements
- *ESEA* consultation requirements
- Title III, Part A
- Questions from webinar participants



OFFICE OF NON-PUBLIC EDUCATION (ONPE)

Office of Innovation and Improvement

U.S. Department of Education

Liaison to the Non-public School Community for the U.S. Department of Education

Independent Private Schools • Faith-based Private Schools • Homeschools

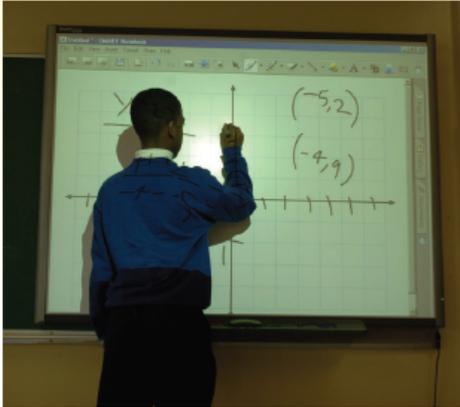
ONPE Mission and Activities

Since the initial passage of the *Elementary and Secondary Education Act (ESEA)* in 1965, private school students and teachers have been eligible to participate in certain federal education programs. In this context, ONPE fosters maximum participation of non-public school students and teachers in federal education programs and initiatives by:



- Representing the U.S. Department of Education to the non-public school community;
- Offering advice and guidance within the Department on all matters affecting non-public education;
- Communicating with national, state and local education agencies and associations on non-public education topics;
- Communicating the interests and concerns of the non-public school community to the Department;
- Providing parents with information regarding education options for their children; and
- Providing technical assistance, workshops and publications.

Statistics on Non-public Education in the United States



- About 4.7 million students are in private schools, which is approximately 9.5 percent of all U.S. elementary and secondary school students (2009–10);
- About 33,366 schools are private, which is approximately 25 percent of all U.S. schools (2009–10);
- About 80 percent of private school students attend religious schools, and 20 percent attend nonsectarian schools (2009–10);
- About 68 percent of private schools are religiously affiliated, and 32 percent are nonsectarian (2009–10); and
- About 1.5 million students were homeschooled in spring 2007, which is approximately 2.9 percent of U.S. students ages 5–17, with a grade equivalent of kindergarten–grade 12.

Sources: U.S. Department of Education, National Center for Education Statistics, *Characteristics of Private Schools in the United States: Results From the 2009–2010 Private School Universe Survey, First Look* (2011) (includes schools for which kindergarten is the highest grade, referred to as K-terminal schools, as well as schools for which the highest grade was at least the first grade); and *Issue Brief: 1.5 Million Homeschooled Students in the United States in 2007* (2008).

How To Contact ONPE

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Join the ONPE Listserv

The ONPE Listserv is a free subscription service providing information on K–12 education issues affecting the non-public school community. To subscribe, visit the ONPE website.



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Office of Non-Public Education*Liaison to the nonpublic school community for the U.S. Department of Education***ONPE Mission and Activities**

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Equitable Services Implementation Plan

- The Equitable Services Implementation Plan (ESIP) is the U.S. Department of Education's plan to improve the implementation of equitable services requirements under the *ESEA* and the *Individuals with Disabilities Education Act* for eligible students enrolled in nonprofit private elementary and secondary schools and, as applicable, their teachers and parents. The plan focuses on four major areas:
 - Outreach,
 - Promoting and Encouraging Promising Practices,
 - Technical Assistance, and
 - Monitoring.
- The Office of Non-Public Education will facilitate the ESIP in collaboration with other Department offices. Additional information about the ESIP can be found on the ESIP web page.

Title III Group – SASA, OESE

- Administers the Title III State Formula Grant Program
- Collaborates with other programs and offices in USDE in matters related to English learner/LEP student and immigrant education
- Provides technical assistance, monitoring, and outreach to States in Title III implementation
- Carries out special initiatives related to English learner education





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Student Achievement and School Accountability Programs

Welcome! Thank you for visiting the Office of Student Achievement and School Accountability Programs (SASA) website. It is our desire to provide you with useful and timely information that will enhance your knowledge of programs administered by SASA and of issues that are important to the Elementary and Secondary Education Act as reauthorized (ESEA). SASA administers the following programs:

- [Title I, Part A](#)
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Equitable Services Requirements: Why

- Section 9501 of the ESEA (Title IX, Part E Uniform Provisions)
– applies to parts of Title I, Part B, Titles II, III, and IV, including Title III, Part A.

After timely and meaningful consultation with appropriate private school officials, local educational agencies (LEAs) receiving Title III funds must provide educational services to limited English proficient (LEP) children and their teachers or other educational personnel in private schools that are located in the geographic area served by the LEA.

(section 9501 of the Elementary and Secondary Education Act (ESEA) of 1965, as amended)

Equitable Services Requirements: What

- Consultation with private school officials during the design and implementation of the program.
- Services and benefits, not funds, designed and implemented by the LEA in consultation with private school officials, to meet the needs of the private school students and teachers.

(section 9501 of the ESEA)

Determining Title III Services to be Provided

- **Question:** How does an LEA determine what Title III services are to be provided?

- **Answer:** An LEA, in consultation with appropriate private school officials, determines the appropriate Title III services based on the needs of the identified LEP private school students and their teachers or other educational personnel and the amount of funds available for such services, subject to the expenditure requirements under section 9501 of the ESEA.

The Title III services provided by the LEA for private school LEP students should be designed to meet their educational needs and supplement the educational services provided by the private school.

These services may be provided directly by the LEA or by a third-party contractor who is independent of the private school and any religious organization. Title III services or benefits must be secular, neutral, and non-ideological.

Title III Program Design

- **Question:** Must an LEA's Title III program design be the same for both public and private school students and educational personnel?

- **Answer:** No. Consultation and coordination between LEA and private school officials are essential to ensure a high-quality program that meets the needs of the LEP students being served to assist them in attaining English proficiency. 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.

Equitable Participation - Defined

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 in the same manner;
- (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.

Title III Services to LEP Students in Private Schools: Types of Activities - Examples

- Administration of English language proficiency (ELP) assessment for identification and/or for the purpose of evaluating the effectiveness of services (test booklets, teacher training, stipends to teachers to administer assessments);
- Participation in district-sponsored professional development (PD), or PD organized specifically to meet the needs of the private school teachers;
- Tutoring for students before, during, or after school hours;
- Participation of private school LEP students in summer school;
- Participation of students in a weekend program; and
- Purchase of supplemental instructional materials and supplies.

Equitable Services Requirements: Who

- Services *to* - LEP and/or immigrant children and youth enrolled in private elementary and secondary schools that are located within the area served by the LEA (not for-profit private schools).
- Services *to* - Teachers of LEP or immigrant children and youth or other educational personnel.
- Title III services provided to private school children and educational personnel must be secular, neutral, and non-ideological. *(section 9501 of the ESEA)*
- LEAs should include private school LEP students enrolled in private schools that wish to participate in Title III in the count of students submitted to the SEA to apply for a Title III subgrant.

Equitable Services Requirements: Who

- Services *provided by* - LEAs or consortia of LEAs: LEAs may serve private school LEP children and educational personnel either directly or through contracts with public and private agencies, organizations, and institutions.
- 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.
- Consultations with appropriate private school officials about services.

(section 9501 of the ESEA)

Equitable Services Requirements: Identification of Eligible LEP Students

- LEAs may request documentation, as needed, from private school officials to enable the LEA to identify eligible students.

Documentation requests should not pose an administrative barrier to participation.

(Equitable Services Guidance (March 2009))

Steps to Identify Eligible Title III Participants

- **Question:** What are some examples of the steps an LEA may use to identify eligible participants for the Title III program in private schools?

- **Answer:** LEAs and private school officials may decide that the criteria for identifying LEP private school students are: (1) responses to a PHLOTE survey, and (2) scores on an ELP assessment. The private school principal provides the names and grades of the private school children who, based on parent responses to the PHLOTE survey, are potentially LEP. LEA representatives work with designated private school representatives to identify a time when LEA staff will administer the ELP assessment to identified private school students.

Alternately, private school officials request training on how to administer the ELP assessment. The LEA provides this training, and private school officials administer the ELP assessment. The LEA shares assessment results with the private school and indicates which children have been identified as LEP.

The Title III parent notifications in section 3302 of the ESEA do not apply to parents of LEP students in private schools. However, LEA and private school officials may wish to discuss as part of timely and meaningful consultation how parents will be made aware of Title III services provided by the LEA.

Equitable Services Requirements: Consultation

- Communications and discussions – issuance of a single letter to the private schools explaining the LEA's intent to apply for funds is not adequate consultation.
- Consultation should be ongoing and must continue throughout the implementation and assessment of services.
- There should be a genuine opportunity for all parties to express their views.
- Adequate notice of consultation is critical to ensuring meaningful consultation.

(Equitable Services Guidance (March 2009))

Equitable Services Requirements: Consultation - When

- Consultation should occur before the LEA makes any decisions (such as ordering materials or hiring staff) that affect the opportunities of private school children, teachers, and other educational personnel to participate in services.
- LEAs should contact private school officials annually, even if private school officials have declined ESEA services in past years.
- Officials affiliated with a private school may choose to designate a single private school official to represent them.

(Equitable Services Guidance (March 2009))

Equitable Services Requirements: Consultation - How

- The LEA is **responsible** for initiating the consultation.
- **Consultation** may be conducted in person at the private school, online through email and/or websites, through large group meetings where the LEA informs private schools about services available under other *ESEA* programs, or other means.
- **Sign-off forms** with a place for signatures of the LEA and private school officials may be used to verify that timely and meaningful consultation has occurred and that all required topics have been discussed.

(Equitable Services Guidance (March 2009))

Equitable Services Requirements: Consultation - Topics

Timely and meaningful consultation between the LEA and private school officials during the design and development of the services is required on such issues as:

- How the children's **needs** will be identified;
- What **services** will be offered;
- **How and where** 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;

Equitable Services Requirements: Consultation - Topics

- What **service delivery mechanisms** will be used to provide equitable services;
- Who will provide the services;
- The **amount of funds** available to serve private school students;
- The **size and scope** of the services to be provided;
- **How and when** the agency will make decisions about the delivery of services; and
- Consideration of the views of the private school officials regarding use of **third-party providers**.

(section 9501(c)(1) of the ESEA)

Equitable Services Requirements: Documenting Consultation

An LEA *may* wish to document that it has:

- ✓ Annually informed private schools regarding Title III services;
- ✓ Engaged in timely and meaningful consultation;
- ✓ Identified the needs of private school students, teachers, and other educational personnel; and...

(Equitable Services Guidance (March 2009))

Equitable Services Requirements: Documenting Consultation

An LEA *may* wish to document that it has:

- ✓ Allocated a per-pupil amount of funds for services to private school students, teachers, and other personnel;
- ✓ Provided services, programs, materials, and resources;
- ✓ Evaluated programs for effectiveness; and
- ✓ Addressed adequately problems and formal complaints raised by private school officials.

Equitable Services Requirements: Fiscal Considerations

- The LEA must always **maintain control** of the program funds, as well as title to all materials, equipment, and property purchased with federal funds.
- **Only the LEA may obligate and expend** federal funds on behalf of private school students and teachers.
- **Options for expending funds:** At the request of private school officials, the LEA may pool funds for two or more private schools from which the LEA provides equitable services to students and teachers in those private schools.
- Title III funds may not be used to finance the existing level of instruction in a private school. **Services must supplement and not supplant the Federal, state, or local funds** the private school would otherwise offer absent the Title III program. (section 3115(g) of the ESEA)

(section 9501(d) of the ESEA; Equitable Services Guidance (March 2009); 34 Code of Federal Regulations (CFR) 76.658)

Equitable Services Requirements: Complaints

- If private school officials believe timely and meaningful consultation has not occurred, they should discuss this with the LEA, then, if needed, with the SEA.
- In the event the issue is unresolved, private school officials have the right to file a formal written complaint to the SEA.
- A formal complaint must include: a statement that a violation of the equitable services requirement has taken place, the facts on which the statement is based, and the signature of the complainant.

(Equitable Services Guidance (March 2009))

Question and Answer



English Language Proficiency (ELP) Assessments in Private Schools

Title III does not require LEAs to administer their State's annual ELP English language proficiency assessments for identified LEP students in private schools. LEAs are required under Title IX to consult with the private school officials regarding:

- ✓ how the Title III, Part A services provided to private schools and teachers will be assessed; and
- ✓ how the results of the assessment will be used to improve those services.

(section 9501(c)(1)(D) of the ESEA)

ELP Assessments in Private Schools

- An LEA may use Title III funds to pay for initial ELP assessments for **private** school students in cases where the use of such funds would not supplant other Federal, State and/or local funds that may be used for such purposes.
- Use of any assessments should be determined through timely and meaningful consultation with private school officials.
- The LEA is ultimately responsible for covering the costs of administering these assessments. The LEA and private school officials are advised to ensure that ELP assessment(s) are:
 - a) the most appropriate instrument(s) to administer to the target students, and
 - b) valid and reliable for these students.
- A State's English language proficiency standards and Title III annual measurable achievement objectives (AMAOs) do not apply to private schools or their students, except if required by State or local law.

Resources

Elementary and Secondary Education Act of 1965, (ESEA) as amended, Section 9501 (Title IX, Part E Uniform Provisions):

<http://www2.ed.gov/policy/elsec/leg/esea02/index.html>

EDGAR 34 CFR 76

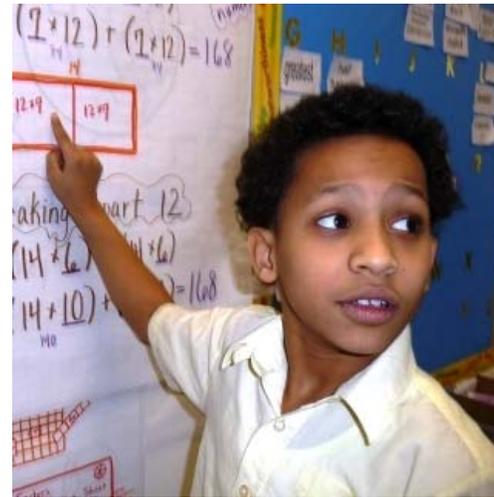
**Education Department General Administrative Regulations -
*For regulations on state administered programs, see parts 76
and 80 of EDGAR***

<http://www2.ed.gov/policy/fund/reg/edgarReg/edgar.pdf>

Equitable Services Guidance: Guidance on implementing equitable services for private school students and teachers for those programs governed by the Title IX uniform provisions under the Elementary and Secondary Education Act. (March 2009)

<http://www2.ed.gov/policy/elsec/guid/equitableserguidance.doc>

Question and Answer



Contact Information

- **Office of Non-Public Education**
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 - **Supreet.Anand@ed.gov**