



ISLAMIC SCHOOLS' LEAGUE OF AMERICA

APPENDIX

Federal Education Services to Non-Public Schools: An Overview

The newly Re-authorized Elementary and Secondary Education Act is now called the *No Child Left Behind Act* (NCLB).

The Elementary and Secondary Education Act (ESEA) was originally passed by Congress in 1965 to authorize programs to benefit educationally needy elementary and secondary students living in areas with high concentrations of children from low-income families. The purpose of the reauthorized ESEA is to improve teaching and learning for all children to enable them to meet challenging academic content and student performance standards.

The law established two very important principles for providing services to students in public, private and religious schools. These principles were:

- 1) "*child benefit*": special types of assistance or services are provided primarily for students and their teachers and parents and only incidentally for the school they attended
- 2) "*public trusteeship*": aid is channeled through public authorities (state and local educational agencies) who receive the ESEA funds and act as trustees on behalf of all the eligible children in their community, regardless of the type of school they attended.

Under ESEA programs, services are provided to students and teachers-- no money is channeled to the schools. Consequently, religious school students and personnel are legally permitted to participate in ESEA programs without compromising First Amendment issues regarding separation of church and state.

To ensure that private school students, teachers, and other personnel have every opportunity to participate in federal education programs for which they are eligible, private school officials should contact their local public school district and establish a positive, productive working relationship with the LEA federal programs coordinator.

Education Policy Shifts in No Child Left Behind

NCLB sets some new strategic directions to reform American education. The focus of President Bush's education agenda is to shift federal education dollars away from an emphasis on improving schools to an improvement of student performance and a closing of the gap between disadvantaged students and their peers. NCLB is structured to tie funding to accountability and results.

Accountability

All states are now required to set high standards in math and reading and to develop assessments that will measure progress by annually testing of all students in grades 3 through 8 in both math and reading. The National Assessment of Education Progress (NAEP), also known

as "the Nation's Report Card," will be used to test a sample of students in each state as a validation of the of the state test results.

The law requires that levels of progress toward proficiency must rise incrementally, leading to 100 per cent of the students at the level of academic proficiency at the end of twelve years. If a public school fails to make adequate yearly progress for two consecutive years, additional resources will be provided by the district to spur improvement. Also, at that time students must be offered the alternative to transfer to a better performing public school, with the district providing transportation. If a school fails to progress for a third year, the school must offer students supplemental services chosen by the parents. Such services may including private tutors or programs sponsored by religious organizations.

Flexibility

Although NCLB federally mandates accountability, the law remains true to the principle of local control and flexibility by allowing states to develop their own standards and assessments and grants greater discretion to local school districts (LEAs) to spend up to half of their federal education dollars at programs that will assist them in achieving their goals. Districts may consolidate programs, apart from Title I to fund initiatives that would best achieve their goals, but they may not do so in ways that would exclude private school students from equitable participation in programs for which they are eligible.

Consultation

The local education agency (public school district) is obligated to consult with the private school officials about equitable and meaningful participation of their students and teachers prior to making decisions about how programs and services will be delivered. The consultation requirements have been strengthened in the new law as a protection for private school students. Consultation must take place during the design, development and implementation of the program to better insure that the actual needs of the private school students and teachers, not the administrative efficiency of the public school district, are the highest priority.

To safeguard the equitable services provisions, is imperative that the private school officials alert the LEA that they want to participate in programs for which they are eligible and insist upon being kept informed about all aspects of NCLB programs in the same manner and at the same time as the public schools.

No Child Left Behind Act Programs and Services Available to Eligible Religious School Students and Staff

Not all of the titles of Public Law 107-110, (No Child Left Behind Act -NCLB), are applicable to children in private schools. Sections 9501-9504 of the law detail the programs that require the equitable participation of private school students and teachers. Some of the familiar programs of the previous acts have been retained but appear under different titles -- and several new programs have been created that allow for private school participation.



Only the following titles mandate that equitable services must be provided to eligible private school students and staff in a manner comparable to that used to serve their public school counterparts. It is important to note that not all provisions of each of the titles apply to private schools -- various sub-parts may or may not be applicable and can only be determined by an in-depth examination of the law. The main provisions that should concern private school administrators are the following:

<p style="text-align: center;">Title I: Part A: Improving Basic Programs Operated by Local Education Agencies</p>
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Section 1120 (a) General Requirements

Eligibility to participate

Students are eligible who are determined to be educationally needy (identified to be at risk of failing) and who live in Title I attendance areas. The criteria for identification must be based on multiple, educationally related objective criteria established by the LEA in consultation with the school.

Provision of Timely and Equitable Services

The local educational agency (LEA) shall, after timely and meaningful consultation with appropriate private school officials, provide eligible children, on an equitable basis, special educational services or other benefits that address their needs.

- The LEA must ensure that teachers and families of the children participate, on an equitable basis, in eligible activities.
- Services and other benefits for private school children shall be equitable in comparison to services and other benefits for public school children and shall be provided in a timely manner.
- The LEA may provide services under this section directly or through contracts with public and private agencies, organizations, and institutions (third party contractors).
- Services may be provided on-site in secular, non-ideologically settings in accord with the Supreme Court ruling in the 1997 *Agostini* decision.

1120 (b) Consultation Requirements

Consultation Issues

To ensure timely and meaningful consultation, a local educational agency shall consult with appropriate private school officials during the design and development of such agency's programs under this part, on issues such as:



- how the children's needs will be identified;
- what services will be offered;
- how, where, and by whom the services will be provided;
- how the services will be academically assessed and how the results of that assessment will be used to improve those services;
- the size and scope of the equitable services to be provided to the eligible private school children, and the proportion of funds that is allocated under subsection (a)(4) for such services;
- the method or sources of data that are used under subsection (c) and section 1113(c)(1) to determine the number of children from low-income families in participating school attendance areas who attend private schools;
- how and when the agency will make decisions about the delivery of services to such children, including a thorough consideration and analysis of the views of the private school officials on the provision of services through a contract with potential third-party providers; and
- how, if the agency disagrees with the views of the private school officials on the provision of services through a contract, the local educational agency will provide in writing to such private school officials an analysis of the reasons why the local educational agency has chosen not to use a contractor.

Timing of consultation

- Such consultation shall include meetings of agency and private school officials and shall occur before the local educational agency makes any decision that affects the opportunities of eligible private school children to participate in programs under this part.
- Such meetings shall continue throughout implementation and assessment of services provided under this section.
- Documentation of consultation: Each LEA shall maintain in the agency's records and provide to the State educational agency involved a written affirmation signed by officials of each participating private school that the consultation required by this section has occurred. If such officials do not provide such affirmation within a reasonable period of time, the local educational agency shall forward the documentation that such consultation has taken place to the State educational agency.

Complaint Procedures

- A private school official shall have the right to complain to the State educational agency that the local educational agency did not engage in consultation that was meaningful and timely, or did not give due consideration to the views of the private school official.
- If the private school official wishes to complain, the official shall provide the basis of the noncompliance with this section by the local educational agency to the State educational agency, and the local educational agency shall forward the appropriate documentation to the State educational agency.



1120 (c) Allocation For Equitable Service To Private School Students

Funding

- Expenditures for educational services and other benefits to eligible private school children shall be equal to the proportion of funds allocated to participating school attendance areas based on the number of children from low-income families who attend private schools
- The local educational agency may determine the count each year or every 2 years.
- Generation of funds is determined by the number of economically disadvantaged students who reside in a Title I attendance area. Determination of the poverty counts is made after consultation between the LEA and private school officials.
- Calculation of eligible number of students: A local educational agency shall have the final authority, consistent with this section, to calculate the number of children, ages 5 through 17, who are from low-income families and attend private schools by:

A) using the same measure of low income used to count public school children;

B) using the results of a survey that, to the extent possible, protects the identity of families of private school students, and allowing such survey results to be extrapolated if complete actual data are unavailable;

(C) applying the low-income percentage of each participating public school attendance area, determined pursuant to this section, to the number of private school children who reside in that school attendance area; or

(D) using an equated measure of low income correlated with the measure of low income used to count public school children.

- The portion of funds generated by private school students may be used only for instructional costs. All other costs associated with the provision of services to private school children must be taken from the LEA's Title I allocation.

1120 (e) Standards For A Bypass

If a local educational agency is prohibited by law from providing for the participation in programs on an equitable basis of eligible children enrolled in private elementary schools and secondary schools, or if the Secretary determines that a local educational agency has substantially failed or is unwilling, to provide for such participation, as required by this section, the Secretary shall:

- (1) waive the requirements of this section for such local educational agency;
- (2) arrange for the provision of services to such children through arrangements that shall be subject to the requirements of this section and sections 9503 and 9504;
- (3) and in making the determination under this subsection, consider one or more factors, including the quality, size, scope, and location of the program and the opportunity of eligible children to participate.

Title I: Part B: Reading Skills Improvements Grants Subpart 1, Section 1201: Reading First



Objectives of the Program

The purposes of this subpart are as to provide assistance to State educational agencies and local educational agencies in:

- establishing reading programs for students in kindergarten through grade 3 that are based on scientifically based reading research, to ensure that every student can read at grade level or above not later than the end of grade 3
- providing professional development and other supports, so the teachers can identify specific reading barriers and have the tools to effectively help students learn to read
- selecting or administering screening, diagnostic, and classroom-based instructional reading assessments.
- in selecting or developing effective instructional materials
- strengthening coordination among schools, early literacy programs, and family literacy programs to improve reading achievement for all children.

Eligibility to Participate

LEAs participate in a competitive grant process within their state for a portion of the formula grant each state receives. In making grants, the state educational agency gives priority to LEAs serving high numbers of children from families with incomes below the poverty level.

Private School Participation

LEAs are required to offer all private school located within their districts the opportunity to receive equitable services under Reading First.

Title I: Part B: William F. Goodling Even Start Family Literacy Programs Subpart 3, Section 1231

Objectives

To help break the cycle of poverty and illiteracy by improving the educational opportunities of low-income families by integrating early childhood education, adult literacy or adult basic education, and parenting education into a unified family literacy program that is implemented through cooperative projects that build on high-quality existing community resources to create a new range of services that:

- promotes the academic achievement of children and adults;
- assists children and adults from low-income families to achieve to challenging State content standards and challenging State student achievement standards; and



- uses instructional programs based on scientifically based reading research and addressing the prevention of reading difficulties for children and adults, to the extent such research is available.

Eligibility

To receive a grant under this subsection, an SEA must establish a consortium consisting of

- (A) a local educational agency; and
- (B) a nonprofit community-based organization, a public agency other than a local educational agency, an institution of higher education, or a public or private nonprofit organization other than a local educational agency, of demonstrated quality.

Private School Participation

LEAs are required to offer all private school students and teachers located within their districts the opportunity to receive equitable services under this program.

Title I: Part C: Education of Migratory Children Section 1301

Objectives of the Program

- support high-quality and comprehensive educational programs for migratory children to help reduce the educational disruptions and other problems that result from repeated moves; and
- design programs to help migratory children overcome educational disruption, cultural and language barriers, social isolation, various health-related problems, and other factors that inhibit the ability of such children to do well in school, and to prepare such children to make a successful transition to post-secondary education or employment;

Participation

SEA applies for federal grant under guidelines of this program.

Private School Participation

SEAs that receive these grants are required to offer all private school students and teachers located within the geographic area served the opportunity to receive equitable services under this program.



**Title II: Part A: Preparing, Training and Recruiting High Quality
Teachers and Principals
Section 2101: Teacher and Principal Training and Recruiting Fund**

Purposes

To increase student achievement through strategies to increase the number of highly qualified teachers and administrators in the schools.

Private school teacher participation

Eligibility for participation is limited only to professional development activities that the LEA funds under this title. These funds must be at least equitable the level of services provided under the former Eisenhower Professional development and Class Size Reduction programs.

Programs must be deigned to meet the learning needs of private school students and provide professional development activities that improve the knowledge of teachers and principals and, in appropriate cases, paraprofessionals, concerning:

- one or more of the core academic subjects that the teachers teach
- effective instructional strategies, methods, and skills
- training in how to teach and address the needs of students with different learning styles, particularly students with disabilities, students with special learning needs (including students who are gifted and talented), and students with limited English proficiency;
- training to enable teachers and principals to involve parents in their child's education, especially parents of limited English proficient and immigrant children;
- training in how to understand and use data and assessments to improve classroom practice

**Title II: Part B: Mathematics and Science Partnerships
Section 2201**

Purpose:

The purpose of this part is to improve the academic achievement of students in the areas of mathematics and science by encouraging State educational agencies, institutions of higher education, local educational agencies, elementary schools, and secondary schools to participate in programs that:

- improve and upgrade the status and stature of mathematics and science teaching



- focus on the education of mathematics and science teachers as a career-long process that continuously stimulates teachers' intellectual growth and upgrades teachers' knowledge and skills;
- bring mathematics and science teachers in elementary schools and secondary schools together with scientists, mathematicians, and engineers to increase the subject matter knowledge of mathematics and science teachers and improve such teachers' teaching skills
- develop more rigorous mathematics and science
- improve and expand training of mathematics and science teachers, including training such teachers in the effective integration of technology into curricula and instruction.

Eligibility

Consortia of eligible partnerships that must include

- a State educational agency;
- an engineering, mathematics, or science department of an institution of higher education
- and a high-need local educational agency; and may include —
another engineering, mathematics, science, or teacher training department of an institution of higher education;
- ✓ additional local educational agencies, public charter schools, public or private elementary schools or secondary schools, or a consortium of such schools;
- ✓ a business; or
- ✓ a nonprofit or for-profit organization of demonstrated effectiveness in improving the quality of mathematics and science teachers.

Private School Participation

Teachers located in participating LEAs must be offered opportunities for equitable participation in the program, in activities appropriate to meet the needs of the private school students, even if the private school was not part of the consortium.

Title II: Part D — Enhancing Education Through Technology Section 2401

Purposes

The purposes of this part are the following:

- To provide assistance to States and localities for the implementation and support of a comprehensive system that effectively uses technology in elementary schools and secondary schools to improve student academic achievement.



- To encourage the establishment or expansion of initiatives, including initiatives involving public-private partnerships, designed to increase access to technology, particularly in schools served by high-need local educational agencies.
- To promote initiatives that provide school teachers, principals, and administrators with the capacity to integrate technology effectively into curricula and instruction that are aligned with challenging State academic content and student academic achievement standards, through such means as high-quality professional development programs.
- To enhance the ongoing professional development of teachers, principals, and administrators by providing constant access to training and updated research in teaching and learning through electronic means.
- To support the development and utilization of electronic networks and other innovative methods, such as distance learning, of delivering specialized or rigorous academic courses and curricula for students in areas that would not otherwise have access to such courses and curricula, particularly in geographically isolated regions.
- To support the rigorous evaluation of programs funded under this part, particularly regarding the impact of such programs on student academic achievement, and ensure that timely information on the results of such evaluations is widely accessible through electronic means.
- To support local efforts using technology to promote parent and family involvement in education and communication among students, parents, teachers, principals, and administrators.

Private School Participation

LEAs are required to offer students and teachers in private schools located within their area genuine opportunities for equitable participation in this program.

Title III - Language Instruction for Limited English Proficient and Immigrant Students

Part A: Section 3001 Language Acquisition, Language Enhancement and Academic Achievement Act

Part B: Section 3201 Improving Language Instruction Educational Programs

Part B, Subpart 4: Section 3241 Emergency Immigrant Education Program



Purpose

- To ensure that students with limited English proficiency (LEP), including immigrant children and youth, attain English proficiency, develop high levels of academic attainment in English, and meet the same challenging State academic content and student academic achievement standards as all children are expected to meet.
- To develop high-quality language instruction educational programs designed to assist State educational agencies, local educational agencies, and schools in teaching limited English proficient children and serving immigrant children and youth;
- To assist State educational agencies and local educational agencies to develop and enhance their capacity to provide high-quality instructional programs designed to prepare limited English proficient children, including immigrant children and youth, to enter all-English instruction settings.

Participation of Private school Students and Teachers

Part A is applicable to private school students only if the SEA grants exceeds \$650 million. Part B is not covered by the provisions governing equitable participation. Eligible participation is required for private school students under Part B, Subpart 4.

Additional requirements

No later than 30 days after the start of the school year, LEAs must provide parents of students participating in Title III programs with notification of why their child was identified for the program, data about the child's proficiency levels, how the program differs from regular classroom instruction, and advise them of the right to remove their child from the program or choose another.

Title IV: 21st Century Schools Title IV, Part A: Section 4001 Safe and Drug-Free Schools and Communities

Purpose

To support programs that:

- prevent violence in and around schools
- prevent the illegal use of alcohol, tobacco, and drugs
- involve parents and community efforts and resources to foster a safe and drug-free learning environment



Types of Programs that may be implemented under this act

- Drug, violence and suicide prevention
- Mentoring programs
- Counseling and mental health services
- Safety programs
- Peer mediation programs

Eligibility

LEAs compete for state grants of funds authorized under this act. Private school students and teachers are eligible for services that meet the needs of the private school students under the Uniform Provisions regulating equitable participation.

Title IV, Part B — Section 4201 21st Century Community Learning Centers

Purpose

The purpose of this part is to provide opportunities for communities to establish or expand activities in before or after school or summer programs in community learning centers that:

- provide opportunities for academic enrichment, including providing tutorial services to help students, particularly students who attend low-performing schools, to meet State and local student academic achievement standards in core academic subjects, such as reading and mathematics;
- offer students a broad array of additional services, programs, and activities, such as youth development activities, drug and violence prevention programs, counseling programs, art, music, and recreation programs, technology education programs, and character education programs, that are designed to reinforce and complement the regular academic program of participating students; and
- offer families of students served by community learning centers opportunities for literacy and related educational development.

Eligibility

- A state that receives funds under this part makes grants to eligible entities in accord with an application process. (Section 4204(b).
- SEAs are required to make grants only to applicants that serve a high percentage of economically disadvantaged students.
- Private, including religious schools, are eligible to apply.



**Title V: Promoting Informed Parental Choice And
Innovative Programs
Title V, Part A – Section 5101 - Innovative Programs**

Purpose

The purposes of this part are the following:

- To support local education reform efforts that are consistent with and support statewide education reform efforts.
- To provide funding to enable State educational agencies and local educational agencies to implement promising educational reform programs and school improvement programs based on scientifically based research.
- To provide a continuing source of innovation and educational improvement, including support programs to provide library services and instructional and media materials.
- To meet the educational needs of all students, including at-risk youth.

Eligibility

Private school students and teacher are entitled to equitable participation in activities covered under this section. They are entitled to the same per pupil allocation of funds as their public school counterparts within the LEA.

**Title V, Part D, Subpart 6: Section 5461
Gifted and Talented Students**

Purpose

To initiate a coordinated program of scientifically based research, demonstration projects, innovative strategies designed to meet the educational needs of gifted and talented students.

Eligibility

Participation of Private School Children and Teachers- In making grants and entering into contracts under this subpart, the Secretary shall ensure, where appropriate, that provision is made for the equitable participation of students and teachers in private nonprofit elementary schools and secondary schools, including the participation of teachers and other personnel in professional development programs serving such students.

**Title VI: Flexibility and Accountably
Part A, Subpart 2: Section 6121**



Purpose

To provide options for SEAs and LEAs to consolidate some federal grants or transfer funds from

Safeguards for Private School Students and Teachers

LEAs are required to provide equitable services to private school students and teachers and may not consolidate funds in a manner that would exclude them from participation.

one program to another in the implementation of No Child Left Behind Act.

Title IX – General Provisions Part E: Uniform Provisions -- Subpart 1: Section 9501 Participation of Private School Children and Teachers

Private School Participation

The Uniform Provisions govern the participation of private school students and teachers in the various Titles under this Act.

- (1) **Equitable Services:** Except as otherwise provided in this Act, LEAs shall, after timely and meaningful consultation with appropriate private school officials, provide to those children and their teachers or other educational personnel, on an equitable basis, special educational services or other benefits that address their needs under the program.
- (2) **Secular, Neutral, And Non-ideological Services Or Benefits-** Educational services or other benefits, including materials and equipment, provided under this section, shall be secular, neutral, and non-ideological.
- (3) **Special Rule-** Educational services and other benefits provided under this section for private school children, teachers, and other educational personnel shall be equitable in comparison to services and other benefits for public school children, teachers, and other educational personnel participating in the program and shall be provided in a timely manner.
- (4) **Expenditures for educational services and other benefits provided under this section for eligible private school children, their teachers, and other educational personnel serving those children shall be equal, taking into account the number and educational needs of the children to be served, to the expenditures for participating public school children.**



No Child Left Behind Regulatory Updates from U.S. Department of Education

Military Recruiter Access to Private Religious High School Students

Both the No Child Left Behind Act (2001) and a Defense Department Authorization bill (2000) contain language requiring military recruiters to be provided the same access (not greater) that a schools grants to colleges or employers interested in recruiting students on its high school campus. This allows access to directory information as well as contact with students if that is the policy followed with college recruiters.

The Defense Department statute requires all schools to provide such information while the No Child Left Behind Act limits its application to those schools that receive assistance under the various Titles of the NCLB Act. Both Acts indicate that the provisions apply only to local educational agencies (LEAs). NCLB defines an LEA as a public school -- nonpublic schools are not included in the definition.

The U.S. Department of education has ruled that since private schools are not the direct recipient of federal funds under NCLB, this regulation is NOT applicable to them. However, schools are free to allow military recruiters access, according to the school's discretion -- and schools are asked to try to maintain a cooperative relationship with military recruiters as they do with college recruiters.

Statutory Exceptions to Providing Access

- The requirements of this section do not apply to a private secondary school that maintains a religious objection to service in the Armed Forces if the objection is verifiable through the corporate or other organizational documents or materials of that school.
- A school may, through a majority vote of the "governing body of the agency" deny access to the students or the directory information, or both. If this is the option a school wishes to pursue, the board must vote and adopt a written policy reflecting its wishes.
- If a parent requests, in writing, that the school not release the student's name, address, and telephone listing, the school must comply with that request. If a student makes the written request it must be honored unless written permission granting access is given by the parent. The school must notify the parents of this provision and comply with parent requests

Title I: State Assessments

School-wide Assessments: The proposed regulations indicate that the requirement for all schools to participate in the state assessments, based on state curriculum standards, apply to public schools only. The final regulations have not been issued, but Sec. 1111(2)(A) references a statewide accountability system for public schools.

Title I Recipients: Section 9506(a) of the act was erroneously interpreted by some state and local education agencies to place a requirement for participation in state assessments on



schools in which some students receive Title I services. The proposed regulations indicate that receipt of Title I services does not place that requirement on the school.

As in the past, individual students who receive Title I services are required to be assessed regarding the efficacy of the program services they received. The assessment may or may not be the state assessments. The rule requires that the consultation process between the public and private school officials should stipulate how the services will be delivered and what type of appropriate assessments will be used.

Title I: Requirements for Paraprofessionals

No Child Left Behind has stipulate specific educational requirements for paraprofessionals with instructional duties in programs supported by Title I funds. The policy regarding the use of paraprofessionals in Title I programs has not been finalized, but preliminary guidance indicates that paraprofessionals who work primarily as translators or in non-instructional roles, such as providing technical assistance with computers, are exempt from the academic requirements.

Title II: Improving Teacher Quality

Private school teachers are eligible to participate, and the LEA is required to include them, in certain parts of Title II, Part A. that replaces the Eisenhower Professional development program. The requirement for equitable participation of private school teachers applies only to the portion, if any, of the funds that the LEA uses for professional development of staff.

